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MS23-003170


**Australian Government**
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for decision)

**To: The Hon Michelle Rowland MP, Minister for Communications** (for decision)  
**Subject:**  
Australian content obligation on streaming services: stakeholder consultation paper

**Critical Date:** Urgent, as discussed with your offices, to enable the department to circulate the consultation paper to stakeholders this week

<b>Recommendations:</b>			
1. That you <b>agree</b> the stakeholder consultation list at <b>Attachment A</b>	<b>Agreed / Not Agreed</b>		
2. That you <b>note</b> the consultation timeline at <b>Attachment B</b>	<b>Noted / Please Discuss</b>		
3. That you <b>agree</b> the targeted consultation paper ( <b>Attachment C</b> )	<b>Agreed / Agreed with changes</b>		
4. That you <b>note</b> the stakeholder consultation paper includes a response template as a guide for consultation ( <b>Attachment D</b> )	<b>Noted / Please Discuss</b>		
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>The Hon Tony Burke MP</b> Date:</p> <p><b>Comments:</b></p> </td> <td style="width: 50%; vertical-align: top;"> <p><b>The Hon Michelle Rowland MP</b> Date:</p> </td> </tr> </table>		<p><b>The Hon Tony Burke MP</b> Date:</p> <p><b>Comments:</b></p>	<p><b>The Hon Michelle Rowland MP</b> Date:</p>
<p><b>The Hon Tony Burke MP</b> Date:</p> <p><b>Comments:</b></p>	<p><b>The Hon Michelle Rowland MP</b> Date:</p>		

**Key Points:**
Consultation

- In MS23-001863, you agreed to the department undertaking targeted stakeholder consultation on an Australian content obligation on streaming services in March and April 2023.
- An email agreed by your offices flagging the forthcoming consultation process, including written submissions in response to a consultation paper, followed by virtual industry roundtables, was sent to 23 key stakeholders (**Attachment A**) on 16 March 2023. The email advised that the consultation paper will be circulated in the week commencing 20 March 2023. A consultation timeline is at **Attachment B**.

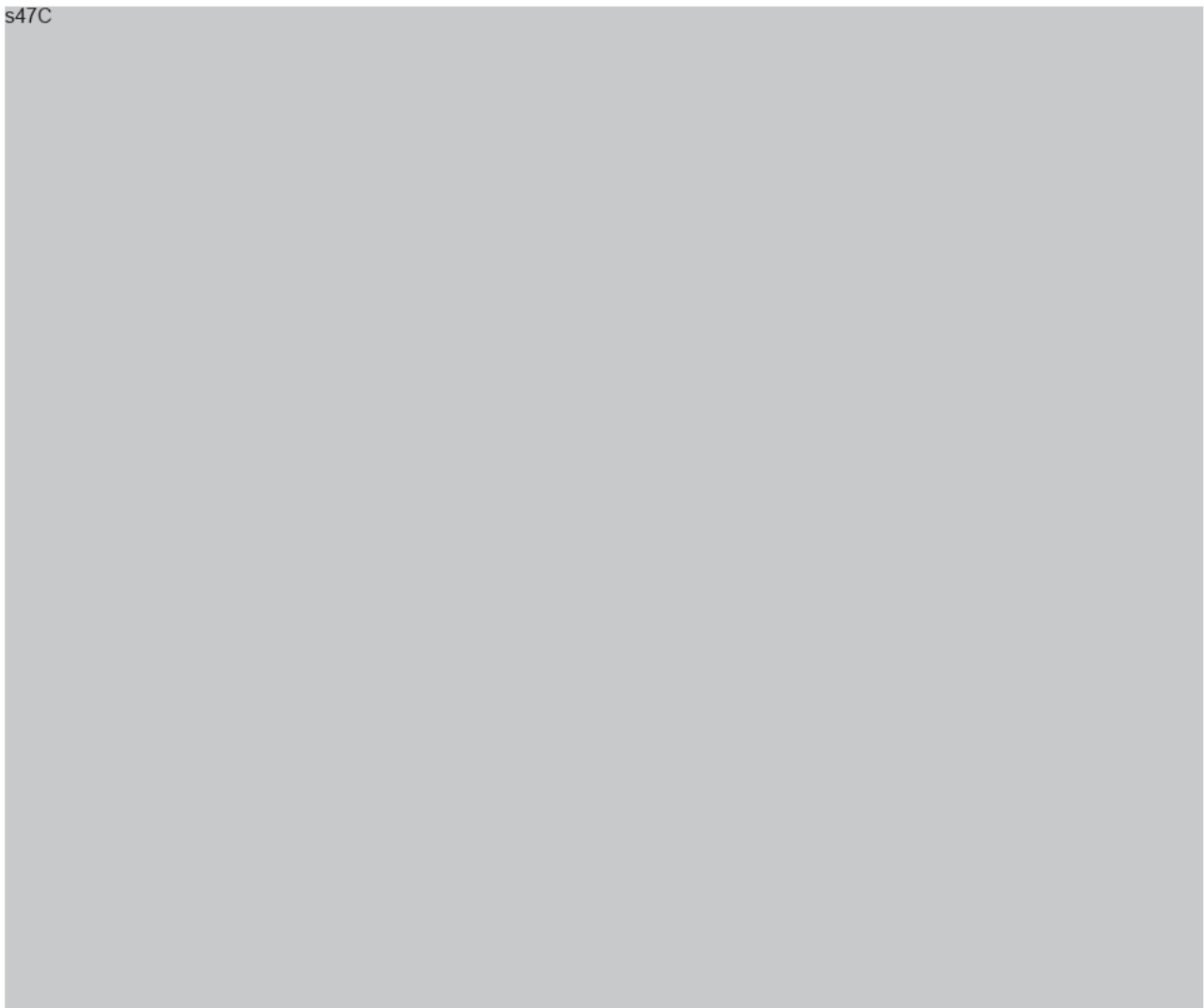
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3. The proposed consultation paper (**Attachment C**) sets out the cultural and media reform policy objectives of an Australian content obligation and seeks stakeholder views on three revenue-based model options that have been informed by feedback provided through the National Cultural Policy and other previous stakeholder consultation processes.

- a. The consultation paper seeks to gauge the regulatory impact of the models which will inform an Impact Analysis Statement as is required for any new regulatory action. Feedback will be used to further refine the models for roundtable discussions.
- b. The department’s Bureau of Communications, Arts and Regional Research and the Office of Impact Analysis have assisted with the development of the questions. Your offices have been consulted on the questions and the template at **Attachment D** that will offer guidance on how to answer questions to inform an Impact Analysis Statement, noting question 14 allows for a free-form answer.

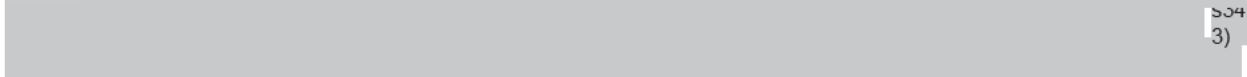
4. Ministers will be briefed on the outcomes of the written submissions process.

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9. s47C



s34(3)

**Financial impacts:**

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10. A proposal to implement and monitor the requirements will be submitted for your consideration <sup>s47C</sup>

s34(3), s34(2)

**Legal/Legislative impacts:**

11. <sup>s47C</sup>

s34(3), s34(2)

12. <sup>s42</sup>

s34(3), s34(2)

s47C

**Stakeholder Implications:**

13. The stakeholders to be consulted (**Attachment A** refers) are considered most likely to be directly affected by the content obligation. Other stakeholders' views, communicated through previous consultation processes have informed the development of the models. The timeline for consultation at **Attachment B** respects the Easter, school holidays and Anzac Day public holiday periods.

**Consultation:** The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities:** Nil.

**Attachments:**

Attachment A: Stakeholder consultation list; Attachment B: Stakeholder consultation timeline; Attachment C: Stakeholder consultation paper; Attachment D: Stakeholder response template.

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Instructions for MPS: Nil.

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OFFICE FOR THE ARTS / AUSTRALIAN SCREEN INDUSTRIES BRANCH / CONTENT SECTION

## Australian screen content requirements for streaming services

March 2023

### Stakeholder list

On 16 March 2023, the following key stakeholder groups were invited to participate in the consultation by relevant departmental Deputy Secretaries.

Those large streaming services that currently report voluntarily to the Australian Communications and Media Authority <sup>s47C</sup>

The Australia New Zealand Screen Association will represent streaming services and international film studios. Independent screen producers will be represented by Screen Producers Australia and other peak and portfolio bodies listed in the table below.

The department regularly consults with Screen Australia and the Australian Communications and Media Authority on the development of the streaming services obligation – they are therefore not included in the stakeholder list.

Screen industry groups	Australian Children's Producers
	Australian Children's Television Foundation
	Australian Directors Guild
	Australian Writers Guild
	Documentary Australia
	Media Entertainment and Arts Alliance
	Screen Producers Australia
Free-to-air broadcasters	Free TV
	Seven
	Nine
	Ten
	ABC
	SBS

Subscription TV	The Australian Subscription Television and Radio Association (ASTRA)
	Fetch TV <sup>1</sup>
	Foxtel, including Binge and Austar
	Telstra
Streaming services and their industry organisations	Australia New Zealand Screen Association
	Amazon Prime video
	Disney+
	Netflix
	Binge
	Paramount+
	Stan

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<sup>1</sup> In 2022, Fetch TV surrendered its subscription television licence and is now purely an internet-based service. Telstra owns 51% and the other 49% is owned by Astro Holdings, a Malaysian based company. Telstra will shortly combine Fetch TV and Telstra TV to create an all-in-one entertainment hub, combining free-to-air television, catch up services, premium channels, streaming apps and movies in one place. Subscriber numbers for both services combined are 1.47 million.



**Australian Government**

**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

OFFICE FOR THE ARTS / AUSTRALIAN SCREEN INDUSTRIES BRANCH / CONTENT SECTION

# Targeted Stakeholder Consultation Paper

## Australian screen content requirements on streaming services

March 2023

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Infrastructure, Transport, Regional Development, Communications and the Arts

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### **Contact us**

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# Australian screen content requirements on streaming services

## Executive summary

In the National Cultural Policy *Revive* released on 30 January 2023, the Australian Government committed to introducing Australian screen content requirements on streaming platforms to ensure continued access to local stories and content.

This paper seeks your views on your priorities for a model. The models presented in this paper have been informed by stakeholder feedback received through the National Cultural Policy and other previous consultation processes. These models should not be viewed as government policy. Feedback on the models will inform the Department's Impact Analysis Statement.

The current content regulation across media platforms is outlined in Figure 1 on the next page. The national broadcasters also produce Australian content but are subject to their Charters.

## Policy objectives

The Australian Government has committed to ensuring continued access to local stories and content on streaming services under the National Cultural Policy *Revive*.

The Government recognises the significant investment some subscription video-on-demand streaming services (SVOD) are currently making in Australian content, and their role in making Australian content available to audiences around the world. The Government also acknowledges the investment in creative skills and infrastructure made by some SVODs.

The Government is guided by the objectives and regulatory policy of the *Broadcasting Services Act 1992*. The objectives of the Act include:

- to promote the availability to audiences throughout Australia of a diverse range of content services;
- a regulatory environment that will facilitate the development of an industry that is efficient, competitive and responsive to audience needs;
- the development of a sense of Australian identity, character and cultural diversity; and
- the provision of high quality and innovative programming.

Under the Act, the level of regulatory control applied accords with the degree of influence that different services are able to exert in shaping community views in Australia. Further, regulation is intended to enable public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on providers, to readily accommodate technological change, and to encourage the development of technologies and the provision of services made practicable by those technologies to the Australian community.

The Government intends to work with the screen sector to design an Australian content obligation that results in positive, sustainable outcomes for Australian audiences and industry.

Figure 1 Australian content regulation across media platforms

	National broadcasters	Commercial free-to-air television (FTA) broadcasters	Subscription television (STV) broadcasters	Streaming video-on-demand (VOD) services
Australian content requirement	Content requirements are governed by Charter.	<i>Broadcasting Services Act 1992 (BSA)</i> Australian Content and Children's Television Standards 2020 (ACCTS)	<i>Broadcasting Services Act 1992</i> New Eligible Drama Expenditure (NEDE) scheme	No Australian content requirements
Content requirement - detail	<p>The <b>ABC Charter</b> includes the requirement for the ABC to broadcast programs that contribute to Australia's sense of national identity, inform and entertain, and reflect the cultural diversity of the Australian community, as well as broadcast programs of an educational nature and provide digital media services.</p> <p>The <b>SBS Charter</b> states that the SBS's principal function is to provide multilingual and multicultural broadcasting and digital media services that inform, educate and entertain all Australians, and in doing so, reflect Australia's multicultural society. The SBS is required to contribute to meeting the communications needs of Australia's multicultural society, including ethnic, Aboriginal and Torres Strait Islander communities.</p>	<p>BSA requirements:</p> <p><i>55% Australian content between 6 am and midnight on primary channels;</i></p> <p><i>1,460 hours of Australian content between 6 am and midnight on non-primary channels.</i></p> <p>ACCTS requirements:</p> <p><i>Broadcast at least 250 points of first-release Australian programs each year.</i></p> <p><i>250 points = (duration of the program in hours) x (relevant points per hour broadcast).</i></p> <p>Certain types of content are subject to a multiplier of between 1x and 7x.</p>	<p>NEDE scheme requirements:</p> <p><i>10% of spending on drama channels must be on new local dramas.</i></p> <p>Expenditure on new content can include script development, acquisitions, investment and pre-production or production.</p>	<p>No Australian content requirements.</p> <p>Currently, five SVODs voluntarily report data annually to the Australian Communications and Media Authority: Netflix, Stan, Amazon Prime Video, Disney+ and Paramount+.</p>

### **Australian stories – guarantee production of new Australian programs that are available on SVODs**

The Government wants new Australian programs to be made available to Australian audiences on the SVOD services to which they subscribe. To do this, the Government wants to guarantee and incentivise continued, sustainable investment by SVODs in quality Australian programs. In particular, investment in high-quality Australian scripted drama, documentary and children’s programs which are genres that might otherwise not be made.

