



24 May 2021

Via email: content@communications.gov.au

Green Paper - Modernising television regulation in Australia

Netflix welcomes the opportunity to contribute to this important review into Australia's media policies.

Executive Summary

Australia's content production sector has never been healthier

The recent wave of content production in Australia can be attributed to a range of factors, including , audience appetites for Australian content, our reputation for excellence as a place to make screen content, Government support through the location attraction incentives and other measures, as well as Australia's successful management of COVID-19. This has enabled Australia to become a leading destination for film and television production.

There is no evidence of market failure in local content production. In fact, Australia's content production ecosystem has never been healthier. Screen Australia reports that but for the COVID-19 lockdowns, the financial year 2019/20 was on track to be the most successful year on record for the Australian screen production industry.¹

This content boom will provide significant continued economic benefits, from both local and international productions. As a result of the investment from companies such as Netflix, there is an evolving interdependency of Australian and international production.

All players in this complex ecosystem have a role in providing support for local film and television production. It is critical that policy approaches keep pace with the changing ways in which content is being financed, produced, distributed and consumed in an increasingly competitive and global marketplace.

For example, the emerging interrelationship between content producers, broadcasters and streaming entertainment companies is an important development in the new content production landscape. When we partner on productions in Australia, we gain access to quality

¹ Screen Australia, *Drama Report 2019/20*. Available at: <https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

stories and talent, and can bring our particular focus on audiences and exports. Broadcasters benefit from additional financing for content for their domestic audiences. Australian producers, creators and talent gain substantial additional exposure, with visibility on Netflix in 190 countries.

Netflix's investments in Australia

Our investments in Australian content represent a significant and growing contribution to Australia's content production ecosystem. We are the only international streaming entertainment service with a content team on the ground in Australia, and we will continue to invest aggressively in Australian content.

The Green Paper seems to assume that streaming entertainment companies are not investing in Australian content production, because they are not obliged to². This is not correct. In the financial year 2019-20, the ACMA reports that the total investment on adult drama and childrens' content from all commercial broadcasters was \$89.7 million. In the same period Netflix's investments in adult drama and kids' content totalled just over \$111.5 million.

In 2020 alone, Netflix invested in 16 new Australian titles. To provide an example of the scale of our contribution to new content production, Netflix invested over AUD\$52.04 million in the recent original series *Clickbait*.

Australia is an important location for Netflix's commissioned kids productions. In the four years to 2020, Netflix invested \$110 million in Australian children's programs.³ In just the 2019/20 financial year we spent \$33.42 million on first-run Australian children's content. Screen Australia reports that the total investment in children's drama in 2019/20 across all platforms was \$46 million.⁴

All of this investment occurred prior to Netflix appointing Que Minh Luu in July 2020 to head our new local content team. Since then, Luu has commissioned major productions such as *Heartbreak High* and *Byron Baes*.

In addition to creating and acquiring Australian television shows and movies, Netflix also relies on Australia's world famous production and post-production infrastructure and talent. This enables us to support innovation, and provide opportunities that will contribute to achieving the goals set out in Australia's Digital Economy Strategy.

Licensing second-run content provides a new window for Australians to access Australian content otherwise not readily available to them, and provides additional financial support to

² For example, Green Paper, p28

³ The Sydney Morning Herald, *Quality is fantastic': Netflix reveals \$110m spend on Australian children's shows*, 10 August 2020. Available at: <https://www.smh.com.au/culture/tv-and-radio/quality-is-fantastic-netflix-reveals-110m-spend-on-australian-children-s-shows-20200807-p55jlb.html>

⁴ Screen Australia, *Drama Report 2019/20*, p 21. Available at: <https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

the Australian production industry. New generations of Australians will be exposed to iconic Australian titles such as *Two Hands*, *The Dish*, *The Tracker*, *The Secret Life of Us*, *Heartbreak High*, *Offspring* and *Round The Twist* from their inclusion on Netflix's service.⁵

Our presence in 190 countries provides export opportunities for Australian creatives. For example, in the 2019/20 Financial Year, Netflix made available 145 Australian films, series and childrens' titles to Netflix members in the United States, with similar numbers of titles available across our largest markets.

Netflix takes significant measures to feature Australian content and to assist our members to easily discover Australian stories. Netflix recommendations also work to ensure members around the world are presented with Australian produced content that they are likely to enjoy.

In 2018, 82% of Australian Netflix members and 68% of US Netflix members viewed Australian content. As First Assistant Secretary, Office for the Arts, Dr Stephen Arnott, has stated:

*...there's significant Australian content available on streaming services, and that's finding an audience there.*⁶

Policy interventions should be informed by the best available data

It is critically important that any policy recommendations or outcomes arising from the Green Paper consultation be informed by data from the voluntary reporting process that has just commenced between streaming entertainment companies and the Australian Communications and Media Authority (ACMA).

It is also important to recognise that many other key data inputs for assessing the health of Australia's content ecosystem are not yet available, such as:

- evidence of the expected positive impacts of the recent welcome changes to the Producer Offset;
- the Screen Australia Drama Report for Financial Year 2020/21, which will provide a better sense of the impact on the sector from COVID-19 filming shutdowns, and subsequent boom in content production; and
- economic modelling on the impact of the Green Paper's proposals.

It is also important that policy solutions address emerging policy challenges.

⁵ New Idea, 'Clear the schedule! *The Secret Life of Us* set to drop on Netflix. Another Aussie classic to add to the watch list', 20 May 2021. Available at <https://www.newidea.com.au/the-secret-life-of-us-netflix>

⁶ Statement of Dr Stephen Arnott, First Assistant Secretary, Office for the Arts, Environment and Communications Legislation Committee, Additional Estimates hearing, transcript 23 March 2021, p17. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22committees%2Festimate%2F140f26dd-8d3b-4457-a348-9baa49ecf095%2F0000%22>

Australia's recent production bonanza has led to severe shortages in physical production space, and limitations on the capacity and capability of talented crew from pre production to post production work.

A recent survey by Screen Producers Australia of its members showed a high demand for experienced, skilled and qualified roles, and noted that producers are reporting Australia-wide shortages and greatly increased rates arising from the number of concurrent shoots and international productions. As CEO, Screen Producers Australia, Matthew Deaner, states:

“While the current employment conditions are a boon for jobs and our world-class crews, there is a tangible flow-on effect into local productions and the local production businesses who are striving to maintain sustainability in challenging economic conditions”⁷

Assessing the Green Paper's proposals

Netflix supports the broad policy objective of creating a modern regulatory framework that will benefit Australia's content production industries. However, inflexible and overly prescriptive regulatory intervention risks significant unintended consequences for the rapidly evolving streaming entertainment industry, as well as the wider set of content production industries that are increasingly finding opportunities within this growing and global sector.

A recent report by Frontier Economics found a correlation between less restrictive policies and higher levels of investment in local content amongst OECD countries. Countries such as the United Kingdom and Germany have the highest levels of investment, yet have lower levels of policy restrictiveness.⁸

Great care must be taken to ensure that any policy interventions do not exacerbate existing capacity constraints and skills shortages, or create disincentives for emerging business models such as co-productions between free-to-air television or the public broadcasters and global streaming entertainment services.

A flexible, forward-looking policy framework should not narrowly focus on content production alone, but encourage and facilitate a range of policy considerations, including:

- ensuring a skills and employment pipeline from pre to post production;
- ensuring that Australian productions can obtain the talent and crew they need to meet the global demand for content;
- enhancing production capacity - fixing the problem of the extreme shortage of physical production space leading to capacity constraints for new productions;

⁷ Screen Producers Australia Media release, Local productions facing skills shortage, 26 April 2021. Available at: <https://www.screenproducers.org.au/news/local-productions-facing-skills-shortage>

⁸ Frontier Economics, *The Economic Impact of Video on Demand Services in Korea*, May 2021. Available at: <https://www.mpa-apac.org/wp-content/uploads/2021/05/KR-Frontier-The-Economic-Impact-of-VOD-in-Korea-30.04.pdf>

- ensuring continued investment in pre-production, physical production, post and visual effects, and building on programs such as the Netflix Post Partner Program to continue to attract inbound investment;
- attracting inbound investment and building on existing foreign production investments;
- maximising the export benefits provided to creators from global entertainment services; and
- maximising the direct and indirect economic benefits that flow from a strong production sector, through job creation to wider economic benefits such as tourism.

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Part 1 - Australia's film production ecosystem

1.1 The importance of Australia's screen production industry

As the Green Paper sets out, the Australian media sector is a significant segment of the domestic economy, employing approximately 90,000 Australians in 2018–19 and generating an estimated \$47.7 billion of domestic revenue.⁹

There are a diverse range of content offerings and business models across the screen industry ecosystem. Each of these unique offerings contribute to the ecosystem in different ways, and provide different benefits.

Consumers have benefited from an explosion in the variety of content services in the Australian market - from the catch-up services offered by free to air broadcasters, to subscription streaming entertainment services, and user generated services such as YouTube and TikTok.

The growth of 'internet TV' is providing Australian consumers with more options in terms of how, when and where they watch their favourite movies and TV shows. It also is helping them to discover new favourites in an expanding roster of local and global content.

Even within streaming entertainment services, consumers can choose from a wide variety of services - from services such as Netflix offering a global catalogue mixed with a strong local content offering, to services targeting particular genres such as Anime Lab, DocPlay and BritBox, or the recently announced iQiyi.¹⁰

Direct benefits of the screen industry include the cultural value it delivers to Australian audiences by contributing to national identity and a sense of shared experience, as well as providing employment opportunities for actors, camera operators, producers, directors, writers, props designers, costume designers, caterers, sound, lighting and electronics.

It is recognised that the film production industry also has the ability to significantly contribute to intrinsically related policy goals including:

- Economic policy - maximising the indirect economic benefits that flow from a strong production sector;
- Foreign policy - export, trade and 'soft diplomacy';
- Digital technology policy - research and development opportunities; and
- Tourism policy - showcasing regions of Australia as attractive destinations for domestic and international visitors.

⁹ Department of Infrastructure, Transport, Regional Development and Communications, *Media Reform Green Paper: Modernising television regulation in Australia*, p10, November 2020. Available at: <https://www.communications.gov.au/file/51136/download?token= QipLViF>

¹⁰ Mumbrella, *Chinese streaming platform iQiyi to launch Australian operations*, 19 April 2021. Available at: <https://mumbrella.com.au/chinese-streaming-platform-iqiyi-to-launch-australian-operations-678504>

The range of benefits from the strength of the production industry have been well documented. For example:

- \$18 billion of cultural and audience value was generated by the screen production industry in 2016.¹¹
- Before the Covid-19 pandemic, around 230,000 international tourists were estimated to visit or extend their stay in Australia each year as a result of viewing Australian film and TV content. This represented around \$725 million in estimated tourism expenditure in Australia each year that may be associated with Australian screen content.¹²
- 90 percent of production ideas come from within Australia.¹³
- The screen sectors in Australia generated an important economic contribution to the Australian economy in 2017-18, showing total GVA growth of 15% from 2012-13.¹⁴

In 2016, Mitch Fifield, former Minister for the Arts, upon releasing *Screen Currency*, a report into the value of the screen industry, said:

“The screen industry’s contribution to GDP, jobs and other sectors such as tourism is impressive enough, but the report further informs what we already instinctively know about Australian screen stories: they have a value that is more than entertainment.”¹⁵

It is important for policy makers to appreciate that Australia’s screen industry is an ecosystem, with increasingly integrated relationships between all players in the ecosystem. Figure 1 explains this complexity.

