



MPA

ASIA PACIFIC

MOTION PICTURE ASSOCIATION ASIA PACIFIC

[by email]

The Motion Picture Association, Asia-Pacific office (“MPA”) appreciates this opportunity to respond to the Media Reform Green Paper.

The MPA is a trade association representing six international producers and distributors of film and television entertainment, with the Asia-Pacific office focusing specifically on Australia and the APAC region. The MPA-represented companies are:

Walt Disney Studios Motion Pictures

Netflix Studios, LLC

Paramount Pictures Corporation

Sony Pictures Entertainment Inc.

Universal City Studios, LLC

Warner Bros. Entertainment Inc.

Our member companies produce and distribute a wide range of film and television content in Australia and around the world and are committed to the growth and success of the Australian screen industry.

In considering whether to impose burdensome regulation on video-on-demand (VOD) services, the Australian Government must give consideration to Australia’s international obligations, particularly the Australia-United States Free Trade Agreement (AUSFTA).

Under Chapters 10 and 11 of AUSFTA and further to Annex II concerning Australia’s Non-Confirming Measures, before Australia may consider any regulatory interventions on “interactive video services” (which would include VOD services), it must first make a finding that “Australian audiovisual content or genres is not readily available to Australian consumers” or “access to such programming on interactive audio and/or video services is not unreasonably denied to Australian consumers”. The test is a general test relating to availability of access to Australian content rather than a specific test of the level of Australian content on a particular service. The reservation does not permit the Australian Government to impose measures to ensure the creation or availability of Australian content such as those considered in the Green Paper. In addition, AUSFTA requires that any measures taken by the Australian Government to be implemented through a transparent process permitting participation by any affected parties, be based on objective criteria, be

the minimum necessary, be no more trade restrictive than necessary, and not be unreasonably burdensome, amongst other requirements. As such, measures considered in the Green Paper would go beyond the permitted boundaries of ensuring access to Australian content and would be inconsistent with Australia's obligations in AUSFTA.

The Green Paper primarily justifies potentially onerous regulation on a misleading assessment of the proportion of Australian content on certain VOD services. The Green Paper has not made the case or even implied that Australian consumers are denied access to Australian content or that Australian content is not readily available.

There are now multiple VOD services offering or preparing to offer both Australian and international content to Australian consumers. Indeed, many more such services are now readily available to Australian consumers than could possibly have been considered when AUSFTA was concluded in 2005.

MPA strongly opposes any local content obligations. MPA considers these obligations unnecessary to address a market for Australian content that is not failing but flourishing.

We remain available to provide support and answer any questions you may have.



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