### **Discoverability – make Australian content easier to find on SVODs**

The Government wants Australian content to be visible and easily found by Australian audiences on SVOD catalogues. There are a variety of ways content can be made discoverable, including, but not limited to, increasing the amount of content in a catalogue, developing and applying common standards of metadata, increasing probability in algorithms, and using promotional features such as banners and carousels on home screens.

### **Media reform – regulate like services consistently for citizens, consumers and industry**

The Government wants Australians to be able to watch Australian programs, regardless of which media platform they are using, to level the regulatory playing field in recognition of the uptake of SVODs in the Australian community and provide certainty to industry, citizens and consumers. This involves bringing SVODs into the Australian content regulatory framework.

The Government is also committed to modernising the regulatory framework and supporting the sustainability of the screen sector, across broadcasting services and SVOD services.

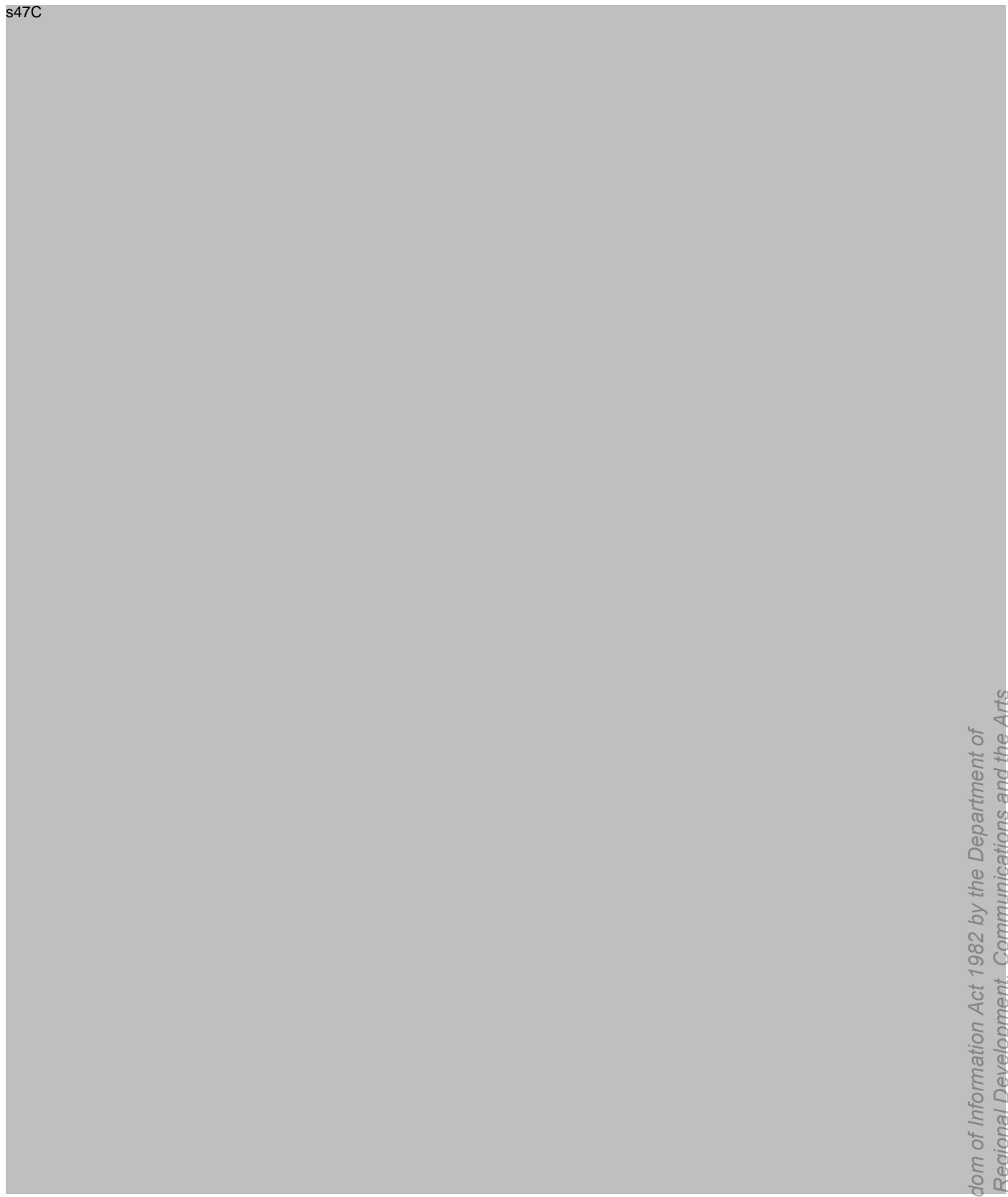
### **Creative economy – grow the capacity of Australia’s creative industries**

The Government wants to grow the economic contribution of Australia’s creative industries, particularly in screen and digital games. We want to encourage investment and service provision in Australia for the benefit of our culture, society and economy, including sustainable growth in Australian content, jobs and skills.

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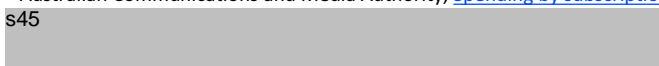
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<sup>1</sup> Australian Communications and Media Authority, [Spending by subscription video on demand providers: 2021–22 financial year](#)

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## Discoverability

Discoverability is the extent to which Australians are able to access Australian content on large SVODs. It concerns the degree to which an SVOD makes all Australian content easily accessible through mechanisms that enhance the prominence of particular content to users.

Ways to improve discoverability on large SVODs will be discussed as part of stakeholder consultation.

### Objective

Ensure that Australian content is easily discoverable on SVODs.

### Rationale

While 53% of respondents to the 2022 Media Content Consumption Survey said that online SVODs have enough Australian content, 15% indicated it is difficult and 2% indicated it is very difficult to find Australian content on these services. While a percentage of revenue content obligation may guarantee the ongoing production of Australian content, it does not guarantee the discoverability of Australian content on SVODs.

A discoverability requirement is needed to ensure that the catalogue contains and maintains Australian content and promotes it to audiences in Australia.

Currently, SVODs generally use different discoverability and promotional activities for content on their services. This may be algorithm based where a service tries to enhance engagement and time spent on its platform by an audience, or recommend new content. The discoverability of Australian content is not guaranteed as a recommendation may only be based on a subscriber's previous viewing or search patterns. If Australian content is inconsistently identified through metadata, a search may not yield complete results or an algorithm may not deliver other Australian content to a user.

In other instances, banners and carousels are used to promote content. However, each SVOD's discoverability activities differ greatly and are at times inconsistent with each other.<sup>14</sup> For example, searching the word 'Australia' on one SVOD yields results based on country-of-origin metadata, and promotes other categories such as 'Related to the Australian Outback and 'AACTA Award-winning Movies'. In contrast, searching the word 'Australia' on another SVOD yields content with 'Australia' in the title, and also completely unrelated titles such as *Avatar* and *Austin & Ally*.

Australian regulation already requires free-to-air commercial television broadcasters to make Australian content available via quotas. For example, primary channels on commercial free-to-air television are subject to a requirement to broadcast 55% Australian content between 6am and midnight and non-primary channels are required to provide 1,460 hours of Australian content per year.

Broadcaster compliance is higher than the minimum requirement: in 2021, stations broadcast between 68% to 78% of Australian content for metropolitan primary channels and between 1,726 to 5,307 hours for non-primary channels.<sup>15</sup>

A discoverability requirement on SVODs would assist in levelling the regulatory playing field with free-to-air commercial television broadcasters.

<sup>14</sup> Lobato, Ramon and Alexa Scarlata (2019), "[Australian Content in SVOD Catalogs: Availability and Discoverability – 2019 edition](#)", RMIT University.

<sup>15</sup> Australian Communications and Media Authority, [Commercial television compliance with Australian content requirements 2021 compliance report – metropolitan networks](#), August 2022.

## Appendix A – Glossary

Term	Definition
Australian program (ACCTS)	The definition of an <i>Australian program</i> in the Broadcasting Services (Australian Content and Children’s Television) Standards 2020 (ACCTS) requires Australian creative control and Australian on-screen elements. It is considered a narrow definition of Australian content. It is the definition used by the Australian Communications and Media Authority (ACMA) to assess commercial television licensee compliance with the first-release Australian program points quota required by the ACCTS. It is also the definition used in large SVODs’ annual voluntary reporting to the ACMA.
ACMA	The Australian Communications and Media Authority.
Acquired program/ acquisitions	A program acquired but not commissioned by an entity.
BSA	<a href="#"><u>Broadcasting Services Act 1992</u></a> .
Catalogue	The library of programs available to a subscriber of an SVOD in that particular country.
Children’s program	A program made for children younger than 15 years of age.
Commissioned program/commissions	An entity has made a material and meaningful financial contribution to the production of a program before the production has been completed (and includes in-house production).
Co-commissioned	Programs produced with a material and meaningful financial contribution by two or more entities.
Discoverability	The likelihood that specific content can be found on an SVOD.
Documentary	A program that is a creative treatment of actuality other than a news, current affairs, sports coverage, magazine, infotainment or light entertainment program.
First release program	Under the ACCTS, a <i>first release</i> program is first broadcast in a licence area (whether or not the program has already been broadcast in the licence area by a subscription television broadcasting service) within 2 years of the completion of production of the program.  Note: A program may be considered a first-release program even if it has already been made available on a subscription or broadcast video on demand service.
FTA	Free-to-air terrestrial broadcast television services provided free of charge to the viewer, including commercial broadcasters Seven, Nine and Ten and the national broadcasters ABC and SBS.

NEDE scheme	New Eligible Drama Expenditure Scheme. Subscription television broadcasting licensees and channel providers must spend at least 10% of their total program expenditure for drama channels on new Australian drama programs in each financial year.
Production budget	Expenditure that is incurred in, or that is reasonably attributable to, the making of the program.
Professional content	Content made to certain technical standards by those trained or accredited in their fields of expertise, such as writers, producers and directors; as distinct from amateur or user-created content.
SAC test	The <a href="#">Significant Australian Content test</a> (SAC Test) is used by Screen Australia to assess projects eligible for the Producer Offset. It is considered a broad definition of Australian content. The SAC Test uses five measures which are weighted equally: the subject matter of the film; the place where the film was made; the nationalities and places of residence of the persons who took part in the making of the film; the details of the production expenditure incurred in respect of the film, and; any other matters that Screen Australia considers to be relevant. In the fifth measure, questions about Australian creative control, copyright ownership, and recoupment and profit participation are considered.
Scripted drama	A program that has a fully or partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure. It may have actors delivering improvised dialogue based on a script outline(s) developed by a writer(s). It does not include a program, or a segment of a program, that involves the incidental use of actors.
Subscription (pay) TV	Service providing access, for a fee, to television channels transmitted using cable, satellite or terrestrial microwave. Examples include Fetch TV and Foxtel.
SVOD	Subscription video-on-demand services host a catalogue of content behind a pay wall. Some SVOD services have ad-supported subscription tiers and may also offer live-streamed content.



## Appendix B – Consultation response form

**Note: this is a sample of the form that will be used.**

Questions 1-13 will inform an Impact Analysis Statement. Please provide any other commentary at Question 14.

### General considerations

**Question 1 – The consultation paper proposes that an Australian screen content obligation would apply to SVODs that:**

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**Do you agree with these service and scale criteria? If not, what other criteria would you suggest?**

Please refer to page 8 in the Consultation Paper.

In your response to this question, you may wish to address:

- the **types of streaming service providers** that should be subject to an obligation
- the **size of streaming service providers** that should be subject to an obligation, including any suggested subscriber number and/or revenue thresholds (including types of revenue that should counted).

*Insert response [Suggested maximum 1000 words]*

**Question 2 – How can SVODs improve discoverability of Australian content?**

Please refer to page 14 in the Consultation Paper.

*Insert response [Suggested maximum 500 words]*

**Question 3 – How should discoverability requirements be measured and enforced?**

Please refer to page 14 in the Consultation Paper.

*Insert response [Suggested maximum 500 words]*

# Questions related to model 1

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Refer to pages 9 to 10 of the Consultation Paper for more information.

## Question 4 – What are the likely *benefits* of model 1?

In your response to this question, you may wish to address:

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers); and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

## Question 5 – What are the likely *costs/challenges* associated with model 1?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

## Question 6 – Would you suggest any changes to model 1?

*Insert response [Suggested maximum 500 words]*

## Questions related to model 2

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Refer to pages 11 to 12 of the Consultation Paper for more information.

### Question 7 – What are the likely *benefits* of model 2?

In your response to this question, you may wish to address:

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers), and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

### Question 8 – What are the likely *costs/challenges* associated with model 2?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

### Question 9 – Would you suggest any changes to model 2?

*Insert response [Suggested maximum 500 words]*

## Questions related to model 3

s47C

Refer to page 13 of the Consultation Paper for more information.

### Question 10 – What are the likely *benefits* of model 3?

In your response to this question, you may wish to address:

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers), and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

### Question 11 – What are the likely *costs/challenges* associated with model 3?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

### Question 12 – Would you suggest any changes to model 3?

*Insert response [Suggested maximum 500 words]*

## Other comments

Thank you for providing your views on each of the models described in the Consultation Paper. This last section seeks your views on the most effective way to ensure continued access to Australian stories and content on streaming services and which model would best achieve this policy objective.

**Question 13 – Which of the three percentage of revenue-based models do you prefer and why?**

*Insert response [Suggested maximum 500 words]*

**Question 14 – Do you have any other comments or suggestions on what has been proposed in the Consultation Paper?**

*Insert response [Suggested maximum 1000 words]*

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Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

# Consultation response form

## Australian screen content requirements on streaming services

March 2023

### Instructions

Please respond to each question using the text box provided. Maximum word limits are provided as a guide. Respondents are encouraged to include all relevant detail (including specific figures, if appropriate), however succinct responses that directly address the questions below will assist the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department), to quickly and clearly understand respondent views on the proposed models. Information about the proposed models and options are detailed in the Consultation Paper.