¹¹ Screen Australia media release, *Tourism and Exports: The Screen Industry is a major contributor*, 18 January 2017. Available at:

<https://www.screenaustralia.gov.au/sa/screen-news/2017/01-18-tourism-exports-and-the-screen-industry>

¹² Ibid

¹³ Screen Producers Australia, *Screen production in Australia: Independent screen production industry census*, June 2018. Available at:

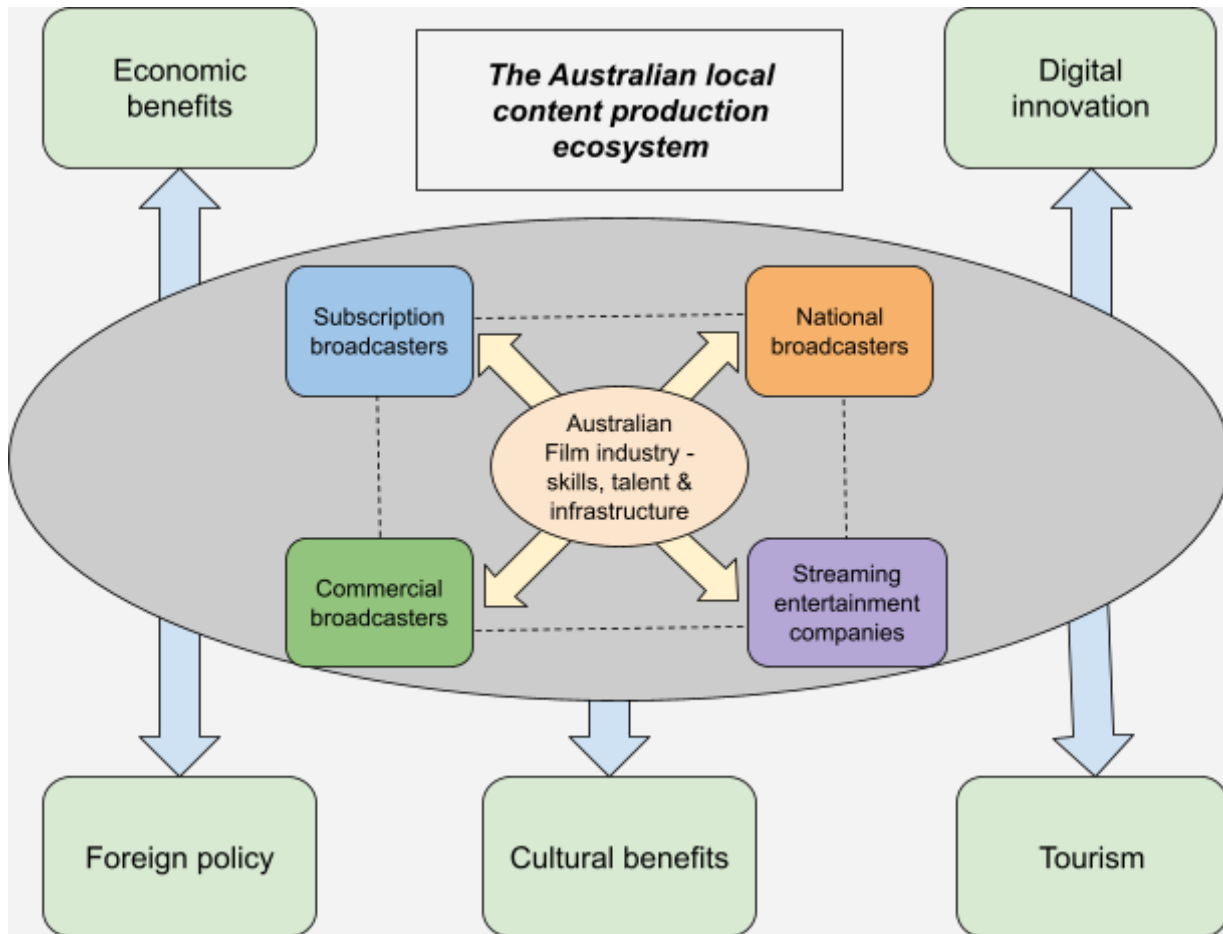
<https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-dae-screen-producers-australia-260618.pdf>

¹⁴ Olsberg SPI, *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia*, November 2019, p5. Available at:

https://anzsa.film/wp-content/uploads/2020/02/Study-on-the-Economic-Contribution-of-the-Motion-Picture-and-Television-Industry-in-Australia_Final-Report.pdf

¹⁵ Screen Australia media release, *Landmark report shows Australian Screen stories with \$3 billion*, 15 November 2016. Available at: <https://www.screenaustralia.gov.au/sa/media-centre/news/2016/11-15-screen-currency>

Figure 1: Australia's content production ecosystem



All players in this complex ecosystem have a role in providing support for local content production. However, it is critical that local content or cultural policy approaches keep pace with the changing ways in which content is being financed, produced, distributed and consumed in an increasingly competitive and global marketplace.

As Rising Sun Pictures co-founder and Managing Director, Tony Clark has expressed:

“We need to recognise the future of entertainment, which lies somewhere in the hybrid of film, gaming and artificial intelligence. Our current definitions of ‘screen’ are based on old ideas of cinemas and broadcast; the outlets are many and we should support creators and craftspeople to work in all screen media, not just a few.”¹⁶

¹⁶ Screen Australia media release, *Tourism and Exports: The Screen Industry is a major contributor*, 18 January 2017. Available at: <https://www.screenaustralia.gov.au/sa/screen-news/2017/01-18-tourism-exports-and-the-screen-industry>

1.2 Australia's content production sector has never been healthier

As discussed above, the cultural and audience value of the Australian screen production industry has been estimated to be worth over AUD\$18 billion, with an annual contribution to GDP estimated at AUD\$3 billion, directly generating over 25,000 full time equivalent jobs.¹⁷ This value is predicted to increase over the medium term, as the evolution of the market continues to demand strong investment from established and new entrants alike.¹⁸

In 2019, Screen Australia reported a record \$1,179 million expenditure on Australian Productions (including local and international 'footloose' productions).¹⁹ This marked a 53% increase in expenditure on the previous year, and included a record \$768 million expenditure on Australian titles. Thirty-three Australian feature films and 37 TV dramas began principal photography in 2018/19. The sector also saw the highest expenditure in 10 years on children's drama, with \$95 million being spent across 15 titles, generating 132 hours of content.

The Screen Australia Drama Report for 2019-20 found that total expenditure on drama production in Australia (local and international) reached \$991 million, although this was down 18% on the previous year's record. The fall was largely due to the impact of the COVID-19 pandemic and the near total shutdown of drama production in March 2020.²⁰

Even with the impact of the COVID-19 shutdown, in 2019/20, Screen Australia found that 23 original titles were made for first release online in Australia. The total budget for those titles was \$97 million, with \$94 million recorded as expenditure in Australia (up 95% on previous year). Hours, budgets and cost-per-hour were all up on the previous year.

Similar to streaming services, national broadcasters that currently have no content obligations have strong local content offerings, many of which are made with financial input from partnering international companies such as Netflix.

As Simon Atkinson, Secretary, Department of Infrastructure, Transport, Regional Development and Communications, has said:

"The Australian screen production industry is also thriving, with the government's location incentive attracting 22 large-budget international productions to film in Australia, which will inject over \$1.66 billion into the economy. The government's \$50

¹⁷ Olsberg SPI, *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia*, November 2019, p 6. Available at: https://anzsa.film/wp-content/uploads/2020/02/Study-on-the-Economic-Contribution-of-the-Motion-Picture-and-Television-Industry-in-Australia_Final-Report.pdf

¹⁸ Ibid

¹⁹ Screen Australia, *Drama Report 2017/18*. Available at: <https://www.screenaustralia.gov.au/sa/media-centre/news/2018/10-30-drama-report-2017-18-home-grown-expenditure#:~:text=Screen%20Australia%27s%20annual%20Drama%20Report,up%207%25%20on%20last%20Year>

²⁰ Screen Australia, *Drama Report 2019/20*. Available at: <https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

million Temporary Interruption Fund has also enabled 41 Australian film and television projects to secure financing and start filming.”²¹

Screen Australia also identified a further \$325 million in Australian productions that were either paused or otherwise impacted by COVID-19 related challenges. If these productions had been able to continue, Australia would have seen local content production alone reach \$868 million. But for the COVID-19 lockdowns, the financial year 2019/20 was on track to be the most successful year on record for the Australian screen production industry.

This content boom continues to provide significant economic benefits, from both local and international productions. The recent announcement that NBCUniversal and Universal Studio Group will film the drama *La Brea* in Melbourne over the next few months provides an example of the broad range of benefits the screen industry can bring. Minister for Communications, Urban Infrastructure, Cities and the Arts, the Hon Paul Fletcher MP, said:

“the production is expected to inject more than \$71 million into the economy, create jobs for 290 Australian cast and crew, and use the services of around 295 local businesses.”²²

Netflix has recently announced another Australian feature film, *True Spirit*, which will be filmed in Queensland this year with the support of the Queensland Government via Screen Queensland’s Production Attraction Strategy. The film traces the 2009 around-the-world yacht journey of Queensland sailor and former Australian of the Year Jessica Watson.

The production is estimated to inject \$24 million into the Queensland economy, and provide 300 jobs for the cast and crew. Speaking about *True Spirit*, Premier Palaszczuk said:

“My government is proud to have secured yet another screen production for Queensland, evidence that the production bonanza is gathering more momentum as word spreads about the multiple benefits of filming in our great state.”

*“After a highly successful shoot on *Escape from Spiderhead*, Screen Queensland is delighted to welcome Netflix back to Queensland for this epic movie about a well-loved Australian hero.”²³*

²¹ Statement of Mr Simon Atkinson, Secretary, Department of Infrastructure, Transport, Regional Development and Communications, Environment and Communications Legislation Committee, Additional Estimates hearing, transcript 23 March 2021, p17. Available at:

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22committees%2Festimate%2F140f26dd-8d3b-4457-a348-9baa49ecf095%2F0000%22>

²² Statement of The Honourable Paul Fletcher, *Victoria takes centre-stage in international drama series *La Brea**, 3 May 2021. Available at:

<https://minister.infrastructure.gov.au/fletcher/media-release/victoria-takes-centre-stage-international-drama-series-la-brea>

²³

<https://www.smh.com.au/culture/movies/new-netflix-film-to-chart-jessica-watson-s-round-the-world-sailing-odyssey-20210522-p57u6a.html>

The Morrison Government is to be commended for its recent commitments to the future health of the screen ecosystem, with welcome changes to the Producer Offset for television content, and ongoing commitment to the critical Location Incentive.

The recent wave of content production in Australia can be attributed to a range of factors, including , audience appetites for Australian content, our reputation for excellence as a place to make screen content, Government support through the location attraction incentives and other measures, as well as Australia’s successful management of COVID-19. This has enabled Australia to position itself to become a leading destination for film and television production, showcasing Australian content both to Australians and global audiences via streaming services.

As the CEO of Screen Australia, Graeme Mason said:

“We’ve got Baz Luhrmann working on the Village Roadshow Studios space on the Gold Coast, and we have Chris Hemsworth making shows for Netflix. So we’ve got lots of different Australians involved. Some of those shows are literally inbound shows, some are Australian productions and some are a hybrid.”²⁴

Regarding the current post-COVID content boom, Minister for Communications, Urban Infrastructure, Cities and the Arts, the Hon Paul Fletcher MP said:

“Young Rock, Joe Exotic and Irreverent are high-profile, large-scale productions that reinforce Australia’s appeal as a COVID-safe location boasting high calibre production facilities and expertise. The productions will provide invaluable opportunities for Australian cast and crew, create a pipeline of work for local post-production, digital and visual effects businesses, and engage workers in sectors such as construction, transport, accommodation and hospitality.”²⁵

Speaking about the same three productions, Matt Vitins, Matchbox’s Chief Operating Officer, said:

“This is an important set of projects for the Australian industry and Matchbox Pictures. The investment has created a pipeline of work over a sustained period, which means we can take a different approach to training crews, upgrading facilities and delivering high-end drama.”²⁶

Screen Queensland CEO, Kylie Munnich, added:

²⁴Statement of Mr Graeme Mason, CEO of Screen Australia, at 4 December 2020 hearing from Australia’s creative and cultural industries and institutions inquiry, p16. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommrep%2F3dc7b307-8e9f-43b3-8c61-3106dc1137cc%2F0000%22>

²⁵ The Honourable Paul Fletcher, *Morrison Government’s Location Incentive brings Young Rock, Joe Exotic and Irreverent down under*, 26 September 2020. Available at: <https://minister.infrastructure.gov.au/fletcher/media-release/morrison-governments-location-incentive-brings-young-rock-joe-exotic-and-irreverent-down-under-0>

²⁶ IF Magazine, *Three Universal Studio series to shoot in Queensland*, 28 September 2020. Available at: <https://www.if.com.au/three-universal-studio-series-to-shoot-in-queensland/>

“This is a massive boost for the Queensland screen industry and a vote of confidence in how safe Queensland is as a major destination for film and TV production.”²⁷

It is expected that the recent changes to the Producer Offset will have similarly positive benefits, to enable more high quality Australian content to be produced which will benefit industry and consumers alike. However, it must be recognised that the impact of the change to the Producer Offset is yet to be felt. It is important that critical decisions regarding screen policy in Australia are made with the assistance of evidence of the impact of these recent policy changes.