In your responses, please:

1. Do not include any personal information or information in your responses that identifies or may lead to the identification of an individual.
2. Identify where relevant, whether part or all of the information provided is confidential information and should therefore be subject to limitations on its use and distribution.

Please note that for the purposes of the responses provided as part of this consultation, confidential information does *not* include information that is, or becomes public knowledge other than by disclosure that is inconsistent with the department's proposed handling of information as outlined below (see section on 'Management of Information').

### Submission

Please return your completed response form to the department at the following email address:

s22(1)(a)(ii) [arts.gov.au](mailto:arts.gov.au)

**Consultation closing date and time: Friday, 28 April 2023 at 11:59pm.**

## Management of information

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) is collecting information specifically for the purpose of designing an Australian content obligation for streaming services, including to inform the consideration of issues associated with developing and implementing such an obligation.

In addition to the information set out here, the department's handling of any personal information is detailed in the department's privacy policy (accessible on the department's website) and is in accordance with its obligations under the *Privacy Act 1988* (Cth).

The department undertakes not to disclose any part of information provided by respondents that is identifiable information (i.e. identifies the relevant respondent or an individual associated with the relevant respondent) or is identified as confidential information to a third party without the prior consent of the respondent providing the information, except to the extent that a disclosure is:

- a. To Commonwealth Ministers or their staff (on a confidential basis) including, but not limited to the following:
  - i. The Minister for the Arts;
  - ii. The Minister for Communications;
  - iii. The Minister for Foreign Affairs; and
  - iv. The Minister for Trade and Tourism.
- b. In response to a request by a House or a Committee of the Australian Parliament;
- c. Required by law; or
- d. Confined to information that is already in the public domain.

The department will store any confidential information it is provided securely, and use at least the same level of security to protect the confidential information from disclosure as the department uses for its own confidential information.

The department reserves the right to publish any information that is not identified as confidential information and any anonymised and / or aggregated data or analysis based on the information you provide.

## General considerations

Questions 1-13 will inform an Impact Analysis Statement. Please provide any other commentary at Question 14.

**Question 1 – The consultation paper proposes that an Australian screen content obligation would apply to SVODs that:**

- currently offer one of the following genres in their catalogue: drama, documentary or children's programs

- <sup>s47C</sup> [REDACTED]

**Do you agree with these service and scale criteria? If not, what other criteria would you suggest?**

Please refer to page 8 in the Consultation Paper.

In your response to this question, you may wish to address:

- the **types of streaming service providers** that should be subject to an obligation
- the **size of streaming service providers** that should be subject to an obligation, including any suggested subscriber number and/or revenue thresholds (including types of revenue that should counted).

*Insert response [Suggested maximum 1000 words]*

**Question 2 – How can streaming services improve discoverability of Australian content?**

Please refer to page 14 in the Consultation Paper.

*Insert response [Suggested maximum 500 words]*

**Question 3 – How should discoverability requirements be measured and enforced?**

Please refer to page 14 in the Consultation Paper.

*Insert response [Suggested maximum 500 words]*



# Questions related to model 1

s47C

Refer to pages 9 to 10 of the Consultation Paper for more information.

## Question 4 – What are the likely *benefits* of model 1?

In your response to this question, you may wish to address:

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers); and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

## Question 5 – What are the likely *costs/challenges* associated with model 1?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

## Question 6 – Would you suggest any changes to model 1?

*Insert response [Suggested maximum 500 words]*

## Questions related to model 2

s47C

Refer to pages 11 to 12 of the Consultation Paper for more information.

### Question 7 – What do you think would be the likely *benefits* of model 2?

In your response to this question, you may wish to address:

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers), and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

### Question 8 – What do you think would be the likely *costs/challenges* associated with model 2?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

### Question 9 – Would you suggest any changes to model 2?

*Insert response [Suggested maximum 500 words]*

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## Questions related to model 3

s47C

Refer to page 13 of the Consultation Paper for more information.

### Question 10 – What are the likely *benefits* of model 3?

- **quantitative** benefits (for example, financial benefits, employment benefits, subscriber/audience numbers), and
- **qualitative** benefits (for example, broader cultural/social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

### Question 11 – What are the likely *costs/challenges* associated with model 3?

In your response to this question, you may wish to address:

- **quantitative** and **qualitative** examples of costs/challenges
- any **possible flow on-impacts** (for example, the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

### Question 12 – Would you suggest any changes to model 3?

*Insert response [Suggested maximum 500 words]*

## Other comments

Thank you for providing your views on each of the models described in the consultation paper. This last section seeks your views on the most effective way to ensure continued access to Australian stories and content on streaming services and which model would best achieve this policy objective.

**Question 13 – Which of the three percentage of revenue-based models do you prefer and why?**

*Insert response [Suggested maximum 500 words]*

**Question 14 – Do you have any other comments or suggestions on what has been proposed in the consultation paper?**

*Insert response [Suggested maximum 1000 words]*



**Australian Government**

**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for information)

**cc:** The Hon Michelle Rowland MP, Minister for Communications

**Subject:** Australian content definitions

**Critical Date:** N/A. Your office has requested an overview of content definitions for your information.

<b>Recommendation:</b>	
1. That you <b>note</b> the information included in this brief.	<b>Noted / Please Discuss</b>
<b>The Hon Tony Burke MP</b>	Date:
<b>Comments:</b>	

**Key Points:**

1. There are two primary definitions of Australian content used in the Australian screen and broadcasting sectors: the definition of an ‘Australian program’ found in the Broadcasting Services (Australian Content and Children’s Television) Standards 2020 (the Standards) and the Significant Australian Content test (the SAC test) used to assess eligibility for the Producer Offset as defined in the *Income Tax Assessment Act 1997* (Tax Act).<sup>s47C</sup>

Australian Content and Children’s Television Standards

2. The Standards were made by the Australian Communications and Media Authority (the Authority) under the *Broadcasting Services Act 1992* (the Act) and came into effect on 1 January 2021. The definition of an Australian program in the Act was already well-established in previous iterations of the Act. Commercial television broadcasting licensees must meet a genre-specific first-release Australian programming obligation based on the definition of Australian program set out in the Standards.

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3. Broadly, a program is considered an Australian program under the Standards if it is produced under the creative control of Australians as follows:
- a. the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and
  - b. either: the director of the program is, or the directors of the program are, Australian; or the writer of the program is, or the writers of the program are, Australian; and
  - c. at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and
  - d. in the case of a drama program — at least 75% of the major supporting cast appearing in the program are Australians; and
  - e. the program is produced and post-produced in Australia (whether or not it is filmed in Australia).

s47C

4. Streaming services have been reporting to the Authority against the definition of Australian program in the Standards. The Authority has also operated an ‘Australian related’ definition so as to include productions that meet at least one of the criteria in the Standards of a program produced under the creative control of Australians and/or have incurred production (including pre- and post-production) expenditure in Australia. Examples include Netflix’s *A Perfect Pairing* which was filmed on location in Queensland with a story centred around a lead American actor, supported by an Australian cast.

5. It should be noted that under the Standards, programs made in New Zealand are deemed an Australian program, consistent with obligations under the Australia-New Zealand Closer Economic Relations Trade Agreement. The Authority has advised New Zealand productions counted under the Standard is decreasing over time. The New Eligible Drama Scheme that applies to subscription television broadcasters uses the same definition of Australian content under the Standards.

#### Significant Australian Content test

6. The SAC test is one of the criteria used to assess eligibility for the Producer Offset. The test comprises the following equally weighted components: the subject matter of the film; the place where the film was made; the nationalities and places of residence of the persons who took part in the making of the film; the details of the production expenditure incurred in respect of the film; and any other matters that Screen Australia considers to be relevant. Unlike the Standards, ‘Australia’ in this context does not include programs made in New Zealand.

7. The SAC test is more flexible in terms of what is defined as Australian, has some elements of creative control and may result in content that does not necessarily look or feel Australian or require it to be shot in Australia. For example, productions such as *Elvis*, *Max Max: Fury Road* and *Better Man* are considered Australian even though they may not tell Australian stories; and *Mad Max: Fury Road* was completely shot in Namibia. However, the creative concepts behind these films were developed, written, directed and produced by Australians, the intellectual property is retained in Australia, and they are often hugely popular with domestic and international audiences. The SAC test was designed in this way to support creative endeavour and the telling of a diverse range of stories.

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s47C  
Other definitions

9. The Tax Act defines Qualifying Australian Production Expenditure which applies to all three film tax offsets, the Producer Offset, the Location Offset and the Post, Digital and Visual Effects Offset. The Migration Regulations also set out criteria that must be met in order for a production to import a foreign performer. Qualifying Australian Production Expenditure and the Foreign Actors Certification Scheme are not used to define Australian content.

**Financial impacts:** N/A**Legal/Legislative impacts:**10. s47C  
11. s47C  


Under Section 122 of the Broadcasting Services Act, the Authority is required to determine standards related to the Australian content of programs. The Minister may also direct the Authority in relation to the use of these powers.

s47C  
**Consultation:** N/A.**Media Opportunities:** N/A.**Attachments:**

Attachment A: Australian content and other definitions.

Attachment B: s47C  


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Cleared by: Stephen Arnott  
Position: Deputy Secretary  
Group: Creative Economy and the Arts  
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Mob: s22(1)(a)(ii)  
Cleared date: 06/06/2023

Cleared by: Richard Windeyer  
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Cleared date: 06/06/2023

Contact Officer: s22(1)(a)(ii)  
Section: Content Section  
Ph: 02 6271 s22(1)(a)(ii)  
Mob: s22(1)(a)(ii)

Instructions for MPS: Nil.

**PDMS Distribution List:** Jim Betts, Angela French, s22(1)(a)(ii) Stephen Arnott, Richard Windeyer, s22(1)(a)(ii)  
s22(1)(a)(ii) Pauline Sullivan, Greg Cox, Rebecca Rush, James Penprase, Shervin Rafizadeh, Darryl Watkins, s22(1)(a)(ii)  
s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii)

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**Attachment A****Broadcasting Services (Australian Content and Children's Television) Standards 2020**

The Standards apply to commercial television broadcasting licensees and require them to broadcast enough relevant first-release Australian programming (between 6am and midnight) each calendar year to accrue 250 points. Points can be accrued via the broadcast of:

- commissioned Australian drama (including children's drama);
- commissioned Australian children's programs (non-drama);
- commissioned Australian documentary programs;
- acquired Australian films.

The ACCTS provides that:

- 1) a program is an Australian program if it is produced under the creative control of Australians:
  - a. the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and
  - b. either:
    - i. the director of the program is, or the directors of the program are, Australian; or
    - ii. the writer of the program is, or the writers of the program are, Australian; and
  - c. at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and
  - d. in the case of a drama program — at least 75% of the major supporting cast appearing in the program are Australians; and
  - e. the program is produced and post-produced in Australia (whether or not it is filmed in Australia); and
  - f. in the case of an animated program — the program satisfies at least 3 of the following requirements:
    - i. the production designer is Australian;
    - ii. the character designer is Australian;
    - iii. the supervising layout artist is Australian;
    - iv. the supervising storyboard artist is Australian;
    - v. the key background artist is Australian.

**Significant Australian Content test under the *Income Tax Assessment Act 1997* (Tax Act)**

The Significant Australian Content test (the SAC test) is one of the criteria that is used to determine eligibility for the Producer Offset. Other eligibility criteria include expenditure thresholds, genre, format, distribution and whether the applicant company is an Australian company. Productions that are official co-productions do not need to meet the SAC test. The SAC test does not allow New Zealand productions or New Zealand nationals/residents to qualify.

The SAC test is assessed by Screen Australia. Elements that are considered as part of the SAC test are:

- The subject matter of the film:
  - Significant creative connection to Australia

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- Australian ‘look and feel’
  - Did the project originate in Australia or was it developed by Australians?
  - Is the project under Australian control?
  - Were Australian citizens/residents involved in the project’s development?
  - Is the project based on an Australian story?
  - Is the project about Australian characters?
  - Is the project set in Australia?
  - Does the project reflect a cultural background that is particular to Australia or Australians?
  - Does the project reveal some aspect of Australia’s or Australians’ cultural background or experience?
  - Other relevant factors specific to the individual project.
- The place where the film was made:
    - Must be primarily produced in Australia (includes pre-production, production and post-production)
    - Projects that undertake most or all work in Australia will generally have a strong claim in respect of this element.
    - Projects that undertake a substantial period(s) of production outside of Australia will generally have a weaker claim against this element.
- The nationalities and places of residence of the persons who took part in the making of the film:
    - A higher proportion of Australian citizens/residents involved in the project in the following roles will result in a stronger claim against this element:
      - Executive producer, producer, writer, director
      - Lead cast members
      - Key creative heads of department (e.g. director of photography, editor, costume designer)
      - Other cast, crew and service providers (e.g. post-production houses)
- The details of production expenditure incurred in respect of the film:
    - To what extent does the project’s production expenditure contribute to the Australian screen industry?
      - e.g. expenditure on Australian citizens/residents and Australian service providers
      - e.g. expenditure incurred on goods and services provided in Australia.
- Any other matters considered to be relevant by Screen Australia.
    - These might include the following:
      - The extent to which creative control rests with Australian citizens/residents.
      - The extent to which copyright ownership resides with Australians – in particular, whether this is commensurate with the proportion of the budget provided by Australians.
      - The extent to which there is a recoupment and profit participation for Australian nationals/residents, and the extent to which this is commensurate with ownership.
      - The policy intent of the Producer Offset
        - e.g. the impact of the project on creating a sustainable Australian film and television production industry.

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- e.g. whether the project supports the development and employment of Australian key creatives to make Australian films.
- Anything else Screen Australia or the applicant considers relevant.

### Qualifying Australian production expenditure

Qualifying Australian Production Expenditure applies to the Producer Offset, Location Offset and Post, Digital and Visual Effects Offset. Qualifying Australian Production Expenditure is **not** applied in such a way so as to define 'Australian content'. It is used for the purpose of:

- determining eligibility for an offset by establishing if a production has met the required expenditure threshold/s; and
- calculating the final figure upon which the rebate is based.