1.3 The streaming industry is a key contributor to the content ecosystem

It is still early days for Australia’s streaming entertainment industry, with the majority of subscription streaming services operating in Australia for five years or less. Some services, such as Disney+ and Apple TV+, have been in Australia for just over one year.

It is important to recognise that the decisions made as part of the Green Paper process are being made in a rapidly changing environment. The closing date for submissions of 23 May is very close to the one year anniversary of Foxtel’s Binge service, which launched on 25 May 2020. Paramount+ is set to launch in August,²⁸ and more entrants are still possible given the early stage of the industry’s development.

Despite being an ‘infant industry’ in Australia, streaming services have quickly become an integral part of Australia’s screen content ecosystem. In a short time, streaming platforms have contributed significantly to the Australian screen industry through original productions, partnering with free-to-air broadcasters on co-productions, sourcing additional financing from global distributors, and exporting Australian content to the world.

The Green Paper seems to assume that streaming entertainment companies are not investing in local content, and that the burden of screen content production is being borne solely by broadcasters. This is simply not the case.

In 2016/17 Screen Australia created a new online drama category to accommodate the growth in spend on Australian content by streaming platforms and since then has reported a 260% increase. The most recently reported figure for online drama production in the Screen Australia Drama Report for 2019/20 is \$94 million (and as explained in Part 5.4 below, this figure does not include the investments from streaming entertainment companies in co-productions with Australian broadcasters).²⁹

²⁷ Ibid.

²⁸ IF magazine, *Paramount+ sets August launch date, announces local originals*, 7 May 2021. Available at: https://www.if.com.au/paramount-sets-august-launch-date-announces-local-originals/?utm_medium=email&utm_campaign=Newsletter%20070521&utm_content=Newsletter%20070521+CID_a44d424689e1fc382583aa53400c7181&utm_source=Campaign%20Monitor

²⁹ Screen Australia, *Drama Report 2019/20*, p 22. Available at: <https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

A recent article by Stuart Cunningham and Alexa Scarlata noted the many benefits of Netflix in the local marketplace including “providing:

- significant international exposure for content and performers whose material would be unlikely to appear on broadcast television (e.g. Hannah Gadsby’s *Nanette* and *Douglas*);
- motivation for Stan to produce more local content to compete with Netflix;
- another distribution and funding source for ‘cultural innovation and industry stimulus’ in production environments; and
- opportunities to pick up and revive series’ dumped by broadcasters.”³⁰

Streaming services’ increasing investment in foreign and domestic production is causing unprecedented demand and appreciation for Australian content. As the CEO of Screen Australia, Graeme Mason said:

“You have things like Shantaram, an Australian book developed by an Australian. You have Clickbait, which is done for Netflix but created by a Melbourne based Australian. You’ve got Mr Hemsworth bringing things here. You have Ms Kidman bringing shows down here, along with her producing partner in crime, Bruna Papandrea. I think that, as our industry is developing, there’s an enormous opportunity to work and leverage those creative talents so we’re not just relying on our spectacular crew. The more we join up both sides of that equation—creative talent and production—the better it will be for the sector as a whole.”³¹

As outlined on page 12 of the Green Paper there are many positive aspects of the consumer adoption of online and on-demand content:

- SVOD services are providing viewers with more choice over the type and volume of content they consume, and when and on what devices they consume it.
- The abundance of content available online has improved access to a diverse range of news sources and content from across Australia and the world, including in regional markets.
- Global SVOD platforms have provided Australian content producers with opportunities to expand into new markets.
- Digital technology has spurred innovation and encouraged efficiency in the media sector, including the creation of new platforms, experiences and business models.

The demand for Australian content is growing with the increasing number of services around the world, all of which are looking for quality television series and movies to offer their customers. Streaming services around the world provide producers in Australia greater opportunity to license their content where previously there had been a more limited market.

³⁰ Cunningham, S., & Scarlata, A. (2020). New forms of internationalisation? The impact of Netflix in Australia. *Media International Australia*, 177(1), pp 149–164. Available at: <https://doi/10.1177/1329878X20941173>

³¹ Statement of Mr Graeme Mason, CEO of Screen Australia, at 4 December 2020 hearing from Australia’s creative and cultural industries and institutions inquiry, p17. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommrep%2F3dc7b307-8e9f-43b3-8c61-3106dc1137cc%2F0000%22>

Further, streaming business models encourage demand for types of content that otherwise may not have found mainstream commercial success. This enables a much more diverse range of content offerings for the consumer.

Historically, television has been bound by a linear program schedule and reliance on advertising, which put a premium on airing content that will appeal to the widest audience during times likely to attract the most viewers. But online business models, such as Netflix's, depend on consumers consistently finding amazing content to watch, not just at prime time, but whenever the consumer wants. Streaming services do not rely on getting millions of people to watch a single show at a predetermined time; they derive value from the entire period that the content is available on the service.

This gives streaming service customers the opportunity to discover new content and enables streaming services to make deeper investments in new and innovative programming. As Australian producer of Netflix Original series, *The White Rabbit Project*, John Luscombe explains, producing for streaming services offers a unique opportunity:

"You're not trying to come up with a show that's going to clean up at 7:30pm on Wednesday night on a free-to-air network in Australia. If you can get a hold of the audience...they're going to renew you. It's an exciting opportunity...They placed an extraordinary amount of trust in this program... They left us to our own devices creatively which was a fantastic way to work."³²

As a result of the investment from companies such as Netflix, there is an evolving interdependency of Australian and international production which has occurred organically, from an emerging sector, without any regulatory compulsion to invest.

Part 2 - Netflix's growing contribution to Australian content

The Green Paper identifies the importance of commercial broadcasters to Australia's content production industries. The ACMA's reporting information shows the breadth of these investments, from news programming, original productions, light entertainment and sports. However, the Green Paper does not recognise that streamers are an increasingly important part of the content ecosystem. For example, in Netflix's core areas of focus (adult drama and kids programming), our investments are significant.

In the financial year 2019-20, the ACMA reports that the total investment on adult drama and childrens' content from all commercial broadcasters was \$89.7 million. In the same period Netflix's investments in these categories totalled just over \$111.5 million.

All of this investment occurred prior to Netflix appointing Que Minh Luu in July 2020 to head our new local content team. Since then, Luu has commissioned major productions such as *Heartbreak High* and *Surviving Summer*.

³² Mumbrella, *White Rabbit Project: how to make a series for Netflix*, 9 December 2016. Available at: <https://mumbrella.com.au/white-rabbit-project-ins-outs-netflix-production-414523>

The following section of the submission shows the range of Netflix’s meaningful and significant contributions to Australia’s content production ecosystem, supporting the Government’s objectives of employing Australians, driving economic growth, contributing to Australia’s national identity and a sense of shared experience, and providing a voice for diverse communities and minority groups.

Netflix investments benefit the broader Australian film sector in a range of ways including:

- partnering with free-to-air and the national broadcasters in co-productions;
- employing Australians and driving economic growth;
- supporting the growth and capability of Australia’s broader screen sector workforce;
- providing additional exposure for Australian producers, creators and talent, with licensing arrangements enabling Australian ‘second run’ content to be shown to Netflix members in 190 countries;
- sourcing additional financing from global distributors which extends the value of the government’s content investments;
- increasing competition in the sector, leading to higher quality productions; and
- contributing to Australia’s national identity and a sense of shared experience by showcasing our locations, culture and creative talent around the world.

Importantly, all of these investments were made not because of regulatory compulsion, but due to our commitment to Australia’s production sectors, and the importance of Australian content to our service in Australia and in markets around the world.

As First Assistant Secretary, Office for the Arts, Dr Stephen Arnott, recently stated:

“...streaming services are showing significant Australian content regardless of the fact that there’s no regulation to do so.”³³

2.1 About the Netflix service

Netflix’s business model is a simple one: we give our members control over their entertainment. Our service is on-demand, personalised and available on any screen.

Netflix is available at a fixed monthly price, and members can cancel and rejoin at any time, so we must continually provide a variety of compelling content to keep our members satisfied. With an increase in streaming entertainment services available to consumers, demand for quality television series and movies is growing in Australia and internationally. Australia makes great content, and is well placed to meet this local and global demand.

³³Statement of Dr Stephen Arnott, First Assistant Secretary, Office for the Arts, Environment and Communications Legislation Committee, Additional Estimates hearing, transcript 23 March 2021, p17. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22committees%2Festimate%2F140f26dd-8d3b-4457-a348-9baa49ecf095%2F0000%22>

There is no advertising on Netflix, and we don't sell audiences to advertisers. We make content available, but we don't program or schedule it. We are focused on providing our members a viewing experience where they can easily choose a title they will love. This gives our members more opportunity to discover new content, and enables streaming entertainment services to make deeper investments in new and innovative programming.

As a global entertainment service, Netflix strives to make our content library accessible to all our members. That means that Australian Netflix members can watch a wide range of global content with English subtitles or dubbing, and our global members can access Australian content in their preferred language.

Our goal is to ensure that our members have access to a diverse range of quality content that they will love.

2.2 Netflix in Australia

Netflix launched in Australia in 2015. Since then, we have quickly become a proud participant in Australia's content production ecosystem by commencing local operations, building relationships with local creative industries, and identifying new investment and production opportunities. Netflix has been, and will continue to be, an active investor in local content that brings Australian stories to the world.

We have built an audience - in Australia and globally - by finding and creating the best stories from global and local producers, and offering ad-free, unlimited viewing on any screen. Netflix is about providing a personal experience. Our recommendations help our members choose content to enjoy with minimal effort.

Netflix makes significant investments in Australian content and across the wider content production ecosystem. Our substantive and growing production activity in Australia provides revenues, jobs and global exposure for Australian producers, creators, talent and crews, as well as Australia's animation, post-production and visual effects facilities. The increasing global demand for content will continue to make Australia an important place to invest.

Our business model means we must offer compelling content to earn Australians' attention in a rapidly growing and competitive environment. Australian content has been, and will continue to be, a popular part of the Netflix catalogue for our members in Australia and around the world. This is why Netflix offers an ever increasing catalogue of original content from Australia, and delivers licensed Australian content to our global membership.

In July 2020, Que Minh Luu joined our Sydney-based team as Director of Content (ANZ), responsible for commissioning our Australian content slate. This is a critical role to further cement Netflix's existing position as a significant contributor to Australia's content production ecosystem. In explaining her role, Luu said:

“What we're trying to do in Australia is broaden the scope of the kind of stories we currently have, enable our world-class talent and creatives to lean even further into making quality shows that feel culturally ours, and empower younger generations to

break through,” she says. “We’re building the appetite for Australian content on Netflix and we want to work together with industry to rise up to that challenge”³⁴

Netflix investments in Australian television series’ and movies, and use of Australian production and post-production infrastructure and talent, help support the production industry. To provide an example of the scale of our contribution to Australian content production, Netflix invested over AUD\$52.04 million in the recent original series *Clickbait*.

Clickbait is being produced by Melbourne-based Matchbox Pictures and Tony Ayres Productions, together with UK production company Heyday Television. On announcing this production, Minister for Communications, Urban Infrastructure, Cities and the Arts, the Hon. Paul Fletcher MP, said:

“Securing this production will bring more than \$36 million [USD] of new international investment to our shores, engage around 540 cast, crew and extras, and use the services of around 290 local businesses.”³⁵

Case Study - Heartbreak High³⁶

The first new production commissioned by our local Director of Content was a reboot of the 1990s teen drama series *Heartbreak High*. Although it will be inspired by the original series, our version will be totally reimagined for a new generation.

The series will be set and shot in a Sydney high school, and tackle young adult issues of modern times. As Que Minh Luu explains:

“It’s not going to be a facsimile of the original. We want to give this new generation their own version. Australian teens haven’t had their stories told in this way for a long time.”

Produced by Fremantle Australia and Dutch production company NewBe, it will have eight episodes and launch globally on Netflix in 2022. Fremantle Australia executive producers Chris Oliver-Taylor and Carly Heaton said:

“We cannot wait to bring to Netflix audiences, young and old, a truly brilliant and unashamedly Australian reimagining of ‘Heartbreak High’.”