Qualifying Australian Production Expenditure is the applicant company's production expenditure on the production to the extent it is incurred for, or reasonably attributable to:

- goods and services provided in Australia; or
- the use of land located in Australia; or
- the use of goods that are located in Australia at the time they are used in the making of the production.

What expenditure is considered eligible Qualifying Australian Production Expenditure differs slightly between the three film tax offsets. Broadly:

- for the Producer Offset, Qualifying Australian Production Expenditure can include development, some financing and marketing, pre-production, production and post-production activities in Australia. It can also include production activities carried out overseas.
- for the Location Offset, Qualifying Australian Production Expenditure can include expenditure on pre-production, production and post-production activities in Australia.
- for the Post, Digital and Visual Effects Offset, Qualifying Australian Production Expenditure must be for or directly related to post, digital and visual effects activities.

### Foreign Actors Certification Scheme

The *Migration Act 1958* regulates the entry into and presence in Australia of non-citizens. The Migration Regulations prescribe classes of visas; criteria for visas of specified classes; whether visas are for the purpose of travelling to and entering, or remaining in Australia, or both; and the conditions of entry.

The Subclass 408 visa allows visa holders to work temporarily in Australia in the entertainment industry in film, television or live productions in either a performance or behind-the-scenes role. The visa facilitates the Australian community's access to a wide range of overseas cultural events while supporting employment and training opportunities for Australians

The Foreign Actors Certification Scheme is not used to define Australian content. It is the process through which productions apply for a certificate from the Arts Minister to accompany a visa application to import a foreign actor to work on a film or television production.

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The requirements are intended to achieve key government cultural objectives by making sure that Australian industry personnel are given a fair chance in securing employment in film and television productions shot in Australia, and that Australian voices are heard in Australian productions.

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MS23-003990


**Australian Government**
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for information)

**The Hon Michelle Rowland MP, Minister for Communications** (for information)

**Subject:** Australian screen content requirement on streaming services – proposed models informed by stakeholder feedback

**Critical Date:** Please action by 4 August 2023 to enable the department to refine drafting instructions for clearance.

**Recommendation/s:**

1. That you **note** the proposed regulatory models <sup>s47C</sup> [REDACTED] for an Australian screen content obligation on streaming services at **Attachments A, B, C and D**.

**Noted / Please Discuss**

2. <sup>s47C</sup> [REDACTED]

**Noted / Please Discuss**

3. That you **note** the proposed role of the Australian Communications and Media Authority at **Attachment F**.

**Noted / Please Discuss**

**The Hon Tony Burke MP**

Date:

**The Hon Michelle Rowland MP**

Date:

**Comments:**

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MS23-003990

**Key Points:**

1. In MS23-003170, you agreed a targeted stakeholder consultation paper including regulatory models for an Australian content obligation on streaming services. Formal consultation occurred from March to May 2023. s47C

2. s47C

3. s47C

4. s47C

5. s47C

Currently, streaming services voluntarily report expenditure to the Authority based on an 'Australian related' definition that refers to a program meeting only one criterion for an 'Australian program' under the Standards

s47C

6. s47C

7. s47C

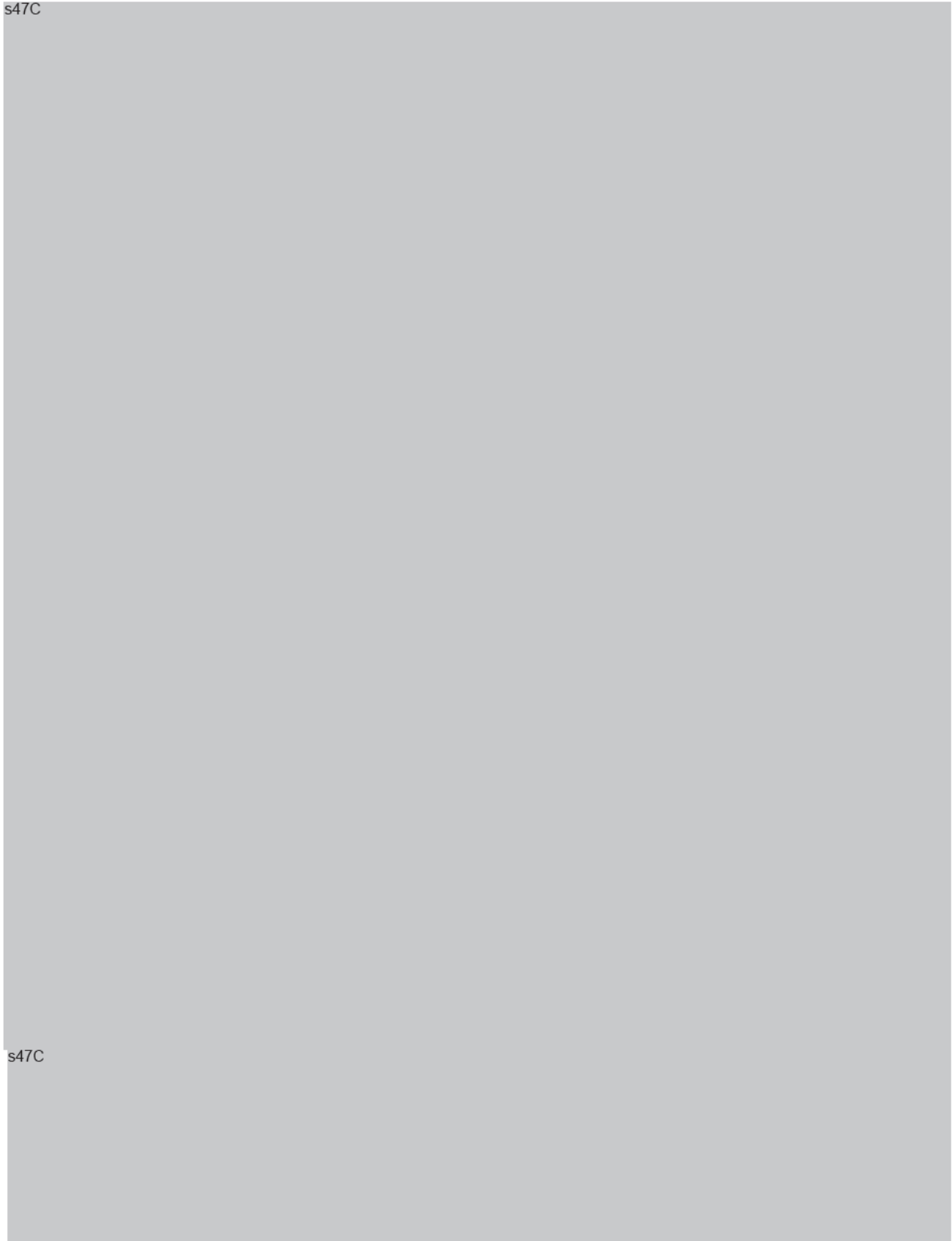
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MS23-003990

s47C



s47C

**Legal/Legislative impacts:**

13.

s47C



s34(3), s34(2)

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s34(3)

s42

s34(3), s34(2)

**Stakeholder Implications:**

17.

s47C, s47E(d)

**Consultation:** The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of International Law, Attorney-General’s Department; Australian Government Solicitor; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities:** Nil.

**Attachments:**

Attachment A:

s47C

Attachment B:

s47C

Attachment C:

s47C

Attachment D:

s47C

Attachment E:

s47C

Attachment F:

s47C

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MS23-003990

Cleared By: Stephen Arnott  
Position: Deputy Secretary  
Group: Creative Economy and the Arts  
Ph: 02 6271 <sup>s22(1)(a)(iii)</sup>  
Mob: <sup>s22(1)(a)(ii)</sup>  
Cleared Date: 21 July 2023

Cleared by: Richard Windeyer  
Position: Deputy Secretary  
Group: Communications and Media  
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Mob: <sup>s22(1)(a)(ii)</sup>  
Cleared date: 21 July 2023

Contact Officer: <sup>s22(1)(a)(ii)</sup>  
Section: Content  
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Mob: <sup>s22(1)(a)(ii)</sup>

**Instructions for MPS:** Nil.

**Do you require a signed hardcopy to be returned:** Yes

**PDMS Distribution List:** Jim Betts, Marisa Purvis-Smith, Angela French, Brendon Buckley, <sup>s22(1)(a)(ii)</sup>  
Stephen Arnott, Richard Windeyer, <sup>s22(1)(a)(ii)</sup> <sup>s22(1)(a)(ii)</sup> Pauline Sullivan, Philip Smith, Rebecca Rush,  
James Penprase, Shervin Rafizadeh, Darryl Watkins, <sup>s22(1)(a)(ii)</sup> <sup>s22(1)(a)(ii)</sup> <sup>s22(1)(a)(ii)</sup>, <sup>s22(1)(a)(ii)</sup>  
<sup>s22(1)(a)(ii)</sup> <sup>s22(1)(a)(ii)</sup>, <sup>s22(1)(a)(ii)</sup>

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MS23-003947


**Australian Government**
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for decision)  
**The Hon Michelle Rowland MP, Minister for Communications** (for decision)

**Subject:** Australian Screen Content Requirement on Streaming Services - Models for Second Targeted Consultation

**Critical Date:** Please action by Thursday 10 August 2023 to enable the department to conduct additional stakeholder consultation and to refine drafting instructions for clearance.

**Recommendation/s:**

- |   |                                |
|---|--------------------------------|
| 1. That you <b>agree</b> policy levers and settings proposed for the models at <b>Attachment A</b> subject to consultation. | <b>Agreed / Please discuss</b> |
| 2. That you <b>agree</b> the models for stakeholder consultation and Deputies' covering note in <b>Attachment B</b> .       | <b>Agreed / Not Agreed</b>     |
| 3. That you <b>agree</b> the stakeholder list for targeted consultation at <b>Attachment C</b>                              | <b>Agreed / Not Agreed</b>     |
| 4. That you <b>note</b> the pros and cons, risks and benefits for each of the proposed models at <b>Attachment D</b>        | <b>Noted / Please Discuss</b>  |
| 5. That you <b>note</b> the updated timeline for the introduction of the Bill into Parliament in <b>Attachment E</b>        | <b>Noted / Please Discuss</b>  |

**The Hon Tony Burke MP**

Date:

**Comments:**
**The Hon Michelle Rowland MP**

Date:

**Key Points:**
~~PROTECTED CABINET~~

1. s47C [Redacted]

2. s47C [Redacted]

3. You have agreed for the department to manage a second tranche of consultation to provide those stakeholders who will be most significantly impacted, with the opportunity to consider the new models which have evolved following the previous round of targeted consultation.

4. s47C [Redacted]

5. s47C, s47E(d) [Redacted]  
The department will seek information and data from these services to understand the impacts of the proposed models on their current business structures and processes. A list of stakeholders and rationale for their inclusion is at **Attachment C**.

6. s47C [Redacted]

7. s47C [Redacted]

**Financial impacts:**

8. s47C [Redacted]

**Legal/Legislative impacts:**

9. s47C [Redacted] s34(3) s34(2)  
10. s47C [Redacted]

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s47C [Redacted]

11. s47C [Redacted]

12. s34(3), s34(2) [Redacted] s47C [Redacted]

**Stakeholder Implications:**

13. s47C, s47E(d) [Redacted]

**Consultation:**

The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of International Law, Attorney-General's Department; Australian Government Solicitor; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities: NIL**

**Attachments:**

- Attachment A: s47C [Redacted]
- Attachment B: s47C [Redacted]
- Attachment C: s47C [Redacted]
- Attachment D: s47C [Redacted]
- Attachment E: s47C [Redacted]

Cleared By: Stephen Arnott  
Position: Deputy Secretary  
Group: Creative Economy and the Arts  
Ph: 02 6271 s22(1)(a)(iii)  
Mob: s22(1)(a)(ii)  
Cleared Date: 9 August 2023

Cleared by: Richard Windeyer  
Position: Deputy Secretary  
Group: Communications and Media  
Ph: 02 6271 s22(1)(a)(iii)  
Mob: s22(1)(a)(ii)  
Cleared date: 9 August 2023

Contact Officer: s22(1)(a)(ii)  
Section: Content  
Ph: 02 6271 s22(1)(a)(iii)  
Mob: s22(1)(a)(ii)

**Instructions for MPS: NIL**

**Do you require a signed hardcopy to be returned: Yes**

**PDMS Distribution List:** Jim Betts, Marisa Purvis-Smith, Angela French, Brendon Buckley, s22(1)(a)(ii)  
Stephen Arnott, Richard Windeyer, s22(1)(a)(ii) s22(1)(a)(ii) Pauline Sullivan, Philip Smith, Rebecca Rush,  
James Penprase, Shervin Rafizadeh, Darryl Watkins, s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii)  
s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) (a)(ii)



**Australian Government**

**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for decision)  
**To: Michelle Rowland MP, Minister for Communications** (for decision)  
**Subject:** Australian screen content requirements on streaming services – model for limited stakeholder consultation

**Critical Date:** Please action by 28 August 2023 to enable the department to conduct additional, limited stakeholder consultation on a model and to refine drafting instructions for clearance.

<b>Recommendation/s:</b> That you:	
1. s34(3), s34(2)	[Redacted]
	<b>Signed / Not Signed</b>
2. s22(1)(a)(ii)	[Redacted]
	<b>Agreed / Not Agreed</b>
3. Noting stakeholder positions on policy settings as part of the targeted consultation on streaming services regulation at <b>Attachment B</b> , agree to the policy settings at <b>Attachment C</b> .	
	<b>Agreed / Not Agreed</b>
4. s47C	[Redacted]
	<b>Agreed / Not Agreed</b>
5. Agree to the consultation products and stakeholder list at <b>Attachment F</b> .	
	<b>Agreed / Not Agreed</b>
<b>The Hon Tony Burke MP</b> Date:	<b>The Hon Michelle Rowland MP</b> Date:
<b>Comments:</b>	

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MS23-004261

**Key Points:**

s47C

1. s34(3), s34(2)

2. s47C

3. s47C

4. s47C

5. s47C

s47C

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~~PROTECTED CABINET~~

s47C [Redacted]

6. s47C [Redacted]

**Consultation**

7. s47E(d) [Redacted]

8. s47C [Redacted]

s47C [Redacted]

9. The department proposes to undertake further, limited consultation with stakeholders s47C [Redacted]. The department will also request any further data for the purposes of an Impact Analysis Statement, for example, applied data on total production expenditure for Australia that is currently not available to the department through existing data sources.