³⁴ IF magazine, ‘The climate is super exciting’: Netflix working to broaden scope of Australian storytelling, 1 February 2021. Available at:

<https://www.if.com.au/the-climate-is-super-exciting-netflix-working-to-broaden-scope-of-australian-storytelling/>

³⁵ Film Victoria media release, *Netflix Partners with Victorian Creators to Bring Clickbait to Melbourne*, 26 August 2019. Available at:

<https://www.film.vic.gov.au/news/netflix-partners-with-victorian-creators-to-bring-clickbait-to-m%20elbourne>

³⁶ The Guardian, *Netflix announces Heartbreak High reboot for 2022: ‘We haven’t had a teen show like it since’*; December 2020. Available at:

<https://www.theguardian.com/tv-and-radio/2020/dec/07/netflix-announces-heartbreak-high-reboot-for-2022-we-havent-had-a-teen-show-like-it-since>

Netflix has also acquired the rights to all seven seasons of the original series. The complete original series was made available on Netflix on 27 November 2020. In its first week it reached the top 25 most watched programs on Netflix in Australia. As a testimony to how Australian content can reach global audiences on Netflix, it also was one of the top 10 most watched programs in Serbia and in the top 30 in The Netherlands.

Despite *Heartbreak High*'s international popularity and the potential for it to sell into multiple territories, our primary focus is making quality Australian content.

Explaining her commissioning approach, Luu said:

“Our remit as the Australian originals team is to make stories for an Australian audience. I don’t think you can deny that there is an inherent potential for an Australian show to travel. And particularly because the original was so popular, I would love for this re-imagined version to travel, too. But what we care about first and foremost is that it is a uniquely Australian show.”

“What I’m focused on is our Australian members; I want them to feel ‘seen’ by this version.”

2.3 Australian Netflix commissioned productions

Netflix is an increasingly significant commissioner of Australian content. We are currently the only international streaming entertainment service with a content team permanently based on the ground in Australia, and we’ll continue to invest aggressively in Australian content. Our investments in Australian content for exclusive distribution on the Netflix service represent a significant and growing contribution to Australia’s content production ecosystem.

Netflix Co-CEO and Chief Content Officer, Ted Sarandos, is committed to sourcing Netflix content from Australia:

“Australia has such a rich production infrastructure and great talent, both in front of and behind the camera. There’s no reason we would not [commission] original shows for Australia.”³⁷

Netflix productions have been filmed all over Australia, including in Queensland, South Australia, the Northern Territory, Victoria and New South Wales.

In 2020 alone, Netflix has invested in 16 new Australian titles. As well as iconic Australian titles such as *Heartbreak High*, our diverse range of investments include Australian childrens’ drama series such as *Maverix*, as well as large scale international productions with

³⁷ The Sydney Morning Herald, *Netflix content boss Ted Sarandos open to ideas for original Australian shows*, 11 June 2016. Available at: <https://www.smh.com.au/entertainment/tv-and-radio/netflix-content-boss-ted-sarandos-wants-your-ideas-for-original-australian-shows-20160610-gpgcjp.html>

home-grown talent behind and in front of the camera, such as Chris Hemsworth's *Escape from Spiderhead* and Toni Collette's *Pieces of Her*.

Case Study - *Maverix*³⁸

Maverix, produced by Northern Territory's Brindle Films, with investments from Netflix and the Northern Territory Government, is a new high-octane Australian children's drama series currently being filmed in Alice Springs. The 10 x 30-minute episodes are set in the world of Motocross and feature a diverse group of teenagers driven to succeed in their chosen sport.

Set against the spectacular backdrop of Central Australia, the live-action series will showcase this unique and visually stunning part of Australia as we follow team *Maverix* and learn about life both on and off the track. Global distribution on Netflix means Alice Springs and the red heart of Australia will be showcased to over 207 million subscribers in 190 countries across the globe.

Producer Rachel Clements explained her vision for the show:

"We want to produce a show that presents our NT kids on screen in an aspirational way, and one that the Alice Springs community can be proud of."

Jenny Buckland, CEO Australian Children's Television Foundation said:

"The ACTF was immediately captivated by this story when Brindle Films pitched us the concept three years ago."

*"Children all over Australia – indeed the world – are going to be drawn into the stories and the dramatic Alice Springs and red centre region, which are the perfect backdrop to the high energy adventures in *Maverix*."*

The production is the largest locally produced screen project in the Northern Territory's history. Showcasing iconic landmarks around Alice Springs, it will inject \$5 million into the Territory economy and employ nearly 400 people. The economic benefits of the production will be felt across jobs, goods, and services including accommodation, transport, catering/hospitality and set building materials.

As Northern Territory Minister for Tourism, Sport and Culture, Lauren Moss said:

"This project is important for Alice Springs and the Northern Territory more broadly. Production of the series in Alice will effectively provide upskilling and employment opportunities for a large proportion of the NT screen sector as well as job opportunities for a wide range of support personnel and Territory businesses."

³⁸ Statement of the Honourable Lauren Moss, *Maverix: The Largest Local Production Ever to be Filmed in Red Centre*, 30 June 2020. Available at: <https://newsroom.nt.gov.au/mediaRelease/33489>

As well as supporting the creation of new Australian stories to entertain our members both in Australia and around the world, these investments have positive flow on effects for the wider ecosystem. As Director, Content (ANZ), Que Minh Luu explains:

“This means there will be increased opportunity to train or upskill younger practitioners across disciplines. We have a crop of next generation creatives working on some of our productions, as well as projects in development with new voices.”³⁹

2.4 Netflix’s commitment to Australian children’s content

As a consumer-driven subscription-based platform, Netflix invests heavily in Australian kids content because parents find value in Netflix as a source for children’s entertainment. Netflix provides high quality content for kids that entertains and educates, commercial-free. Netflix has invested in a kid-friendly user interface and parental controls so members can feel confident that their kids are only watching content that is appropriate for them. About half of Netflix members have watched kids programming.

It is for this reason that Ted Sarandos has indicated that Netflix will “double down on kids and family programming”.⁴⁰ This commitment presents an incredible opportunity for the local industry given that Australia is one of the top locations for Netflix’s commissioned kids productions, for both animated and live action programming.

In the four years to 2020, Netflix invested AUD\$110 million in Australian children’s programs alone.⁴¹ In just the 2019/20 financial year we spent \$33.42 million on first-run Australian children’s content. Screen Australia reports that the total investment in children’s drama in 2019/20 across all platforms was \$46 million.⁴²

³⁹ IF Magazine, ‘The climate is super exciting’: Netflix working to broaden scope of Australian storytelling, 1 February 2021. Available at:

<https://www.if.com.au/the-climate-is-super-exciting-netflix-working-to-broaden-scope-of-australian-storytelling/>

⁴⁰ The Wall Street Journal, *Netflix to Ramp Up Originals Targeting Kids*, 17 January 2016. Available at: <https://www.wsj.com/articles/netflix-to-ramp-up-originals-targeting-kids-1453058812>

⁴¹ The Sydney Morning Herald, ‘Quality is fantastic’: Netflix reveals \$110m spend on Australian children’s shows, 10 August 2020. Available at:

<https://www.smh.com.au/culture/tv-and-radio/quality-is-fantastic-netflix-reveals-110m-spend-on-australian-children-s-shows-20200807-p55jlb.html>

⁴² Screen Australia, *Drama Report 2019/20*, p 21. Available at:

<https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/drama-report>

Case Study - *Surviving Summer*⁴³

Netflix's original kids production *Surviving Summer* is a 10 episode drama series, produced with Werner Film Productions and ZDF Enterprises. The series was also supported by Film Victoria, and was developed with the assistance of Screen NSW.

We are excited to have worked again with three-time Emmy nominated producer Joanna Werner as Executive Producer/Producer, who produced *Dance Academy*, *H2O: Just Add Water*, and *Clickbait*.

Speaking about the project, which shot in regional Victoria in March - April 2021, Werner said:

"I am so excited to start filming *Surviving Summer* all along the Great Ocean Road at some of the most stunning beach locations in the world. We have assembled an amazing crew and cast who have been training hard to get ready for what will be an incredibly exciting and demanding shoot with drama, surfing, skating, stunts and more. Fingers crossed for some great surf conditions and for a safe and fun shoot!"

"*Surviving Summer* has been a passion project for a long time. Our teen cast are an exciting mix of acting and surfing talent. They have been training hard and will be ably supported by our brilliant crew, fantastic scripts and fingers crossed, great surf."

Netflix's Global Director of Licencing and Co-commissions in the 'kids and family' genre, Ed Horasz, recently talked about Netflix's interest and deep commitment to the production of Australian childrens' content, which Horasz ranks as among the best in the world:

*"You have a wealth of talent from the producing and writing side to the acting side. Australia's right up there with the UK if not higher in some respects."*⁴⁴

Netflix's investment in Australian children's content has flow on effects across the entire ecosystem, with much of our investment being made in conjunction with local broadcasters. Horasz explained why Netflix often prefers to fund and produce children's series in partnership with Australian networks:

⁴³ Netflix media release, *Australia's Best Surf Spots Will Be the Key to 'Surviving Summer'*, 16 Feb 2021. Available at: <https://about.netflix.com/en/news/australias-best-surf-spots-will-be-the-key-to-surviving-summer>; Media Week, *Netflix announces latest Aussie made series Surviving Summer*, 17 Feb 2021. Available at:

<https://www.mediaweek.com.au/netflix-announces-latest-aussies-made-series-surviving-summer/>; Variety, *'Surviving Summer' YA Surfing Drama Shoots in Australia for Netflix and ZDF*, 16 Feb 2021. Available at: <https://variety.com/2021/tv/asia/surviving-summer-surfing-series-shooting-in-australia-netflix-1234908402/>

⁴⁴ The Sydney Morning Herald, *Quality is fantastic': Netflix reveals \$110m spend on Australian children's shows*, 10 August 2020. Available at: <https://www.smh.com.au/culture/tv-and-radio/quality-is-fantastic-netflix-reveals-110m-spend-on-australian-children-s-shows-20200807-p55jlb.html>

“They have the local understanding and experience in creating kids’ shows while we can help make it more global and really up the budget.”⁴⁵

Our investment in *The InBESTigators* helped Robyn Butler and Wayne Hope, who run production company Gristmill in Melbourne, shoot two seasons simultaneously. Wayne Hope said:

“Because kids grow so fast, you can’t wait too long between seasons. Once we decided to make 40 episodes it required outside investment to get to that scale.”⁴⁶

Robyn Butler says the couple has received fan art and re-enactment videos from children who watched *The InBESTigators* on Netflix in Brazil, Romania and South Korea and states:

“That was extraordinary to us because everything in the show is so specifically Australian. But it actually made no difference because the themes of the show are universal to 10-year-olds.”⁴⁷

Our focus on Australian commissioned content is also testament to the fact that Australian children’s content is enjoyed the world over. Global streaming services allow Australian creators of kids programming to find audiences around the world.

As *Beat Bugs* [Producer] Josh Wakely said:

“Bringing Beat Bugs to life on Netflix and having a platform to reimagine this universally acclaimed music for families around the world is an exhilarating and rewarding experience.”⁴⁸

Australian kids content like *Beat Bugs* and *Kazoops!* entertains, educates, and showcases Australian creative talent and culture to families around the world.

The importance of Australian children’s content to our service is highlighted by the CEO of the Australian Children’s Television Foundation (ACTF), Jenny Buckland:

“I happen to think competition for quality content is a really good thing. I think the ABC is doing a really tremendous job with the children’s content that it’s commissioning at the moment. It is winning major international awards, and that content is being exported around the world. I think that’s really great. But I’m seeing the same thing all over the world—public broadcasters feeling the pressure from the streamers. Unlike the commercial broadcasters, who were doing it because they had to, not because they loved the content, Netflix, Disney, Amazon, Stan and Apple really care about what they put on their platform, because it is about generating audiences. Australian

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Media Week, *Beat Bugs Sydney Producer Signs Global Deal with Netflix*, 11 February 2016. Available At: <http://www.mediaweek.com.au/beat-bugs-sydney-producer-signs-global-deal-with-netflix/>

*children are also watching that content now, and that is the really great opportunity that exists for Australian content. So, in the future, I think you'd want to see really strong children's content on the public broadcasters.*⁴⁹

2.5 The importance of co-productions with Australian broadcasters

Netflix partners with Australian creators to bring Australian content to our members around the world. A co-production means that Netflix partners with an Australian broadcaster to produce a title. Generally, the Australian broadcaster is provided a period of 'first-run' or exclusive rights in Australia, while Netflix distributes it on Netflix outside of Australia. The title is then available on Netflix in Australia once the 'first-run' period has expired.