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MS23-004261

10. s47C  
[Redacted]

11. s47E(d)  
[Redacted] s47C

12. s47C  
[Redacted]

**Risks**

13. s47C  
[Redacted]

14. s47C  
[Redacted]

15. s47C  
[Redacted]

16. s47C  
[Redacted]

s47C  
[Redacted]

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MS23-004261

**Financial impacts:**17. <sup>s47C</sup>**Legal/Legislative impacts:**

18. Please refer to advice outlined in MS23-003990 and MS23-003947.

**Stakeholder Implications:**19. <sup>s47C, s47E(d)</sup>**Consultation:**

The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of International Law, Attorney-General's Department; Australian Government Solicitor; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities:** Nil.**Attachments:**

Attachment A: Joint letter to the Prime Minister

Attachment B: <sup>s47E(d), s47C</sup>Attachment C: <sup>s47C</sup>Attachment D: <sup>s47C</sup>Attachment E: <sup>s47C</sup>

Attachment F: Consultation products and stakeholder lists

Attachment G: <sup>s47C</sup>

Cleared By: Jim Betts

Position: Secretary

Ph: 02 6274 <sup>s22(1)</sup>  
<sup>(a)(ii)</sup>

Cleared Date: 25 August 2023

Contact Officer: Stephen Arnott

Position: Deputy Secretary

Group: Creative Economy and the Arts

Ph: 02 6271 <sup>s22(1)</sup>  
<sup>(a)(iii)</sup>Mob: <sup>s22(1)(a)(ii)</sup>

Contact Officer: Richard Windeyer

Position: Deputy Secretary

Group: Communications and Media

Ph: 02 6271 <sup>s22(1)</sup>  
<sup>(a)(iii)</sup>Mob: <sup>s22(1)(a)(ii)</sup>**Instructions for MPS:** Nil.**Do you require a signed hardcopy to be returned:** Yes.~~PROTECTED CABINET~~

~~PROTECTED CABINET~~

MS23-004261

**PDMS Distribution List:** Jim Betts, Angela French, s22(1)(a)(ii) Stephen Arnott, Richard Windeyer, s22(1)(a)(ii)  
 s22(1)(a)(ii) Pauline Sullivan, Philip Smith, Rebecca Rush, James Penprase, Shervin Rafizadeh, Darryl  
 Watkins, s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii)  
 s22(1)(a)(ii)

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**THE HON TONY BURKE MP**  
Minister for Employment and Workplace Relations  
Minister for the Arts

**THE HON MICHELLE ROWLAND MP**  
Minister for Communications

MS23-004261

The Hon Anthony Albanese MP  
Prime Minister  
Member for Grayndler  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

We are writing to update you in relation to the National Cultural Policy measure to ‘legislate an Australian content obligation for online video streaming services to advance investment in Australian content’ s34(3) s34(2)

s34(3)

In response to targeted consultation on the implementation of Australian screen content obligations for streaming services, we consider further discussion with stakeholders is required. Targeted engagement with industry will help avoid any unintended consequences of this important regulatory reform, announced in *Revive*, the National Cultural Policy.

A second phase of limited consultation is planned in the coming weeks s47C

s47C

s47C

s34(2)

s4  
7C

s34(3)



s47C

The amendments will be implemented as part of the broader reforms to media legislation, planned to be introduced in the Spring 2023 sittings, with the obligation to take effect no later than 1 July 2024.

Yours sincerely

**TONY BURKE**

/ / 2023

**MICHELLE ROWLAND**

/ / 2023

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Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

ATTACHMENT F

# Consultation products and stakeholder lists

Australian screen content requirements on streaming services

August 2023

## Contact list for limited consultation

Streaming services and broadcasting partners

Organisation	Contact name	Title	Email address
s47E(d)	s47F		

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Contact list for limited consultation

Organisation	Contact name	Title	Email address
s47E(d)	s47F		

## Other agencies (observers at all meetings)

Organisation	Contact name	Title	Email address
<b>Australian Communications and Media Authority</b>	s22(1)(a)(ii)	Manager, Content Reporting and Bargaining Section	s22(1)(a)(ii)@acma.gov.au
<b>Screen Australia</b>	Michael Brealey	Chief Operating Officer	s22(1)(a)(ii)@screenaustralia.gov.au

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s22(1)(a)(ii)

## Appendix A – Definitions

Term	Definition
<b>Australian program</b>	<p>(1) Subject to subsections (3) and (4), a program is an Australian program if it is produced under the creative control of Australians.</p> <p>(2) For subsection (1), a program is produced under the creative control of Australians if:</p> <p>(a) the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and</p> <p>(b) either:</p> <p>(i) the director of the program is, or the directors of the program are, Australian; or</p> <p>(ii) the writer of the program is, or the writers of the program are, Australian; and</p> <p>(c) at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and</p> <p>(d) in the case of a drama program —at least 75% of the major supporting cast appearing in the program are Australians; and</p> <p>(e) the program is produced and post-produced in Australia (whether or not it is filmed in Australia); and</p> <p>(f) in the case of an animated program —the program satisfies at least 3 of the following requirements:</p> <p>(i) the production designer is Australian;</p> <p>(ii) the character designer is Australian;</p> <p>(iii) the supervising layout artist is Australian;</p> <p>(iv) the supervising storyboard artist is Australian;</p> <p>(v) the key background artist is Australian.</p> <p>(3) If a program includes segments that, if they were individual programs, would not comply with subsection (2), only a segment that, if it were an individual program, would comply with subsection (2) is taken to be an Australian program.</p> <p><i>Examples:</i> A sketch comedy program including Australian skits or a documentary including Australian segments.</p> <p>(4) A documentary that complies with subsection (2) is not an Australian program if it is a reversioning of one or more existing documentaries that are not Australian programs, Australian official co-productions, New Zealand productions or Australian/New Zealand productions.</p>
<b>Children’s program</b>	Means a C or P program as defined in the Broadcasting Services (Australian Content and Children’s Television) Standards 2020.

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s22(1)(a)(ii)

Term	Definition
<b>Australian drama program</b>	<p>(a) means an Australian program that:</p> <ul style="list-style-type: none"> <li>(i) has a fully scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; or</li> <li>(ii) has a partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure and has actors delivering improvised dialogue that is based on a script outline or outlines developed by a writer or writers; or</li> <li>(iii) has actors delivering improvised dialogue that is based on a script outline or outlines, developed by a writer or writers, in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; and</li> </ul> <p>(b) includes a fully scripted sketch comedy program, animated drama or dramatised documentary; but</p> <p>(c) does not include a program, or a segment of a program, that involves the incidental use of actors.</p>
<b>Gross Australian revenue</b>	Gross revenue earned from the Australian market for each service, including both subscriber and advertising revenue, where relevant.
<b>Expenditure on Australian commissions and acquisitions (A1 and A3)</b>	<ul style="list-style-type: none"> <li>• Commissions and acquisitions of ACCTS defined Australian content.</li> <li>• Commissions are programs for which an entity has made a material and meaningful financial contribution to the production of a program before the production has been completed (and includes in-house production). Includes co-commissions where relevant.</li> <li>• An acquisition is a program acquired but not commissioned by an entity such as via licensing.</li> </ul>
<b>Expenditure on Australian related programs (A2)</b>	Expenditure on commissioned or acquired content which meets only one ACCTS criterion for 'Australian program'.
<b>Licensed Australian territorial expenditure on drama (B)</b>	This is expenditure by a service on licensing drama (non-Australian content) to be made available in Australia.
<b>Total drama expenditure for Australia</b>	Drama expenditure by an SVOD including commissions (A1), acquisitions (A3), Australian-related content (A2) and licensed Australian territorial drama expenditure (B).

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MS23-004325



**Australian Government**

**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**To: The Hon Tony Burke MP, Minister for the Arts** (for decision)

**To: The Hon Michelle Rowland MP, Minister for Communications** (for decision)

**Subject:** Australian screen content requirements on streaming services – consultation plan

**Critical Date:** 22 September 2023.

<b>Recommendation/s:</b> That you:	
1. <sup>s47C</sup> [Redacted] <sup>s34(3)</sup> [Redacted]  <sup>s34(2)</sup> [Redacted], <sup>s47C</sup> [Redacted]	<b>Signed / Not Signed</b>
2. <sup>s47C</sup> [Redacted]	<b>Agreed / Not Agreed</b>
3. <b>Agree</b> to the Department requesting additional data now from streaming services to inform further consultation in October as outlined in <b>Attachment E</b> .	<b>Agreed / Not Agreed</b>
4. Noting stakeholder positions on policy settings elicited as part of the targeted consultation on streaming services regulation at <b>Attachment C</b> , <sup>s47C</sup> [Redacted]	<b>Agreed / Not Agreed</b>
5. <b>Agree</b> to the department consulting in late October <sup>s47C</sup> [Redacted]	<b>Agreed / Not Agreed</b>
6. <b>Agree</b> to the consultation products and stakeholder list at <b>Attachment F</b> .	<b>Agreed / Not Agreed</b>
<b>The Hon Tony Burke MP</b> Date:	<b>The Hon Michelle Rowland MP</b> Date:

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Comments:

**Key Points:**

- 1. As outlined in previous briefing, <sup>s34(2)</sup>  
<sup>s34(3)</sup>
- 2. <sup>s47C</sup> <sup>s34(2)</sup> <sup>s34(2)</sup>  
<sup>s47C</sup>
- 3. <sup>s47C</sup>  
Due to the additional consultation on the streaming services measure, amendments are planned to be introduced in the Autumn 2024 sittings, with the obligation to take effect no later than 1 July 2024, in line with commitments in *Revive*. For a detailed timeline, see **Attachment B**.
- 4. <sup>s47C</sup>

**Consultation**

- 5. As noted in advice to Ministers (MS23-003990, MS23-003947, and MS23-004261 refer), <sup>s47C</sup>. The department has re-considered stakeholder feedback, including from the regulator, and carefully reviewed the varying levels of complexity of the models, as well as any data gaps. Stakeholder views are known on policy levers (**Attachment C**) and your views on these settings (**Attachment D**) will assist with a further tightening of our rationale for, and impacts of, models for further consultation.
- 6. <sup>s47C</sup> <sup>s47C</sup>  
would be brought forward for further consultation.

<sup>s47C</sup>

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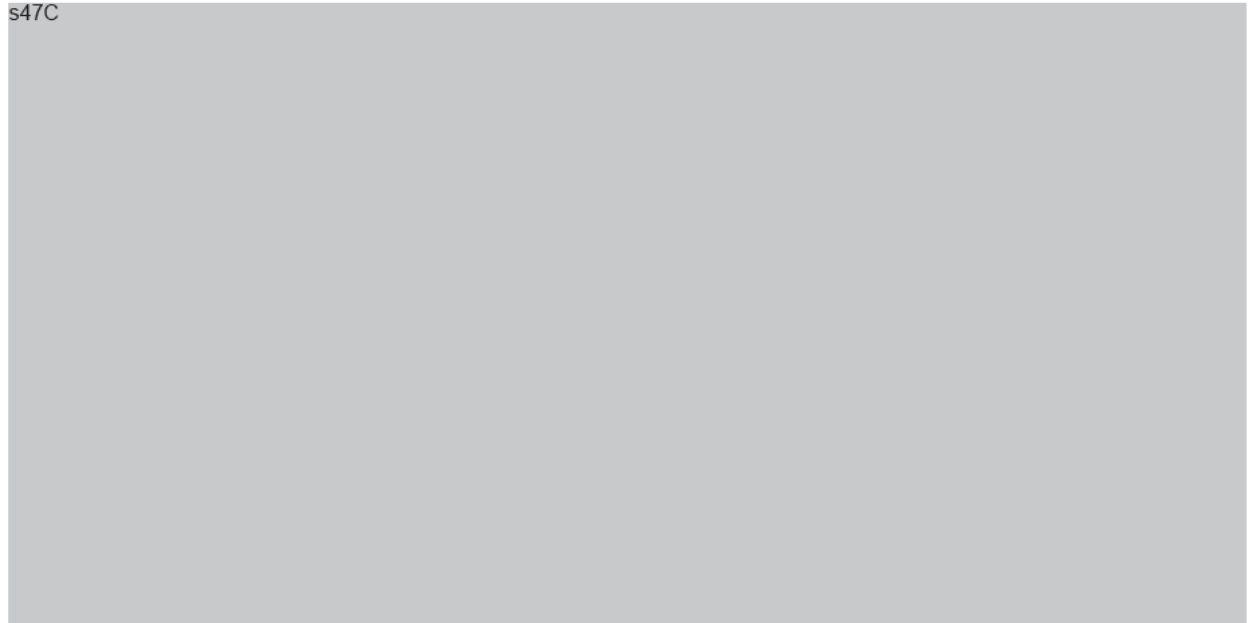
MS23-004325

s47C



8.

s47C



9. Subject to your approval, the department will undertake further consultation with stakeholders to test the two models and associated policy settings agreed by you. Prior to the consultation, the department will request additional data from large streaming services for the purposes of preparing the Impact Analysis Statement, for example, applied total program expenditure for Australia, and where relevant, levels of expenditure on sport, currently not available to the department through existing data sources (**Attachment E**).