Netflix has invested heavily in co-productions with each of the free-to-air commercial television broadcasters, as well as with the national broadcasters.

When we partner on productions in Australia, we gain access to quality stories and talent, and can bring our particular focus on audiences and exports. Broadcasters benefit from additional financing for content for their domestic audiences. Australian producers, creators and talent gain substantial additional exposure, with Netflix branding in 190 countries.

Case Study - *Dive Club*⁵⁰

Dive Club is a 12-episode teen mystery drama, co-commissioned by Netflix and Network 10, supported by Screen Queensland. Created by Steve Jaggi, the showrunner, the series follows four skilled teenage divers who go hunting for items lost by tourists. After one girl disappears, the discovery of her mobile phone leads her friends to suspect she was murdered.

Filming took place in Port Douglas in Queensland, and post production is being completed by Brisbane-based Serve Chilled. The production injected nearly \$8 million into the local economy and created more than 110 jobs.

Queensland Premier Anastacia Palaszczuk said when announcing the project:

"Dive Club will showcase the tropical paradise location of Port Douglas and its lush surrounds to audiences across Australia, and the world, while providing jobs and training opportunities for established and emerging local crew permanently based in Queensland.

⁴⁹ Statement of Ms Jenny Buckland, CEO of Australian Children's Television Foundation, at 4 Dec 2020 hearing from Australia's creative and cultural industries and institutions inquiry, p19. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommrep%2F3dc7b307-8e9f-43b3-8c61-3106dc1137cc%2F0000%22>

⁵⁰ IF magazine, *Netflix buys global rights to the Steve Jaggi Company's 'Dive Club'*, 28 September 2020. Available at: <https://www.if.com.au/netflix-buys-global-rights-to-the-steve-jaggi-companys-dive-club/>

“With additional outcomes for FNQ tourism, hospitality, logistics and transport, it’s not only local filmmakers who will benefit from this exciting new production.”

Screen Queensland CEO Kylie Munnich also said:

“We are delighted to see Dive Club feature strong lead female characters as well as a wealth of female directors working on the series including Hayley MacFarlane, Rhiannon Bannenberg and Christine Luby.”

The series will appear in Australia on Network 10, and available globally on Netflix.

For content that receives government support, additional financing from global distributors extends the value of the government’s investments, and facilitates the cultural policy goal of showcasing Australian culture and creative talent. For example, when the ABC’s *The Letdown* was licensed as a Netflix original series outside of Australia, the partnership not only added additional funding to Screen Australia’s investment, but also allowed audiences around the world to discover this uniquely Australian show.

Netflix’s investment in a co-production ensures global reach and larger production budgets. For example, after an investment from Netflix, *Glitch* was able to extend its production timeline.⁵¹ ABC said that working with Netflix delivered a “better outcome” for Australian audiences:

“As a result of Netflix’s involvement, there is more money being invested in Glitch to fully realise the creative aspiration of the series.”⁵²

The emerging interrelationship between content producers, broadcasters and streaming entertainment companies is an important development in the new content production landscape. It is bringing new ways of working, and new benefits to Australian consumers, broadcasters and producers - while also meeting the demand for high-quality content from streaming services.

As the CEO of the Australian Children’s Television Foundation, Jenny Buckland explains:

“There are a few production houses that had a business model that was all about providing content to the commercial broadcasters under their quota. Some of that content wasn’t particularly Australian—Australia was often a very small party to it, and the commercial broadcaster had paid very little for it—and some of it was watched by very few people. This requires a different approach. Successful content in the future

⁵¹ The Sydney Morning Herald, *All rise: the deceased keep the mysteries alive in the new season of Glitch*, 7 September 2017. Available at:

<http://www.smh.com.au/entertainment/all-rise-the-deceased-keep-the-mysteries-alive-in-the-new-season-of-glitch-20170904-gvac1i.html>

⁵² The Australian, *TV Executives Find Big Glitch in ABC-Netflix Deal*, 7 November 2016. Available at:

<http://www.theaustralian.com.au/business/media/tv-executives-find-a-big-glitch-in-abcnetflix-deal/news-story/8e299d4487468658b831b5daad8a4286>

*needs to meet the high-end, high-value content that we've typically been seeing here on the ABC and that streamers like Netflix have also been acquiring from Australia. So there's a bit of pivoting for some producers to do.*⁵³

2.6 Providing new audiences and export opportunities for Australian content

The Green Paper acknowledges the benefits that export opportunities bring in providing Australian content producers with opportunities to expand into new markets.

Netflix partners with Australian creators and industry to bring award winning Australian content to our members around the world. International licensing of Australian content provides enhanced income to the Australian production industry from the global rights deals, as well as additional opportunities to monetise their content via increased global distribution of Australian stories. These deals promote the worldwide visibility and discoverability of Australian content, and global distribution and appreciation of Australian stories.

Licensing second-run content provides a new opportunity for Australians to access Australian content that has otherwise not been readily available to them. The acquisition of second-run Australian content also provides on-going financial support to the Australian production industry.

New generations of Australians will be exposed to iconic Australian titles such as *The Secret Life of Us*, *Heartbreak High*, *Offspring* and *Round The Twist* from their inclusion in Netflix's service.⁵⁴ And our presence in 190 countries provides export and exposure opportunities for Australian creatives.

Escape and Evasion was released theatrically last year via The Backlot Films after its world premiere at the 2019 Gold Coast Film Festival. Despite being released just prior to the onset of COVID-19 and the subsequent closure of cinemas, the film was licensed and distributed by Netflix and managed to garner acclaim, with Josh McConville winning Best Actor at the 2020 Veteran Film Awards, and the film receiving a nomination for Best Foreign Film at the Chinese Golden Rooster Awards.⁵⁵

Bronte Pictures CEO, Blake Northfield, said the Netflix deal meant it was “finally going to get the audience it deserves”. He explains:

“Like most, 2020 was a hard year for the film, with the movie securing a fantastic theatrical release, only for it to last a few days before the cinemas closed.

⁵³ Statement of Ms Jenny Buckland, CEO of Australian Children's Television Foundation, at 4 December 2020 hearing from Australia's creative and cultural industries and institutions inquiry, p17. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommrep%2F3dc7b307-8e9f-43b3-8c61-3106dc1137cc%2F0000%22>

⁵⁴ New Idea, *Clear the schedule! The Secret Life of Us set to drop on Netflix. Another Aussie classic to add to the watch list*, 20 May 2021. Available at <https://www.newidea.com.au/the-secret-life-of-us-netflix>

⁵⁵ IF Magazine, *'Escape and Evasion' and 'Undertow' run the gauntlet for Aussie films*, 9 Mar 2020. Available at <https://www.if.com.au/escape-and-evasion-and-undertow-run-the-gauntlet-for-aussie-films/>

“I’m personally happy that people now get to see Storm’s work and the incredible performances of a stellar cast. We’ve had a really positive experience working with Netflix, and are happy to see them acquiring local content.”⁵⁶

Netflix provides exposure to hundreds of Australian titles to its global subscribers. For example, in the 2019/20 Financial Year, Netflix made available over 145 Australian films, series and documentaries, including new and licensed childrens’ content, to Netflix members in the United States. A similar volume of Australian titles was available across our top ten international markets.

This global exposure can provide significant audiences, and critical acclaim. Australian production *Nowhere Boys*, which has won seventeen awards including Best Kids’ Series at the International Kids’ Emmys (2015) is distributed by Netflix around the world.⁵⁷

Other Australian titles that have gained significant international exposure on our service include *Ali’s Wedding*, *I Am Mother*, *Redfern Now*, *The Sapphires*, *Lion*, *The Dressmaker*, *Rake*, *Exposed: The Case of Keli Lane*, *Offspring*, *Wentworth*, *Miss Fisher’s Murder Mysteries*, *Barbecue*, *The Code*, *Laid*, *Outback Truckers*, *The Water Diviner*, *The Moodys* and *Jack Irish* to name just a few.

The launch of Netflix in Australia has also provided new opportunities for Australian writers. Working with Netflix, author Aaron Blabey is able to reach a global audience with the film adaptation of best selling Australian children’s book *Thelma the Unicorn*.⁵⁸ Similarly Australian scriptwriters Joel Edgerton and David Michôd have achieved global acclaim with their Netflix film *The King*.

Case Study - Interceptor⁵⁹

Australian author Matthew Reilly is the internationally bestselling author of the *Scarecrow* novels: *Ice Station*, *Area 7*, *Scarecrow*, *Scarecrow* and the *Army of Thieves* and the novella *Hell Island*; the Jack West novels: *Seven Ancient Wonders*, *The Six Sacred Stones* and *The Five Greatest Warriors*; and the standalone novels *Contest*, *Temple*, *Hover Car Racer*, *The Tournament*, *Troll Mountain* and *The Great Zoo of China*.

His books are published in over 20 languages with worldwide sales of over 7 million copies.

⁵⁶ IF Magazine, *Netflix deal for Storm Ashwood’s ‘Escape and Evasion’*, 29 March 2021. Available at: <https://www.if.com.au/netflix-deal-for-storm-ashwoods-escape-and-evasion/>

⁵⁷ IF Magazine, *Netflix Swoops Nowhere Boys*, 19 July 2017. Available at: <http://if.com.au/netflix-swoops-nowhere-boys/>

⁵⁸ The Age, *Netflix to adapt bestselling Aussie children’s book Thelma the Unicorn*, 7 June 2019. Available at: <https://www.theage.com.au/entertainment/books/netflix-to-adapt-bestselling-aussie-children-s-Book-thelma-t-he-unicorn-20190607-p51vgt.html>

⁵⁹ <https://www.dymocks.com.au/authors/matthew-reilly;>
[https://www.if.com.au/its-a-minor-miracle-matthew-reilly-on-taking-the-reins-for-interceptor/;](https://www.if.com.au/its-a-minor-miracle-matthew-reilly-on-taking-the-reins-for-interceptor/)
<https://www.smh.com.au/culture/tv-and-radio/why-best-selling-author-matthew-reilly-is-making-a-film-20210310-p579h5.html>

Since *Seven Ancient Wonders* in 2005, Matthew's novels have been the biggest selling new fiction titles released in Australia each year.

Reilly will gain broader exposure to an international audience through his upcoming film *Interceptor*, currently in production in Artarmon, Sydney.

Netflix acquired the rights to the original screenplay the bestselling author co-wrote with local screenwriter Stuart Beattie. Reilly will make his directorial debut on the film, with Beattie as producer alongside Matthew Street and Michael Boughen.

Interceptor stars Australian actor Luke Bracey (*Hacksaw Ridge*) and Spanish actor Elsa Pataky (*The Fast and the Furious* franchise). The film tells the story of an army lieutenant who must draw on her tactical training and military expertise to save the world after sixteen nuclear missiles are launched at the United States.

The film's shoot at Artarmon will be a homecoming of sorts for the author, who grew up in the nearby suburb of Willoughby. Reilly said while other locations were considered, he was "very pleased" with the project's final landing place.

"I was very happy to do it in Australia and it could have been in the Gold Coast, Byron Bay, or even Alstonville ... It's kind of nice it is happening in the old ABC studios at Artarmon because I know that area quite well."

Interceptor is slated for theatrical release in Australia at the end of 2021, before being screened globally via Netflix in early 2022.

2.7 Investments in Australian post production and visual effects

In addition to creating and acquiring Australian films and series, Netflix also relies on Australia's world famous production and post-production infrastructure and talent.

Netflix has established a Post Partner Program, which collaborates with post-production partners globally to ensure that the millions of Netflix members' viewing experiences are nothing short of exceptional. The program's focus includes language dubbing, audio descriptive services, master quality control, and post-production partners supporting Netflix-commissioned workflows.

While we do not mandate the use of our Partners on our productions, and respect the producer and/or director's creative decision as to where post production takes place, inclusion of Australian partners in the Program helps to showcase the quality of Australia's post-production sector to creators worldwide.

Australia’s goal is to be a leading digital economy, as set out in the Digital Economy Strategy 2030, announced as part of this year’s Federal Budget.⁶⁰ Netflix supports this important goal, and we believe that our world leading post, digital and visual effects (PDV) sector can be a driver of this, with the incredible innovation going on in the sector.

As the Green Paper notes, digital technology has spurred innovation and encouraged efficiency in the media sector, including the creation of new platforms, experiences and business models. As the CEO of Ausfilm, Kate Marks, states:

“I do want to see as much work from these international productions as possible being left behind in Australia. We have some of the best post production and VFX facilities and talent in the world and we want to make sure their skills and creativity are maximised by these productions. These businesses were incredibly quick to pivot at the height of the pandemic and are able to provide some incredibly innovative solutions to projects of all size and scale.”⁶¹

Case Study - Zigzag Post

ZIGZAG POST produced and delivered *Extreme Engagement*, Netflix’s first Australian unscripted series – an 8-part reality, travel documentary series created by production company, Wildman Films.

The show follows an engaged Australian couple, award winning filmmaker Tim Noonan and journalist PJ Madam, as they travel the world for a year to explore different marriage customs in diverse cultures.

Wildman engaged ZIGZAG to post-produce *Extreme Engagement* using the services of music composition, all sound post, colour grade, online editing, digital mastering and a 78 terra-byte delivery direct to Netflix.

ZIGZAG Post services included sound mix, music composition, data-management, colour grade, online edit, digital mastering and 4K Netflix delivery.

Netflix has worked with many of Australia’s leading post production finishing picture and sound studios, including Union Sound on *The New Legends of Monkey* and *Dive Club* in Sydney and Brisbane, Served Chilled on *Dive Club* in Brisbane, Kojo Productions on *Maverix* in Adelaide and Melbourne, and Bluepost on *The New Legends of Monkey* and *Heartbreak High* in Sydney and Melbourne.

⁶⁰ The Honourable Scott Morrison, 6 May 2021. Available at: <https://www.pm.gov.au/media/modern-digital-economy-secure-australias-future>

⁶¹ Content Cafe, *Insights from Industry Insiders: Kate Marks, Ausfilm*, 23 March 2021. Available at: <https://contentcafe.org.au/articles-stories-everything/insights-from-industry-insiderskate-marksausfilm/>

Our work with the post production sector provides innovative opportunities that will contribute to achieving the goals and objectives set out in Australia’s Digital Economy Strategy. As stated by the Chief Executive of the Australian Investment Council, Yasser El-Ansary:

“Building a pipeline of digital skills and upskilling Australians will be critical for the development of a modern, knowledge-based economy.”⁶²

The Victorian Government has recently recognised the value of these opportunities and announced a \$191.5 million four-year strategy to put Victoria at the forefront of the global screen entertainment boom. As the Victorian Minister for Creative Industries, Danny Pearson, states:

“As our screen workforce grows, we’re also making sure we have the right skills to keep our state ahead of the curve. Victoria’s screen workers – including creatives and crew – will be supported with career and development programs, focusing on training in innovative digital sectors such as visual effects, games and animation.”⁶³

It is essential that Australia’s screen content policies are consistent with Australia’s Digital Economy Strategy, and support innovation across the entire content ecosystem, including in the post production sectors.

2.8 Bunya Indigenous Talent Hub

One of our ongoing commitments to Australia’s content production sector is our partnership in the Bunya Indigenous Talent Hub. This is a talent incubator and global networking program open to Indigenous writers, showrunners, directors and producers who will develop and pitch a film or television project to content executives from Netflix and other industry practitioners.

As the Head of Indigenous at Screen Australia, Penny Smallacombe said:

“This is such an exciting collaborative program and despite the delay due to COVID-19 we are really pleased to provide development support to such an incredible mix of projects from some of our best screen storytellers. There is so much talent in this group and with the support of Bunya Productions and Netflix I feel confident we can continue to take our First Nations stories to global audiences.”⁶⁴

⁶² Australian Investment Council, *Digital Economy Strategy will significantly propel innovation*, 6 May 2021. Available at:

<https://www.avcal.com.au/AIC/Articles/Media-Release/2021/05-May/Digital-Economy-Strategy-will-significantly-propel-innovation>

⁶³ The Honourable Daniel Andrews, *Supercharging Victoria’s Screen Industry*, 10 May 2021. Available at:

<https://www.premier.vic.gov.au/supercharging-victorias-screen-industry>

⁶⁴ TV Blackbox, *Netflix partners with local producers to develop more indigenous productions*, 18 November 2020. Available at:

<https://tvblackbox.com.au/page/2020/11/18/netflix-partners-with-local-producers-to-develop-more-indigenous-productions/>

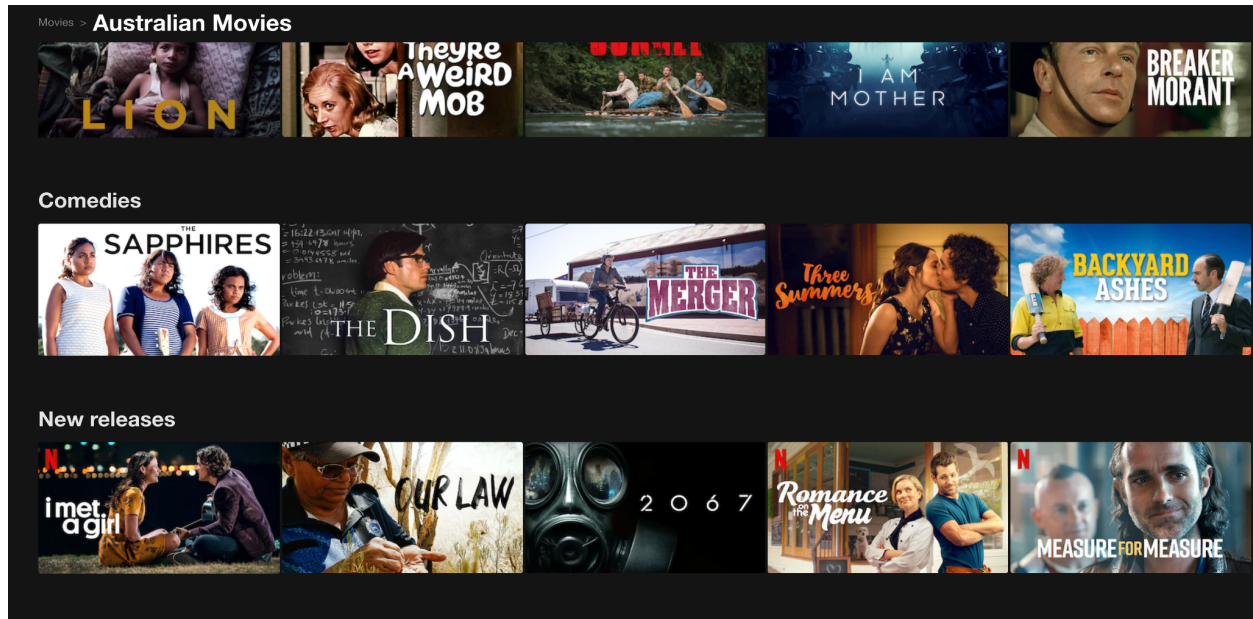
Nine creative teams comprising a total of thirteen Indigenous screen practitioners have been chosen to participate in the first phase of the program and will have the opportunity to develop their work with senior local and international industry mentors including Ryan Murphy and Betsy Beers. One project will then be selected by a panel to receive a further development deal with Netflix Australia.

Part 3 - Netflix’s broad contribution to the content ecosystem

3.1 Helping our Australian members find local content

Netflix takes several measures to feature Australian content, and to assist our members discover Australian stories. The Netflix catalogue organises content into thousands of genres and micro-genres to offer recommendations best suited to that particular member. These may include ‘Australian’ categories such as ‘Australian TV Shows’, ‘Australian Crime TV Shows’, ‘Award-winning Australian Movies’, and ‘Australian Movies based on Books’ for example.





Netflix recommendations also work to ensure members in Australia and around the world are presented with Australian produced content that they are likely to enjoy.

Netflix tags content as ‘Australian’ based on a number of factors. We include content that is produced in Australia, such as our Australian Netflix Originals, or co-productions with Australian broadcasters. We also tag as ‘Australian’ content that features Australian creators or talent, has won Australian awards, and other relevant indicators. These tags generate a multitude of searchable ‘Australian’ categories on our service in Australia and worldwide.

This means our members around the world who love Australian produced content, Australian actors or Australian creators will be able to find more of it because Netflix focuses on ensuring that our members are consistently able to discover and choose the content they want to watch. The exact titles available in each micro genre vary depending on what titles are available in a particular market. But the micro genres combined with the recommendation algorithm help ensure that consumers who enjoy content from Australia are presented with more.

As a result, viewers are finding high quality Australian content to watch on Netflix. For example, when *2067* was added to our service in March 2021, it was the number 1 most watched movie in Australia for eight days in a row.

In 2018, 82% of Australian Netflix members and 68% of US Netflix members viewed Australian content. As First Assistant Secretary, Office for the Arts, Dr Stephen Arnott, has stated:

...there's significant Australian content available on streaming services, and that's finding an audience there.”⁶⁵

Some stakeholders have suggested that streaming services should artificially weight recommendation technologies to Australian content as a way to give prominence to Australian content, however this approach may be counterproductive. As explained above, Netflix generates recommendations based on a member’s viewing patterns, so a Netflix member in Germany or Norway who enjoys horror films may be recommended the Australian Netflix Original zombie film *Cargo*, allowing Australian content to find its ideal audience around the world.

However, recommending *Cargo* for an Australian Netflix member who only likes romantic comedies simply because they are Australian, may generate a negative reaction, and a disappointing viewing experience for the member.

If recommendation technologies are weighted to artificially recommend Australian content that a member is unlikely to watch or may rate negatively - that viewer feedback may diminish the likelihood of that title being recommended to other similar members.

3.2 Championing diversity in the production sector

Netflix recognises the important role the screen industry has in providing a voice for diverse communities and minority groups. Netflix recently commissioned the USC Annenberg Inclusion Initiative to analyse our 2018 and 2019 live-action films and series⁶⁶. The study covered a total of 126 movies and 180 series. It does not include documentary or unscripted series or films, animation, international productions or content hosted on Netflix that it did not itself produce.

Netflix achieved roughly gender parity among lead characters in both films (48.4% of leads were female) and TV (54.5%) in 2018 and 2019. Our films were more likely to have women directing (23.1%), writing (25.2%) or producing (29%) than the top-grossing movies of 2018 and 2019.

In Netflix films and series, 31.9% of leads were from underrepresented racial and ethnic groups. That trails demographics (about 40% of the US population according to census data) but Netflix showed marked improvement between 2018 (26.4%) and 2019 (37.3%).

The results were, as Annenberg Inclusion Initiative founder and director Stacy L Smith noted:

⁶⁵ Statement of Dr Stephen Arnott, First Assistant Secretary, Office for the Arts, Environment and Communications Legislation Committee, Additional Estimates hearing, transcript 23 March 2021, p17. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22committees%2Festimate%2F140f26dd-8d3b-4457-a348-9baa49ecf095%2F0000%22>

⁶⁶ USC Annenberg, *Inclusion in Netflix Original U.S. Scripted Series & Films*, February 2021. Available at: https://assets.ctfassets.net/4cd45et68cgf/3lLceJCJj7NJsKUeJJHrKG/920c17c6207bd4c3aa7f5a209a23f034/Inclusion_in_Netflix_Original_Series_and_Films_2.26.21.pdf

“far more positive than most Annenberg reports, which have typically found only slow, sporadic improvement in the most popular films.”

As Director, Content (ANZ), Que Minh Luu explains:

“Inclusion shouldn’t be a trend, it should be the status quo; it shouldn’t be niche.”⁶⁷

Netflix has also been working with creators with disabilities to ensure that our stories reflect the lives of people with disabilities authentically, which goes a long way towards reducing stigma and fear. Over the past year, we’ve built relationships with organizations like RespectAbility⁶⁸ and Easterseals⁶⁹ to ensure our creators have access to experts who can provide thoughtful guidance in this area. They have already advised on (or sourced specific experts for) over 35 titles, with requests ranging from guidance on depicting an animated wheelchair user to casting and staffing. We’re planning to expand our partnerships outside of the US, and explore programs focused on developing creators with disabilities

3.3 Ensuring access to content for all Australians

We want to make sure Netflix is accessible to everyone. Netflix is committed to investing in technology to ensure that our content is accessible to our deaf and hearing impaired and blind and low vision members. Netflix has led the industry in presenting subtitles and captions, as well as audio descriptions across our content catalogue.

All Netflix commissioned productions support closed captions in the language the content is made in, and we source or create captions for our licenced content.

Audio description (AD) is narration that describes what’s happening on screen, including physical actions, settings and more. It’s primarily used by the blind and those with low vision to help them better connect to a story by filling in the missing pieces.