10. It is proposed that consultation involve all stakeholders who participated in the first round of consultation earlier this year, <sup>s47E(d)</sup> [redacted]. Consultation will allow the department to understand the impacts of the proposed models on their business structures, processes and industry. A list of stakeholders is at **Attachment F**.

s47C



**Legal/Legislative impacts:** Please refer to advice outlined in MS23-003990, MS23-003947 and MS23-004261. <sup>s47C</sup> [redacted]

s47E(d)



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MS23-004325

s47E(d)

**Consultation:**

The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of International Law, Attorney-General's Department; Australian Government Solicitor; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities: Nil****Attachments:**

Attachment A: Joint letter to the Prime Minister

Attachment B: s47C

Attachment C: s47C

Attachment D: s47C

Attachment E: Email to streaming services requesting data

Attachment F: Consultation products and stakeholder lists

Attachment G.1: s47C

Attachment G.2: s47C

Cleared By: Jim Betts

Position: Secretary

Ph: 02 6274 s22(1)(a)(ii)

Cleared Date: 8 September 2023

Contact Officer: Rebecca Rush

Position: Acting First Assistant Secretary

Group: Office for the Arts

Ph: 02 6271 s22(1)(a)(ii)

Mob: s22(1)(a)(ii)

Contact Officer: Richard Windeyer

Section: Deputy Secretary

Group: Communications and Media

Ph: 02 6271 s22(1)(a)(ii)

Mob: s22(1)(a)(ii)

**Instructions for MPS: Nil****Do you require a signed hardcopy to be returned: Yes**

**PDMS Distribution List:** Jim Betts, Angela French, s22(1)(a)(ii) Stephen Arnott, Richard Windeyer, s22(1)(a)(ii) s22(1)(a)(ii) Pauline Sullivan, Philip Smith, Rebecca Rush, James Penprase, Shervin Rafizadeh, Darryl Watkins, s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii), Jason Potkins, s22(1)(a)(ii)

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**THE HON TONY BURKE MP**  
Minister for Employment and Workplace Relations  
Minister for the Arts

**THE HON MICHELLE ROWLAND MP**  
Minister for Communications

MS23-004325

The Hon Anthony Albanese MP  
Prime Minister  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

s47C  
s34(2) s47C

s34(3)

s47C

In response to targeted consultation on the implementation of Australian screen content obligations for streaming services, we consider further discussion with stakeholders is required. Targeted engagement with industry will help avoid any unintended consequences of this important regulatory reform.

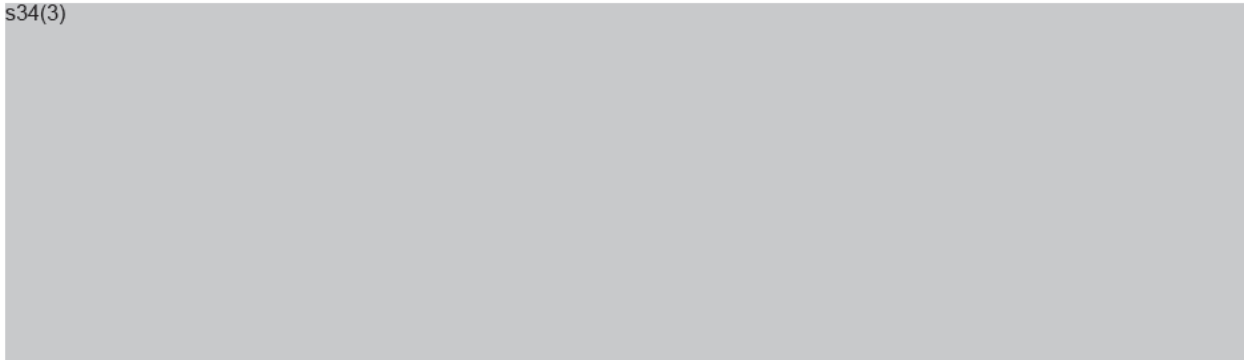
A second phase of consultation is planned in late October 2023 to help finalise details of a regulatory model for decision and to meet the Office of Impact Analysis' requirements.

s47C

In the interim, additional data is being sought from the streaming services to refine the likely two models for consultation.

s47C

s34(3)



s47C



The amendments will be implemented as part of the broader reforms to media legislation.

s47C



Yours sincerely

**TONY BURKE**

/ / 2023

**MICHELLE ROWLAND**

/ / 2023

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**OFFICIAL SENSITIVE**

For dispatch by 22 September 2023

## Covering note from Deputy Secretaries, Department of Infrastructure, Transport, Regional Development, Communications and the Arts – Request for additional data from streaming services

### Request for additional expenditure data for 2021-22 and 2022-23 financial years

Thank you for your participation to date in the Australian Government's stakeholder consultation on an Australian screen content obligation on streaming services (Australian content obligation).

To further inform advice to Government on an Australian content obligation, we are writing to request additional in-confidence data regarding the operation of your video-on-demand service in Australia. In particular, we ask that you provide the following information for the financial years 2021-22 and 2022-23:

- Total Drama Expenditure for Australia;
- Total Program Expenditure for Australia; and
- Total Sports Program Expenditure for Australia.

Please clearly identify any information that is confidential.

We would appreciate you providing this information by **6 October 2023** via email to:

s22(1)(a)(ii) [REDACTED] [arts.gov.au](mailto:[REDACTED]@arts.gov.au).

The department will handle your company's information in accordance with our confidential data handling processes – further detail is attached.

Thank you for your cooperation.

Kind regards

Dr Stephen Arnott  
Deputy Secretary  
Creative Economy and the Arts

Richard Windeyer  
Deputy Secretary  
Communications and Media

## Confidential information

The department appreciates that the information requested may comprise confidential information that would be provided to the department on a confidential basis. Please clearly identify, where relevant, whether part or all of the information provided is confidential and should therefore be subject to limitations on its use and distribution.

While the department does not expect the requested information to include any personal information, we ask that you refrain from including any personal information or information that may lead to the identification of an individual in your responses. The department's handling of personal information is detailed in its [privacy policy](#) (accessible on the department's website) and is in accordance with its obligations under the Privacy Act 1988 (Cth).

As per previous consultation processes, the department undertakes to use the confidential information only for the purpose of informing Australian content policy development, including the design of an Australian content obligation and the consideration of associated issues (e.g. implementation of the obligation).

For the purposes of the responses provided as part of this request for information, confidential information does not include information that is, or becomes public knowledge other than by disclosure that is inconsistent with the department's proposed handling of information.

The department undertakes not to disclose any part of information provided by respondents that is identifiable information (i.e. identifies the relevant respondent or an individual associated with the relevant respondent) or is identified as confidential information to a third party for any purpose other than for a purpose related to the development of Australian content policy and not without the prior consent of the respondent providing the information, except to the extent that a disclosure is:

- a. To Commonwealth Ministers or their staff (on a confidential basis) including, but not limited to the following:
  - i. The Minister for the Arts;
  - ii. The Minister for Communications;
  - iii. The Minister for Foreign Affairs; and
  - iv. The Minister for Trade and Tourism.
- b. To officers in the Department of the Prime Minister and Cabinet including the Office of Impact Analysis (on a confidential basis) as part of the regulatory impact analysis process for government decision-making;
- c. In response to a request by a House or a Committee of the Australian Parliament;
- d. Required by law; or
- e. Confined to information that is already in the public domain.

The department will store any confidential information it is provided securely in accordance with the department's relevant policies, and use at least the same level of security to protect the confidential information from disclosure as the department uses for its own confidential information.

If you have any questions about the consultation process or this data request, please contact Rebecca Rush on telephone: 02 6271 s22(1)(a)(ii) mobile s22(1)(a)(ii) email: s22(1)(a)(ii) [@arts.gov.au](mailto:arts.gov.au).





**Australian Government**  
 Department of Infrastructure, Transport,  
 Regional Development, Communications and the Arts

ATTACHMENT F

# Consultation products and stakeholder lists

Australian screen content requirements on streaming services

October 2023

## Contact lists for consultation

Streaming services and free-to-air and subscription television broadcasters

Organisation	Contact name	Title	Email address
Australia New Zealand Screen Association	s47F		
Netflix			
Disney+			
Paramount+/ Network Ten			
Amazon Prime Video			

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Organisation	Contact name	Title	Email address
	s47F		
Stan/Nine			
Apple TV+			
Binge/Foxtel			
Seven West Media			
ABC			
SBS			
Free TV			
The Australian Subscription Television and Radio Association (ASTRA)			

Screen production industry groups

Organisation	Contact name	Title	Email address
Australian Children's Producers	s47F		
Australian Children's Television Foundation			

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Organisation	Contact name	Title	Email address
Australia Directors Guild	s47F		
Australian Writers Guild			
Documentary Australia			
Media Entertainment and Arts Alliance			
Screen Producers Australia			

## Other agencies (observers at all meetings)

Organisation	Contact name	Title	Email address
Australian Communications and Media Authority	s22(1)(a)(ii)	Manager, Content Reporting and Bargaining Section	s22(1)(a)(ii) @acma.gov.au
Screen Australia	Michael Brealey	Chief Operating Officer	s22(1)(a)(ii) @screenaustralia.gov.au

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OFFICIAL SENSITIVE

## Appendix A – Definitions

Term	Definition
<b>Australian program</b>	<p>(1) Subject to subsections (3) and (4), a program is an Australian program if it is produced under the creative control of Australians.</p> <p>(2) For subsection (1), a program is produced under the creative control of Australians if:</p> <p>(a) the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and</p> <p>(b) either:</p> <p>(i) the director of the program is, or the directors of the program are, Australian; or</p> <p>(ii) the writer of the program is, or the writers of the program are, Australian; and</p> <p>(c) at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and</p> <p>(d) in the case of a drama program —at least 75% of the major supporting cast appearing in the program are Australians; and</p> <p>(e) the program is produced and post-produced in Australia (whether or not it is filmed in Australia); and</p> <p>(f) in the case of an animated program —the program satisfies at least 3 of the following requirements:</p> <p>(i) the production designer is Australian;</p> <p>(ii) the character designer is Australian;</p> <p>(iii) the supervising layout artist is Australian;</p> <p>(iv) the supervising storyboard artist is Australian;</p> <p>(v) the key background artist is Australian.</p> <p>(3) If a program includes segments that, if they were individual programs, would not comply with subsection (2), only a segment that, if it were an individual program, would comply with subsection (2) is taken to be an Australian program.</p> <p><i>Examples:</i> A sketch comedy program including Australian skits or a documentary including Australian segments.</p> <p>(4) A documentary that complies with subsection (2) is not an Australian program if it is a reversioning of one or more existing documentaries that are not Australian programs, Australian official co-productions, New Zealand productions or Australian/New Zealand productions.</p>
<b>Children’s program</b>	<p>Means a C or P program as defined in the Broadcasting Services (Australian Content and Children’s Television) Standards 2020.</p>

Term	Definition
<b>Australian drama program</b>	<p>(a) means an Australian program that:</p> <ul style="list-style-type: none"> <li>(i) has a fully scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; or</li> <li>(ii) has a partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure and has actors delivering improvised dialogue that is based on a script outline or outlines developed by a writer or writers; or</li> <li>(iii) has actors delivering improvised dialogue that is based on a script outline or outlines, developed by a writer or writers, in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; and</li> </ul> <p>(b) includes a fully scripted sketch comedy program, animated drama or dramatised documentary; but</p> <p>(c) does not include a program, or a segment of a program, that involves the incidental use of actors.</p>
<b>Gross Australian revenue</b>	<p>Gross revenue earned from the Australian market for each service, including both subscriber and advertising revenue, where relevant.</p>
<b>Expenditure on Australian commissions and acquisitions (A1 and A3)</b>	<ul style="list-style-type: none"> <li>• Commissions and acquisitions of ACCTS defined Australian content.</li> <li>• Commissions are programs for which an entity has made a material and meaningful financial contribution to the production of a program before the production has been completed (and includes in-house production). Includes co-commissions where relevant.</li> <li>• An acquisition is a program acquired but not commissioned by an entity such as via licensing.</li> </ul>
<b>Expenditure on Australian related programs (A2)</b>	<p>Expenditure on commissioned or acquired content which meets only one ACCTS criterion for 'Australian program'.</p>
<b>Licensed Australian territorial expenditure on drama (B)</b>	<p>This is expenditure by a service on licensing drama (non-Australian content) to be made available in Australia.</p>
<b>Total drama expenditure for Australia</b>	<p>Drama expenditure by an SVOD including commissions (A1), acquisitions (A3), Australian-related content (A2) and licensed Australian territorial drama expenditure (B).</p>

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MS23-004534


**Australian Government**
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**
**To: The Hon Tony Burke MP, Minister for the Arts** (for decision)

**To: The Hon Michelle Rowland MP, Minister for Communications** (for decision)

**Subject:** Australian screen content requirement on streaming services – updated modelling

**Critical Date:** Please action by 20 October 2023 to enable the department to conduct further targeted stakeholder consultation, to be agreed by your office and the Prime Minister's office, in the week commencing 23 October 2023.

**Recommendation/s:**

1. <sup>s47C</sup> [REDACTED]  
**Noted / Please Discuss**
2. That you **agree** to a three-week consultation period, commencing with the release of a targeted consultation paper in the week of 23 October 2023, followed by departmental roundtables with industry.  
**Agreed / Not Agreed**
3. That you **agree** to the stakeholder list and non-confidential consultation products at **Attachment B**.  
**Agreed / Not Agreed**
4. <sup>s47C</sup> [REDACTED]  
**Noted / Please Discuss**

**The Hon Tony Burke MP**

Date:

**The Hon Michelle Rowland MP**

Date:

**Comments:**
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**Key Points:**

s34(3)

2. s47C

3. s47C

**Further targeted stakeholder consultation**

4. s47C

will be released to stakeholders for comment in a second round of consultation in late October 2023.

5. s47C

6. s47C

7. A list of stakeholders and consultation documents for your agreement are at **Attachment B**.

**Additional expenditure data received from streaming services**

8. s47C

s47C

9. s47(1)(b)

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MS23-004534

s47(1)(b)

b.

c.

d.

e.

10. s47(1)(b)

11.