In 2015 our first title to launch with AD was Marvel’s *Daredevil* - a story about a blind superhero. Today, we now have over 14,000 hours of audio description, covering most of our commissioned content, and films in 39 languages. We also publish an audio description style guide to assist content creators when originating audio descriptions for Netflix content.

We are currently experimenting with new technologies that would allow us to provide AD across more titles and in more languages - for example using AD synthetic audio (which is computer-generated as opposed to produced by a human voice). Research we conducted last year showed that people were pleasantly surprised by the quality of computer-generated audio. Netflix will continue to innovate and invest in this important accessibility technology.

⁶⁷ IF Magazine, ‘*The climate is super exciting*’: Netflix working to broaden scope of Australian storytelling, 1 February 2021. Available at:

<https://www.if.com.au/the-climate-is-super-exciting-netflix-working-to-broaden-scope-of-australian-storytelling/>

⁶⁸ <https://www.respectability.org/>

⁶⁹ <https://www.easterseals.com/>

This year we are improving the experience for our members who use screen readers, keyboards and other assistive technology. We also recently launched a public accessibility site⁷⁰ to explain what we do, answer common questions and get feedback from the community.

3.4 Supporting Australia's COVID-19 recovery

In recognition of the impact that COVID-19 has had on Australia's creative industries, Netflix partnered with Support Act to announce the creation of a new COVID-19 Film and TV Emergency Relief Fund.⁷¹ This was designed to help the hardest hit workers in the television and screen industry due to the production shutdowns caused by COVID-19 across all of Australia. Netflix donated AUD \$1 million to Support Act to launch the fund.

We also invested significant efforts in assisting with Australia's rapid transition to online work, learning and socialising during COVID-19 lockdowns, by reducing the bitrate of our services to reduce congestion on internet networks at this vital time. Netflix worked with the Australian Government and internet providers, including the National Broadband Network, to ensure network continuity at this vital time.

We note that the Green Paper was written in November 2020 when the effects of Covid-19 on the industry was less well understood, and there was justifiable concern about the future of the sector.

We now know that Covid-19 has actually increased business for the screen industry in Australia. Following the March 2020 shutdown, Australia's Covid-19 free status has seen content production increase due to its emergence as a world leading safe place to work. The Screen Australia Drama Report 2019/20 found that a total of 41 foreign projects (including PDV-only titles) generated \$447 million in spend, an 8% increase in spend on 2018/19. As the CEO of Screen Australia, Graeme Mason said:

*"Despite the hardships, I'm encouraged that our industry has been able to safely and markedly increase production activity and there are already positive signs that our sector will be able to bounce back."*⁷²

3.5 Netflix's ongoing commitments to Australia's internet architecture

As well as the range of direct investment in the production of Australian content outlined above in Part 2, Netflix invests significantly in infrastructure that delivers content to our customers. Our objective is to more efficiently deliver content outside of the expensive and

⁷⁰ <https://about.netflix.com/en/inclusion/accessibility>

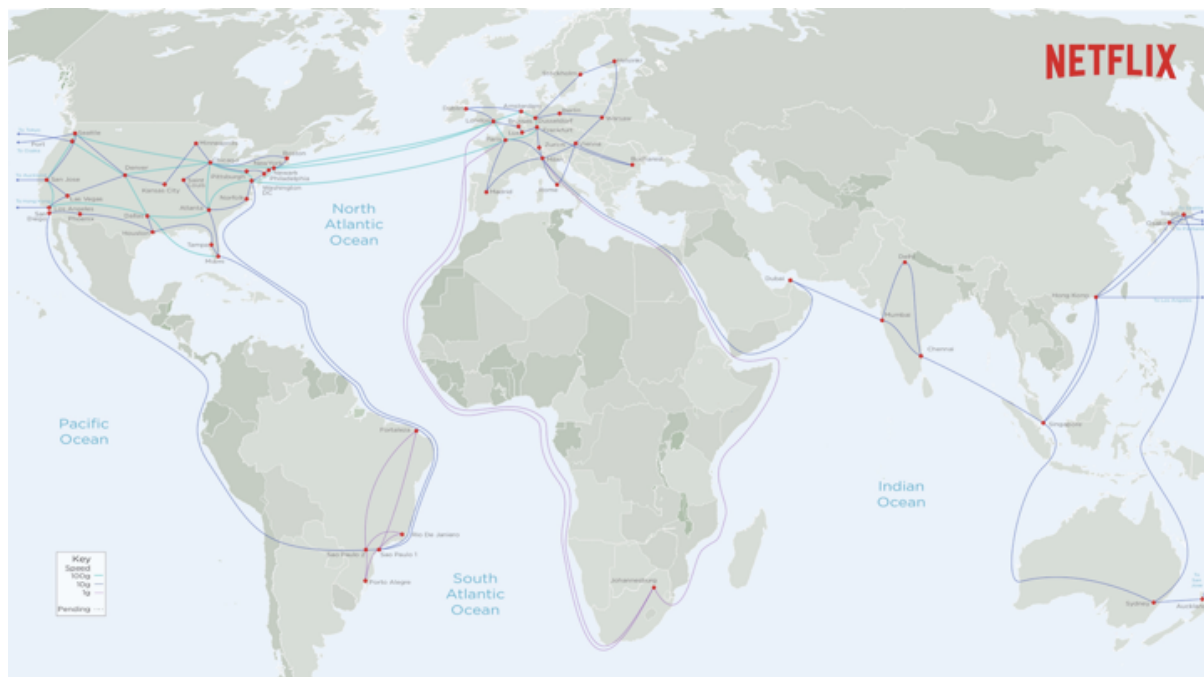
⁷¹ Support Act, *Netflix and Support Act establish Covid-19 film and TV emergency relief fund for hardest hit workers*, 11 June 2020. Available at: <https://supportact.org.au/latest-news/netflix-and-support-act-covid-19-film-and-tv-emergency-relief-fund/>

⁷² Screen Australia Media release, *Drama Report 2019/2020 shows impact of pandemic on film industry*, 25 November 2020. Available at: <https://www.screenaustralia.gov.au/sa/media-centre/news/2020/11-25-drama-report-2019-20-impact-pandemic>

capacity constrained modes of hierarchical, geographically dispersed traffic delivery. This enables Australian consumers to have better access to online content, including Australian content.

Netflix builds and operates a content delivery network called Open Connect. Open Connect is made up of backbone infrastructure connecting nearly 14,000 content delivery servers, called Open Connect Appliances (**OCAs**) across 142 countries. Netflix has invested more than USD \$880 million to build and operate the global Open Connect network, and in partnership with ISPs around the world, continues to invest in Open Connect today.

Figure 2: the Open Connect network



Open Connect is composed of a backbone transport network (the blue/purple lines in Figure 2) and OCAs that are designed for the sole purpose to store and deliver Netflix content to consumers as fast and efficiently as possible.

OCAs can be installed within internet exchange points where they are interconnected with any ISPs that are willing to interconnect. When Netflix peers with an ISP in an internet exchange point, Netflix pays all of its own costs associated with maintaining that point of presence, including colocation fees, storage fees, fill network capacity, capacity to the local internet exchange fabric (if applicable), and cross-connect fees for dedicated interconnection. Every time an ISP augments interconnection capacity, Netflix likewise must use additional resources to augment capacity.

Netflix also makes available OCAs to ISPs around the world, free of charge. OCAs placed within the ISP's premises store copies of Netflix content within the ISP's network. This allows content to be served locally from the embedded OCA when a customer requests it, without

having to bring Netflix traffic into the ISP's network across peering or transit infrastructure. This greatly reduces the amount of network capacity required between the ISP network and the locations it uses to reach its transit providers and peers, which may be offshore.

Participating in Open Connect enables ISPs all around the world to avoid transporting traffic over long distances by localising substantial amounts of traffic from the doorstep of (or from within) the ISP's own network. This may reduce an ISP's costs by minimizing the traffic flowing over transit connections, leased transport, and/or owned long-haul infrastructure.

Netflix engineers work together with an ISP's engineers to deliver customised OCAs deployment solutions that can localize up to 100% of an ISP's Netflix traffic. Over one thousand ISPs globally have received free OCAs from Netflix to place in their networks and received these benefits. Open Connect deployments allow ISPs serving customers in rural and remote communities to be less reliant on acquiring expensive back-haul capacity and a greater focus on deployment of last-mile infrastructure.

Part 4 - Emerging policy challenges from Australia's content production boom

Given the capacity for the production industry to create employment opportunities in regional and remote areas and to drive Australia's continued economic recovery, solving critical creative arts infrastructure and skills shortages should be our primary policy focus at this time.

As discussed above, the Australian content production sector is experiencing record levels of expenditure. This boom in production activity has led to the industry being a 'victim of our own success', and has resulted in severe shortages in physical production space, and limitations on the capacity and capability of talented crew from pre production to post production.

The increased demand for content both in Australia and across the globe has led to capacity constraints that require strategic, long-term industry and government partnership and investment.⁷³ As the CEO of Ausfilm, Kate Marks, states:

*"The current number of international productions choosing Australia as their location is creating exciting opportunities for the Australian industry. The consistent level of activity we're seeing, and the future pipeline, will enable growth across the industry. Unlike the previous peaks and troughs, this current pipeline will allow us to plan how best to build our workforce – to ensure the expertise that we have across the country is able to be expanded and their skills passed on to the next generation with more work to go around for all. We will also see, I am sure, commitments to investments in new infrastructure, like we've just seen in Western Australia."*⁷⁴

⁷³ Olsberg SPI, *Study on the Economic Contribution of the Motion Picture and Television Industry in Australia*, November 2019, p17.

⁷⁴ Content Cafe, *Insights from Industry Insiders: Kate Marks, Ausfilm*, 23 March 2021. Available at: <https://contentcafe.org.au/articles-stories-everything/insights-from-industry-insiderskate-marksausfilm/>

Netflix submits that Australia has an important opportunity to strengthen the industry further by leveraging this record investment strategically to build more capacity and capability, as well as ensuring ongoing content production. Netflix submits that policy considerations arising from this Green Paper should consider how to address these real policy challenges, and avoid approaches that will exacerbate these constraints.

For example, ill-considered regulatory intervention could lead to further skills shortages and capacity constraints. As discussed below, there is a very real policy challenge emerging regarding Australia's capacity to find crew, sound stages and locations to meet the demands of the existing 'content boom', let alone any additional content production required due to any future regulatory interventions. In contrast, carefully nuanced policy approaches could incentivise investment across the ecosystem, including investments that address Australia's severe shortage of sound stages, crew and other production infrastructure.

It is essential that policy makers consider these broader ecosystem challenges and contemporaneous economic modelling and industry data in any further discussion about screen policy development and regulatory intervention.

4.1 Capacity constraints

Research shows that the scale of global production investment has significantly increased the need for physical spaces to shoot, or manufacture, screen content. A report by Olsberg SPI finds that "production studios are a key area of need in many markets and strategic, long-term government investment is a key intervention for developing production infrastructure and building the sector."⁷⁵

With so much production taking place in Australia, space is at a premium. Netflix has recently filmed *Escape from Spiderhead* starring Chris Hemsworth at the Gold Coast Convention and Exhibition Centre. At the Village Roadshow Studios, just up the road from where Netflix filmed, all nine sound stages at the southern hemisphere's largest studio lot were booked out."⁷⁶ The *Escape from Spiderhead* set construction was an innovative use of available conference space due to the impact on the conventions market due to COVID-19. However, when travel and conferences return to normal, access to these spaces may not be a viable option for future productions.

The development of studio and production spaces often requires significant capital expenditure, an area in which governments can play a key role in by promoting and incentivising private investment. Where the development of this infrastructure is linked to other measures such as workforce capacity building, the development of studio and production spaces contributes to the growth of the entire content production ecosystem.

⁷⁵ Olsberg SPI, *Best Practice in Screen Sector Development*, 2019. Available at: <https://afci.org/research-best-practices/>

⁷⁶ The Saturday Paper, *Film productions move to Australia*, 1 May 2021. Available at: https://www.thesaturdaypaper.com.au/news/politics/2021/05/01/film-productions-move-australia/161979120011562?utm_medium=email&utm_campaign=Post%20Tuesday%20May%202021&utm_content=Post%20Tuesday%20May%202021+CID_ad2e64ff703335b699376f424e6035cc&utm_source=EDM&utm_term=Read%20more?cb=1620086258

Australia has well-established state of the art studios in Queensland, NSW, Victoria and South Australia, however the size and capacities of these facilities is varied. Recent investment by various state governments together with private development investment to build more capacity for screen production indicates the proven economic benefits such production can bring to a local economy let alone the flow-on effects to the broader economy and ecosystem.