**Financial impacts:** s47C

**Legal/Legislative impacts:** Please refer to advice outlined in MS23-003990, MS23-003947 and MS23-004261. s47C

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MS23-004534

**Stakeholder Implications:** While stakeholder feedback has informed models for further consultation, it is likely that reactions will be varied and models will be reported in the media.

**Consultation:**

The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Office of International Law, Attorney-General's Department; Australian Government Solicitor; Office of Impact Analysis, Department of the Prime Minister and Cabinet; Bureau of Communications, Arts and Regional Research; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities:** Nil.

**Attachments:**

- Attachment A: Letter from the Prime Minister
- Attachment B: Stakeholder list and non-confidential consultation documents
- Attachment C: <sup>s47C</sup> [Redacted]

Cleared By: Jim Betts  
 Position: Secretary  
 Ph: 02 6274 <sup>s22(1)(a)(ii)</sup> [Redacted]  
 Cleared Date: 16 October 2023.

Contact Officer: Stephen Arnott  
 Position: Deputy Secretary  
 Group: Creative Economy and the Arts  
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 Mob: <sup>s22(1)(a)(ii)</sup> [Redacted]

Contact Officer: Richard Windeyer  
 Position: Deputy Secretary  
 Group: Communications and Media  
 Ph: 02 6271 <sup>s22(1)(a)(iii)</sup> [Redacted]  
 Mob: <sup>s22(1)(a)(ii)</sup> [Redacted]

**Instructions for MPS:** Nil

**Do you require a signed hardcopy to be returned:** Yes

**PDMS Distribution List:** Jim Betts, Angela French, <sup>s22(1)(a)(ii)</sup> [Redacted], Stephen Arnott, Richard Windeyer, <sup>s22(1)(a)(ii)</sup> [Redacted],  
<sup>s22(1)(a)(ii)</sup> [Redacted], Bridget Gannon, Philip Smith, Rebecca Rush, James Penprase, Shervin Rafizadeh, Darryl  
 Watkins, <sup>s22(1)(a)(iii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted],  
<sup>s22(1)(a)(ii)</sup> [Redacted], <sup>s22(1)(a)(ii)</sup> [Redacted]

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**PRIME MINISTER**  
The Hon Anthony Albanese MP

06 OCT 2023

Reference: MC23-074209

The Hon Tony Burke MP  
Minister for the Arts  
Parliament House  
CANBERRA ACT 2600

The Hon Michelle Rowland MP  
Minister for Communications  
Parliament House  
CANBERRA ACT 2600

Dear Ministers

Thank you for your letter dated 15 September 2023 regarding the Government's commitment to introduce Australian content obligations for online video streaming services.

s34(3)

s47C

Yours sincerely

ANTHONY ALBANESE

Parliament House CANBERRA ACT 2600  
Telephone (02) 6277 7700  
www.pm.gov.au

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**Australian Government**  
 Department of Infrastructure, Transport,  
 Regional Development, Communications and the Arts

ATTACHMENT B

# Stakeholder list and consultation documents

Australian screen content requirements on streaming services

October 2023

## Contact lists for consultation

Streaming services and free-to-air and subscription television broadcasters

Organisation	Contact name	Title	Email address
Australia New Zealand Screen Association	s47F		
Netflix			
Disney+			
Paramount+/ Network Ten			
Amazon Prime Video			
Stan/Nine			

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Organisation	Contact name	Title	Email address
	s47F		
Apple TV+			
Binge/Foxtel			
Seven West Media			
ABC			
SBS			
Free TV			
The Australian Subscription Television and Radio Association (ASTRA)			

Screen production industry groups

Organisation	Contact name	Title	Email address
Australian Children's Producers	s47F		
Australian Children's Television Foundation			
Australian Directors Guild			
Australian Writers Guild			

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Organisation	Contact name	Title	Email address
Documentary Australia	s47F		
Media Entertainment and Arts Alliance			
Screen Producers Australia			

### Other agencies (observers at all meetings)

Organisation	Contact name	Title	Email address
Australian Communications and Media Authority	s22(1)(a)(ii)	Manager, Content Reporting and Bargaining Section	s22(1)(a)(ii)@acma.gov.au
Screen Australia	Michael Brealey	Chief Operating Officer	s22(1)(a)(ii)@screenaustralia.gov.au

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# Appendix A – Definitions

Term	Definition
<b>Australian program</b>	<p>(1) Subject to subsections (3) and (4), a program is an Australian program if it is produced under the creative control of Australians.</p> <p>(2) For subsection (1), a program is produced under the creative control of Australians if:</p> <ul style="list-style-type: none"> <li>(a) the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) the director of the program is, or the directors of the program are, Australian; or</li> <li>(ii) the writer of the program is, or the writers of the program are, Australian; and</li> </ul> </li> <li>(c) at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and</li> <li>(d) in the case of a drama program —at least 75% of the major supporting cast appearing in the program are Australians; and</li> <li>(e) the program is produced and post-produced in Australia (whether or not it is filmed in Australia); and</li> <li>(f) in the case of an animated program —the program satisfies at least 3 of the following requirements: <ul style="list-style-type: none"> <li>(i) the production designer is Australian;</li> <li>(ii) the character designer is Australian;</li> <li>(iii) the supervising layout artist is Australian;</li> <li>(iv) the supervising storyboard artist is Australian;</li> <li>(v) the key background artist is Australian.</li> </ul> </li> </ul> <p>(3) If a program includes segments that, if they were individual programs, would not comply with subsection (2), only a segment that, if it were an individual program, would comply with subsection (2) is taken to be an Australian program.</p> <p><i>Examples:</i> A sketch comedy program including Australian skits or a documentary including Australian segments.</p> <p>(4) A documentary that complies with subsection (2) is not an Australian program if it is a reversioning of one or more existing documentaries that are not Australian programs, Australian official co-productions, New Zealand productions or Australian/New Zealand productions.</p>
<b>Children’s program</b>	Means a program likely to meet the C or P program criteria specified in the Broadcasting Services (Australian Content and Children's Television) Standards 2020
<b>Australian drama program</b>	(a) means an Australian program that:

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Term	Definition
	<p>(i) has a fully scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; or</p> <p>(ii) has a partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure and has actors delivering improvised dialogue that is based on a script outline or outlines developed by a writer or writers; or</p> <p>(iii) has actors delivering improvised dialogue that is based on a script outline or outlines, developed by a writer or writers, in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; and</p> <p>(b) includes a fully scripted sketch comedy program, animated drama or dramatised documentary; but</p> <p>(c) does not include a program, or a segment of a program, that involves the incidental use of actors.</p>
<b>Gross Australian revenue</b>	Gross revenue earned from the Australian market for each service, including both subscriber and advertising revenue, where relevant.
<b>Expenditure on Australian commissions and acquisitions (A1 and A3)</b>	<ul style="list-style-type: none"><li>• Commissions and acquisitions of ACCTS defined Australian program.</li><li>• Commissions are programs for which an entity has made a material and meaningful financial contribution to the production of a program before the production has been completed (and includes in-house production). Includes co-commissions where relevant.</li><li>• An acquisition is an Australian program acquired but not commissioned by an entity such as via licensing.</li></ul>
<b>Expenditure on Australian related programs (A2)</b>	Expenditure on commissioned or acquired content which meets only one ACCTS criterion for 'Australian program'.
<b>Licensed Australian territorial expenditure on drama (B)</b>	This is expenditure by a service on licensing drama (non-Australian content) to be made available in Australia.
<b>Total drama expenditure for Australia</b>	Drama expenditure by an SVOD including commissions (A1), acquisitions (A3), Australian-related content (A2) and licensed Australian territorial drama expenditure (B).

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MS23-004930


**Australian Government**
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**
**To: The Hon Tony Burke MP, Minister for the Arts** (for information)

**To: The Hon Michelle Rowland MP, Minister for Communications** (for information)

**Subject:** Australian screen content requirement on streaming services – outcome of roundtables

**Critical Date:** Routine.

**Recommendation/s:**

1. That you **note** stakeholder feedback on refined models for an Australian content obligation on streaming services received via departmental roundtables held in November 2023  
**Attachment B.**

**Noted / Please Discuss**

2. Noting delays in receipt of stakeholder submissions and in allocation of drafting resources for Autumn 2024, that you **note** the updated proposed timeline for introduction of legislation at **Attachment D.**

**Noted / Please Discuss**

**The Hon Tony Burke MP**

Date:

**The Hon Michelle Rowland MP**

Date:

**Comments:**
**Key Points:**

1. On 25 October 2023, in MS23-004534, you approved the *Targeted Consultation Paper – Refined Models*, subject to the final version being settled with your offices. You also agreed to a three-week consultation period, including the release of the consultation paper, followed by departmental roundtables with industry.
2. On 6 November 2023, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts issued the consultation paper at **Attachment A** to the targeted stakeholders who participated in consultation held in the first half of 2023, with the addition of Apple TV.

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MS23-004930

3. On 13, 17, and 20 November 2023, the department held three roundtables with the screen production sector, free-to-air broadcasters, and streaming services respectively. Advisers from your offices observed these roundtables.
4. The department is also meeting individually with streaming services to discuss data modelling for their service and with industry groups, as requested.

### Models for consultation

5. Stakeholder views were sought on the two refined models in the consultation paper:
  - a. A Progressive percentage of expenditure model that is based on the New Eligible Drama Expenditure Scheme. This model incorporates a progressive mechanism that applies a higher percentage obligation for services with higher subscriber numbers. Under this model, most services would be subject to an obligation of between 10-30%.
  - b. A Percentage of revenue model, set at 10% with a non-sports ratio to accommodate services with sports expenditure. The obligation could be increased over time, subject to advice from the regulator.

### Stakeholder feedback in roundtables

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s47C

**Written submissions and proposed updated timeline**

9. Written submissions to the consultation paper were due on 27 November 2023, however stakeholders across all sectors have indicated they are unlikely to meet this deadline.

s47C



**Stakeholder Implications:** Stakeholders indicated in roundtable discussions that they would like the opportunity to review exposure draft legislation before it is introduced. Following a request for the consultation paper from the Chair of the Senate Environment and Communications References Committee, Senator Hanson-Young, Minister Burke supplied a copy to the Committee on 28 November 2023 (MC23-070297 refers).

**Consultation:**

The Australian Communications and Media Authority; Screen Australia; Trade Law Branch, Department of Foreign Affairs and Trade; Department of the Prime Minister and Cabinet; Legal Services Division; and Online Safety, Media and Platforms Division.

**Media Opportunities:** N/A

**Attachments:**

**Attachment A:** *Targeted Consultation Paper – Refined Models*

**Attachment B:** s47C

**Attachment C:** s22(1)(a)(ii)

**Attachment D:** s47C

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MS23-004930

Cleared By: Dr Stephen Arnott  
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Group: Creative Economy and the Arts  
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Mob: s22(1)(a)(ii)  
Cleared Date: 29 November 2023

Cleared By: Richard Windeyer  
Position: Deputy Secretary  
Group: Communications and Media  
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Mob: s22(1)(a)(ii)  
Cleared Date: 30 November 2023

**Instructions for MPS:** Nil.

**Do you require a signed hardcopy to be returned:** Yes.

**PDMS Distribution List:** Jim Betts, Angela French, s22(1)(a)(ii) Stephen Arnott, Richard Windeyer, s22(1)(a)(ii) Philip Smith, Rebecca Rush, James Penprase, Shervin Rafizadeh, Darryl Watkins, s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii)

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Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

OFFICE FOR THE ARTS / AUSTRALIAN SCREEN AND ARTS WORKFORCE DEVELOPMENT BRANCH /  
CONTENT SECTION

# Targeted Consultation Paper – Refined Models

## Australian screen content requirements on streaming services

November 2023

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Infrastructure, Transport, Regional Development, Communications and the Arts

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Ms Rebecca Rush

Assistant Secretary, Australian Screen and Arts Workforce Development Branch

Email: [Rebecca.Rush@arts.gov.au](mailto:Rebecca.Rush@arts.gov.au)

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# Australian screen content requirements on streaming services

## Introduction

In the National Cultural Policy *Revive*, the Government committed to introducing Australian screen content requirements on streaming platforms to ensure continued access to local stories and content. We have brilliant talent in Australia, and we want to make sure that people have access to Australian scripted drama and children's stories across different platforms.

The Government's objectives are to guarantee the production of new Australian programs, make it easier to find Australian content on SVODs, regulate like services consistently, and foster sustainable growth in Australia's creative industries. We are guided by the objectives and regulatory policy of the *Broadcasting Services Act 1992*, and we are taking a consultative and evidence-informed approach.

The Government has undertaken targeted consultation with industry to help shape this policy and we thank stakeholders for their valuable input and engagement so far. We have refined the five models that were presented in March 2023 into two models for further consultation – an expenditure-based model and a revenue-based model.

Both models maintain a level of investment in Australian drama and facilitate a flexible pathway for growth into the future. Both models accommodate different business models and content strategies in the sector and are consistent with current levels of investment in the market.

We are committed to a genuine consultation process and are taking the time to consider views to support ongoing investment in, and production of, Australian stories and the continued provision of services to the Australian community.

# Regulatory models for consultation

## Progressive percentage of expenditure model

The model requires streaming services to spend a set percentage of total drama expenditure on new Australian drama programs, including commissions and first-on-platform acquisitions. The expenditure-based requirement is for scripted drama only (including children's drama).

The model is based on the New Eligible Drama Expenditure Scheme that applies to subscription television broadcasters. It uses a progressive obligation of up to 30% to ensure that large services continue to invest in Australian programs commensurate with their market share and degree of influence.

The requirement is calculated based on:

- a progressive percentage rate, based on the number of subscribers a service has in a financial year, and
- the total drama expenditure for the Australian service.

The formula for calculating the drama obligation amount is:

$$\text{Australian drama obligation (\$)} = \text{total drama expenditure for Australia} \times \text{percentage rate}$$

The model sets a floor for streaming services' investment in Australian drama as a proportion of their total drama expenditure for its Australian service, thereby ensuring a minimum level of investment over time.

The proposed progressive percentage rates are shown below.

Average annual Australian subscribers	Percentage rate
0 – 0.99 million	0%
1 million – 1.99 million	10%
2 million – 2.99 million	15%
3 million – 3.99 million	20%
4 million – 4.99 million	25%
More than 5 million	30%

*Example 1 – Drama expenditure for Australia is \$100 million*

A service with 1 million subscribers that spends \$100 million on drama programs for the Australian market would have a 10% Australian drama obligation of \$10 million.

The same scenario would produce a \$25 million or \$30 million obligation for services with 4 million subscribers and 5 million subscribers respectively.

A service's revenue would not affect its obligation as the obligation is calculated based on expenditure only.

*Example 2 – Drama expenditure for Australia is \$80 million*

A service with 2 million subscribers that spends \$80 million on drama programs for the Australian market would have a 15% Australian drama obligation of \$12 million.

The same scenario would produce a \$20 million or \$24 million obligation for services with 4 million subscribers and 5 million subscribers respectively.

A service's revenue would not affect its obligation as the obligation is calculated based on expenditure only.



## Percentage of revenue model

The model requires streaming services to spend on new Australian drama programs, including commissions and first-on-platform acquisitions.

The requirement is calculated by multiplying revenue and an obligation of 10%. For platforms that stream sport, the obligation is reduced by the service's ratio of non-sport expenditure. The 10% obligation is consistent with services' current average investment and includes a growth mechanism to allow for an increase in production over time.

The model takes into account different business models subject to the requirement and their level of maturity in the market. As this is a drama obligation, services that carry sport will not be disadvantaged.

The requirement is calculated based on:

- gross Australian revenue for the Australian service
- a set percentage obligation of 10%
- For those streaming services that also broadcast sport, the requirement is modified using its ratio of non-sport program expenditure.

An obligation of 10% would set a floor for Australian drama expenditure and could be increased to 20% over time, based on advice from the regulator.

The formula for calculating the Australian drama obligation amount is:

$$\text{Australian drama obligation (\$)} = \text{percentage obligation} \times \text{revenue} \times \text{nonsport ratio}$$

The formula for calculating the non-sport ratio is:

$$\text{Non-sport ratio} = \frac{\text{Nonsport expenditure for Australia}}{\text{Total program expenditure for Australia}}$$

### *Example 1 – \$250 million in revenue and **no sport programming***

- Streaming service earns \$250 million in revenue in Australia
- Has no expenditure on sport programming

Would have an Australian drama obligation of \$25 million, calculated as follows:

$$\text{Australian drama obligation (\$)} = 10\% \times \$250 \text{ million} \times 1$$

### *Example 2 – \$250 million in revenue **with sport programming***

- Streaming service earns \$250 million in revenue in Australia
- Spends \$150 million on all programs for Australia of which \$50 million is spent on sport programs.

Would have an Australian drama obligation of \$16.67 million, calculated as follows

$$\text{Australian drama obligation (\$)} = 10\% \times \$250 \text{ million} \times \frac{\$100 \text{ million}}{\$150 \text{ million}}$$

## Policy settings

In addition to the model which determines the relevant calculation of a proposed Australian drama obligation, the following settings are proposed in relation to thresholds, key definitions, eligible categories of expenditure and incentives.

Lever	Proposed setting
<b>Scope and scale</b>	Subscription video-on-demand services with a catalogue of at least 10% drama (in hours or titles, whichever is the greater).  Excludes niche and thematic services.
<b>Inclusion threshold</b>	\$100 million annual gross revenue or one million subscribers/active users.
<b>Revenue type</b>	Subscription and advertising revenue for the purposes of the inclusion threshold, and for the revenue model.
<b>Total drama expenditure for Australia</b>	All (Australian and non-Australian) drama expenditure by an SVOD for the Australian market including commissions, acquisitions, Australian-related content and licensed Australian territorial drama expenditure.  This excludes expenditure on linear channels provided as part of the subscription.
<b>Australian content definition</b>	ACCTS definition of 'Australian program'.
<b>Genre inclusions</b>	Drama and children's drama programs only. 'Drama program' as defined in the ACCTS (see Appendix A).
<b>Qualifying expenditure</b>	Commissions and first-on-platform acquisitions (less than 3 years old).  Includes independent feature films (less than 3 years old).
<b>Co-commissions with broadcaster</b>	Allow commercial free-to-air television broadcasters to count hours for broadcast compliance.  An SVOD can count expenditure based on its contribution to the co-commissioned program.  Allow a media group with both broadcast and SVOD services to count commissioned content towards each of their Australian content requirements.
<b>Incentive for children's drama</b>	For further discussion. Options contemplated include: <ul style="list-style-type: none"> <li>Require a set percentage of the obligation to be invested into children's drama, or</li> <li>Apply a 1.2x multiplier for children's drama.</li> </ul>
<b>Definition of children's content</b>	Maintain current C and P definitions as outlined in the ACCTS.

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Lever	Proposed setting
Cinema release	1.2x multiplier for streaming services content released first in cinema.
Carry over	Three-year rolling average.
Adjustment to settings	The regulator to monitor industry data and provide advice to Government on adjustment to settings, which may include percentage rates.
Discoverability	High level guidance but no specific requirements. Establish common metadata standards for the 'Australian' search term.

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## Appendix A – Definitions

Term	Definition
<b>Australian program</b>	<p>(1) Subject to subsections (3) and (4), a program is an Australian program if it is produced under the creative control of Australians.</p> <p>(2) For subsection (1), a program is produced under the creative control of Australians if:</p> <p>(a) the producer of the program is, or the producers of the program are, Australian (whether or not the program is produced in conjunction with a co-producer, or an executive producer, who is not an Australian); and</p> <p>(b) either:</p> <p>(i) the director of the program is, or the directors of the program are, Australian; or</p> <p>(ii) the writer of the program is, or the writers of the program are, Australian; and</p> <p>(c) at least 50% of the leading actors, including voice actors, or on-screen presenters appearing in the program are Australians; and</p> <p>(d) in the case of a drama program —at least 75% of the major supporting cast appearing in the program are Australians; and</p> <p>(e) the program is produced and post-produced in Australia (whether or not it is filmed in Australia); and</p> <p>(f) in the case of an animated program —the program satisfies at least 3 of the following requirements:</p> <p>(i) the production designer is Australian;</p> <p>(ii) the character designer is Australian;</p> <p>(iii) the supervising layout artist is Australian;</p> <p>(iv) the supervising storyboard artist is Australian;</p> <p>(v) the key background artist is Australian.</p> <p>(3) If a program includes segments that, if they were individual programs, would not comply with subsection (2), only a segment that, if it were an individual program, would comply with subsection (2) is taken to be an Australian program.</p> <p><i>Examples:</i> A sketch comedy program including Australian skits or a documentary including Australian segments.</p> <p>(4) A documentary that complies with subsection (2) is not an Australian program if it is a reversioning of one or more existing documentaries that are not Australian programs, Australian official co-productions, New Zealand productions or Australian/New Zealand productions.</p>
<b>Children’s program</b>	Means a program likely to meet the C or P program criteria specified in the Broadcasting Services (Australian Content and Children's Television) Standards 2020

Term	Definition
<b>Australian drama program</b>	<p>(a) means an Australian program that:</p> <p>(i) has a fully scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; or</p> <p>(ii) has a partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure and has actors delivering improvised dialogue that is based on a script outline or outlines developed by a writer or writers; or</p> <p>(iii) has actors delivering improvised dialogue that is based on a script outline or outlines, developed by a writer or writers, in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; and</p> <p>(b) includes a fully scripted sketch comedy program, animated drama or dramatised documentary; but</p> <p>(c) does not include a program, or a segment of a program, that involves the incidental use of actors.</p>
<b>Gross Australian revenue</b>	Gross revenue earned from the Australian market for each service, including both subscriber and advertising revenue, where relevant.
<b>Expenditure on Australian commissions and acquisitions (A1 and A3)</b>	<ul style="list-style-type: none"> <li>• Commissions and acquisitions of an ACCTS defined Australian program.</li> <li>• Commissions are programs for which an entity has made a material and meaningful financial contribution to the production of a program before the production has been completed (and includes in-house production). Includes co-commissions where relevant.</li> <li>• An acquisition is an Australian program acquired but not commissioned by an entity such as via licensing.</li> </ul>
<b>Expenditure on Australian related programs (A2)</b>	Expenditure on commissioned or acquired content which meets only one ACCTS criterion for 'Australian program'.
<b>Licensed Australian territorial expenditure on drama (B)</b>	This is expenditure by a service on licensing drama (non-Australian content) to be made available in Australia.
<b>Total drama expenditure for Australia</b>	All (Australian and non-Australian) drama expenditure by an SVOD for the Australian market, including commissions (A1), acquisitions (A3), Australian-related content (A2) and licensed Australian territorial drama expenditure (B).

# Consultation response form

The purpose of this response form is to inform Government's consideration of the financial and other impacts on your business/industry of the proposed regulatory models.

We ask that you please prepare the relevant data and supplementary information for the two models to support advice to Government about impacts in completing this form.

The department is collecting this information specifically for the purpose of designing an Australian content obligation on streaming services, including to inform the consideration of issues associated with developing and implementing such an obligation. The department undertakes to use the information provided in the response form only for the purpose of informing Australian content policy development, including the design of an Australian content obligation and the consideration of associated issues (e.g. implementation of the obligation).

Please provide your response in the template which covers key elements of the Impact Analysis Statement that will inform the Government's decision.

In your responses, please:

1. Do not include any personal information or information in your responses that identifies or may lead to the identification of an individual. Please note that the department's handling of personal information is detailed in the department's privacy policy (accessible on the department's website) and is in accordance with its obligations under the Privacy Act 1988 (Cth).
2. Identify where relevant, whether part or all of the information provided is confidential information and should therefore be subject to limitations on its use and distribution.

For the purposes of the responses provided as part of this consultation, confidential information does not include information that is, or becomes public knowledge other than by disclosure that is inconsistent with the department's proposed handling of information.

The department undertakes not to disclose any part of information provided by respondents that is identifiable information (i.e. identifies the relevant respondent or an individual associated with the relevant respondent) or is identified as confidential information to a third party for any purpose other than for a purpose related to the development of Australian content policy and not without the prior consent of the respondent providing the information, except to the extent that a disclosure is:

- a. To Commonwealth Ministers or their staff (on a confidential basis) including, but not limited to the following:
  - i. The Minister for the Arts;
  - ii. The Minister for Communications;
  - iii. The Minister for Foreign Affairs; and
  - iv. The Minister for Trade and Tourism.
- b. To officers in the Department of the Prime Minister and Cabinet including the Office of Impact Analysis (on a confidential basis) as part of the regulatory impact analysis process for government decision-making;
- c. In response to a request by a House or a Committee of the Australian Parliament;
- d. Required by law; or
- e. Confined to information that is already in the public domain.

The department will store any confidential information it is provided securely in accordance with the department's relevant policies, and use at least the same level of security to protect the confidential information from disclosure as the department uses for its own confidential information.

**OFFICIAL**

Please return your completed response form to the department at the following email address:

s22(1)(a)(ii)

[arts.gov.au](mailto:arts.gov.au) Consultation closing date and time: 27 November 2023, 11:59pm.

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## Questions related to the Progressive Percentage of Expenditure Model

Refer to relevant consultation materials for more information.

**Question 1 – What are the likely *monetary costs* associated with the Progressive Percentage of Expenditure Model? To the extent possible, please provide specific figures.**

For example:

- What would be the estimated, overall monetary costs of compliance with an obligation of this nature?
- What would be the estimated, monetary administrative costs associated with complying and/or reporting on compliance with an obligation of this nature?

*Insert response [Suggested maximum 500 words]*

**Question 2 – What would be the other *business costs* associated with the Progressive Percentage of Expenditure Model?**

For example:

- How well prepared would your business be to comply with the new requirements?
- Would this model require changes to the way your business operates?

*Insert response [Suggested maximum 500 words]*

**Question 3 – What are the other likely *costs/challenges* associated with the Progressive Percentage of Expenditure Model?**

In your response to this question, please address other relevant:

- **quantitative** and **qualitative** examples of costs/challenges (for example: any relevant impact on the accessibility of quality Australian content, including drama and children’s drama to subscribers)
- any **possible flow on-impacts** (for example: the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*



#### Question 4 – What are the likely *benefits* of the Progressive Percentage of Expenditure Model?

In your response to this question, please address:

- **quantitative** benefits (for example: financial benefits, employment benefits, subscriber/audience numbers); and
- **qualitative** benefits (for example: broader social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

## Questions related to the Percentage of Revenue Model

Refer to relevant consultation materials for more information.

#### Question 1 – What are the likely *monetary costs* associated with the Percentage of Revenue Model? To the extent possible, please provide specific figures.

For example:

- What would be the estimated, overall monetary costs of compliance with an obligation of this nature?
- What would be the estimated, monetary administrative costs associated with complying and/or reporting on compliance with an obligation of this nature?

*Insert response [Suggested maximum 500 words]*

#### Question 2 – What would be the other *business costs* associated with Percentage of Revenue Model?

For example:

- How well prepared would your business be to comply with the new requirements?
- Would this model require changes to the way your business operates?

*Insert response [Suggested maximum 500 words]*

### Question 3 – What are the other likely *costs/challenges* associated with the Percentage of Revenue Model?

In your response to this question, please address other relevant:

- **quantitative** and **qualitative** examples of costs/challenges (for example: any relevant impact on the accessibility of quality Australian content, including drama and children’s drama to subscribers)
- any **possible flow on-impacts** (for example: the possibility any costs may be passed on to others, such as consumers or the Australian public).

*Insert response [Suggested maximum 500 words]*

### Question 4 – What are the likely *benefits* of the Percentage of Revenue Model?

In your response to this question, please address:

- **quantitative** benefits (for example: financial benefits, employment benefits, subscriber/audience numbers); and
- **qualitative** benefits (for example: broader social benefits for the Australian community).

*Insert response [Suggested maximum 500 words]*

## General Question

### Question 1 – Of the two models proposed, which is preferred by your organisation?

*Insert response [Suggested maximum 500 words]*