Such decisions include the recent announcement by the Victorian government to expand its Docklands Studios with an additional sound stage and facilities (Stage Six) in response to the need for purpose built production space to house a mix of concurrent productions - ongoing domestic television series, one-off features and committed international productions (features and series) - which currently need to utilise a mix of warehouse and studio space to accommodate production requirements.

New Line's major feature film *Mortal Kombat* was secured by the South Australian government utilising disused manufacturing warehouse space in Adelaide to complement the more boutique Adelaide Studios. While the major Village Roadshow Studios on the Gold Coast has been the home to a number of large scale international production and local television and feature film production, the Queensland government built a television studio space in Brisbane to enable more television production capacity.

The search for stage space to service the production ecosystem is a worldwide phenomenon. As can be seen in the United Kingdom, the 'incentivise' approach of the UK government has delivered a phenomenal growth in the amount of local and international production and private investment to continue to develop purpose-built facilities to house this ever growing slate of production, which in turn grows the number of jobs and businesses utilised across the economy.

The Green Paper represents an important opportunity to introduce policy levers that will pave the way for continued growth and investment across the Australian production ecosystem, incentivising a range of economic activity, from new productions to new investments in infrastructure and skills training. In contrast, implementing a narrowly focused content obligation applicable only to international streaming entertainment services, risks incentivising those services to treat these obligations as a minimum investment floor which, in reality, could act as a cap.

4.2 Skills shortages

A highly-skilled workforce is an essential element of any screen production ecosystem.

Screen productions require a range of highly specialised workers who develop their skills over many years of on-set experience. However, the increased volume of productions over recent years has placed capacity constraints on this specialised workforce, and difficulty accessing quality skills has the potential to reduce the attractiveness of a jurisdiction.⁷⁷ As Olsberg SPI notes, the inadequate provision of skilled crew "limits production and its benefits".⁷⁸

⁷⁷ Ibid, p37.

⁷⁸ Ibid, p34.

A recent survey by Screen Producers Australia of its members showed a high demand for experienced, skilled and qualified roles and noted that producers are reporting Australia-wide shortages and greatly increased rates arising from the number of concurrent shoots and international productions. As CEO, Screen Producers Australia, Matthew Deaner, states:

“While the current employment conditions are a boon for jobs and our world-class crews, there is a tangible flow-on effect into local productions and the local production businesses who are striving to maintain sustainability in challenging economic conditions”⁷⁹

These shortages are requiring significant responses, such as the South Australia Film Corporation recently launching a new initiative to recruit skilled workers from other sectors into the screen industry. It targets workers from adjacent industries such performing and visual arts, festivals and events, accountancy, trades, construction and more will undergo training to join the screen industry for the first time.⁸⁰

We support the recent Budget 2021 announcements that the Morrison Government has plans to prioritise the creation of new jobs through attracting global talent and business investment, encouraging innovation and building skills for the future.⁸¹ These initiatives will help to address the shortages we are seeing and provide increased opportunities for the screen industry to play a key role in growing Australia’s digital economy.

With the right incentives, the screen industry can make a significant contribution towards Australia’s Digital Transformation Strategy 2030. As the Treasurer, Josh Frydenberg noted in his Budget 2021–22 speech,

“Digital infrastructure and digital skills will be critical for the competitiveness of our economy, creating massive opportunities for growth and jobs.”⁸²

The same holds true for the screen industry - highlighting the importance of developing skills and crew depth across Australia’s screen production ecosystem.

Australia needs to ensure that there are enough skilled workers to meet the demand for existing content boom, let alone any new mandated content production. Incentivising holistic contributions rather than technical metrics/revenue based approaches would help with this. Focusing on narrowly constructed local content obligations would be a missed opportunity to

⁷⁹ Screen Australia Media release, *Local productions facing skills shortage*, 26 April 2021. Available at: <https://www.screenproducers.org.au/news/local-productions-facing-skills-shortage>

⁸⁰ IF Magazine, *SAFC looks to lure skilled workers from other sectors into the screen industry*, 6 May 2021. Available at:

https://www.if.com.au/safc-looks-to-lure-skilled-workers-from-other-sectors-into-the-screen-industry/?utm_medium=email&utm_campaign=Newsletter%20070521&utm_content=Newsletter%20070521+CID_a44d424689e1fc382583aa53400c7181&utm_source=Campaign%20Monitor&utm_term=SAFC%20looks%20to%20lure%20skilled%20workers%20from%20other%20sectors%20into%20the%20screen%20industry

⁸¹ The Commonwealth of Australia, *Securing Australia’s Recovery: Creating jobs and rebuilding our economy*, 11 May 2021. Available at: https://budget.gov.au/2021-22/content/download/glossy_jobs.pdf

⁸² The Honourable Josh Frydenberg, *Budget Speech 2021–22: Securing Australia’s recovery*, 11 May 2021. Available at:

<https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/speeches/budget-speech-2021-22>

incentivise the widest possible range of investments, which would create a ‘virtuous circle’ leading to more content production. We provide detailed discussion of this point below.

Part 5 - Achieving the objectives of the Green Paper

Australia has a significant opportunity via the Green Paper process to move beyond simplistic and narrowly focused approaches to regulation, to design a modern policy framework which will enhance the economic benefits to Australia from the diverse skills and range of creative activities across the content production ecosystem.

The Green Paper focuses on the critically important policy objective of ensuring the continued production of Australian stories. It also addresses complex issues such as the competitive issues facing free-to-air television broadcasters, and other structural challenges across the ecosystem such as spectrum allocation and the future of broadcast delivery.

Netflix believes it is important for the Government to articulate a clear statement of Australia’s overarching screen policy goals and priorities, in order to ensure that Australia adopts appropriate policy and regulatory responses to achieve these goals. Although the Green Paper identifies a number of important policy objectives, some responses to these objectives could be conflicting or counter-productive. As discussed above in relation to co-productions, a goal of ensuring the greatest number of Australian titles on streaming services could be inconsistent with the goal of supporting the business model of free-to-air broadcasters. In particular, Netflix notes the significant evidence, including Australian content investment data reports recently provided to the ACMA by streaming services, that there is no market failure in relation to the production and accessibility of Australian content. This would ordinarily suggest that no regulatory intervention is required if the primary policy priority is the production and accessibility of Australian content.

The following sections of Part 5 highlight a number of potential unintended consequences Netflix has considered in relation to the Green Paper proposals, which we believe should be considered.

5.1 Achieving ‘platform neutral’ media regulation

The Green Paper points out that the current regulatory framework for Australian screen content obligations is “inconsistent and distortionary, applying only to commercial and subscription television broadcasters and not to newer, popular SVODs or AVODs.”⁸³

The Australian Competition and Consumer Commission’s (ACCC) Digital Platforms Inquiry, which reported in 2019, also noted this issue and recommended that the Australian Government implement a staged program of reform towards ‘platform neutral’ media regulation.

⁸³ Department of Infrastructure, Transport, Regional Development and Communications, *Media Reform Green Paper: Modernising television regulation in Australia*, November 2020, p30. Available at: https://www.communications.gov.au/file/51136/download?token=_QipLViF

The Explanatory Memorandum for the *Broadcasting Legislation Amendment (2021 Measures No. 1) Bill* currently before the Senate notes that “[t]he current regulatory environment is impacting on the long-term sustainability of Australia’s production sector as it is preventing innovative or lower cost approaches to meet the intended outcomes of the regulation.”⁸⁴

The Green Paper states that the objective of the proposals is to “provide a more equitable regulatory framework where Australian screen content obligations apply to the wider market, rather than only to traditional broadcasters. It is consistent with the Government’s stated intention to move towards an end state of harmonised regulation across content providers.”⁸⁵

However Australian content obligations form only one part of the overall regulatory framework for media organisations, including commercial and subscription television broadcasters. Netflix submits it is important for policy considerations regarding harmonisation of Australian screen content regulations to occur against the relevant wider regulatory framework. Currently there are a range of different obligations *and* benefits which apply differently to different broadcasters such as protection from ‘commercial television new market entry’, exclusive low cost access to public spectrum, anti-siphoning protection to acquire premium sports rights, in-house classification, co-regulatory industry code of practice requirements as well as Australian content requirements.

Netflix submits it is important for policy considerations regarding harmonisation of Australian content regulations to occur against this wider regulatory framework.

Figure 3 provides an indication of how Australian content obligations form only one part of the overall regulatory framework for media organisations, including commercial and subscription television broadcasters. The green highlighted boxes show where a class of content provider is the beneficiary of regulation that is not applied to all classes of content provider. The red highlighted boxes show where a class of content provider has obligations under a regulatory obligation that is not applied to all.

⁸⁴ Explanatory Memorandum for the *Broadcasting Legislation Amendment (2021 Measures No. 1) Bill 2021*.

Available at:

https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6699_ems_0f54c2cd-19b7-4baf-ab89-004608e91640/upload_pdf/JC001693.pdf;fileType=application%2Fpdf

⁸⁵ Department of Infrastructure, Transport, Regional Development and Communications, *Media Reform Green Paper: Modernising television regulation in Australia*, November 2020, p30. Available at:

https://www.communications.gov.au/file/51136/download?token=_QjpLViF

Figure 3: Australia’s media regulation framework

	Commercial broadcasters	National broadcasters	Subscription broadcasters	Streaming providers
<i>Receives protection/benefit from current regulation</i>				
Access to public spectrum	Yes	Yes	No	No
Anti-siphoning protection for sports rights	Yes	Yes	No	No
Protection from new market entry	Yes - protected from 4th commercial broadcast licence	Yes	No	No
‘In house’ classification permitted	Yes	Yes	Yes	No capacity to self-rate without an “approved classificatio n tool”.
<i>Has obligations under current regulation</i>				
Licence fees to access spectrum	Yes	No	No	No

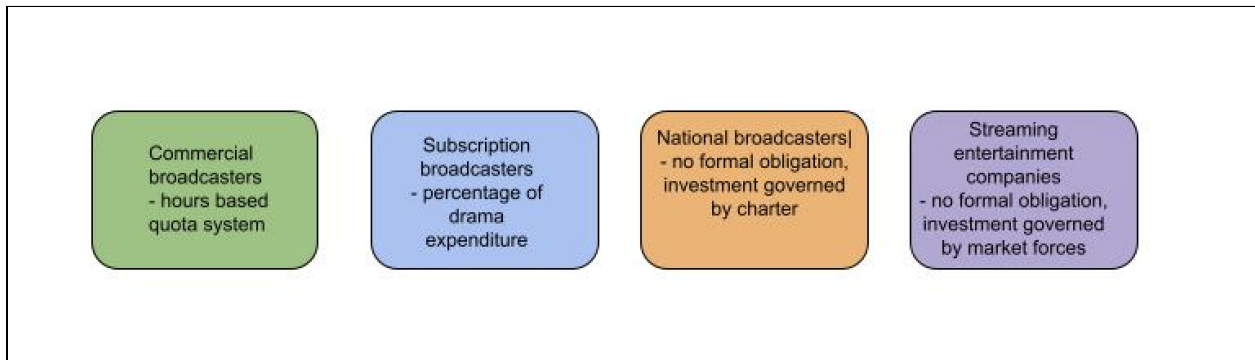
Local content obligations	Yes - hours based quota	No	Yes - % of program expenditure must be on local content	No
Complaints mechanism	Yes	Yes	Yes	Yes
Classification requirements	Yes	Yes	Yes	Yes
Ownership restrictions⁸⁶	Yes	N/A	No	No

The Green Paper is framed around only one element of harmonisation - Australian content obligations. However Netflix is concerned that without considering the broader regulatory framework, if implemented the Green Paper’s proposals regarding Australian content obligations would result in more inconsistency: both to the overall regulatory framework, and in the specific approach to Australian content policy. This would be in direct conflict to the policy objective of moving towards an end goal of greater regulatory harmonisation across the media landscape.

The current Australian content system already applies two different regulatory obligations: on commercial broadcasters (a quota system) and subscription broadcasters (a system imposing an Australian content obligation based on a percentage of overall program expenditure). Local content investment decisions made by the national broadcasters and streaming entertainment companies are governed by market forces. Figure 4 demonstrates this.

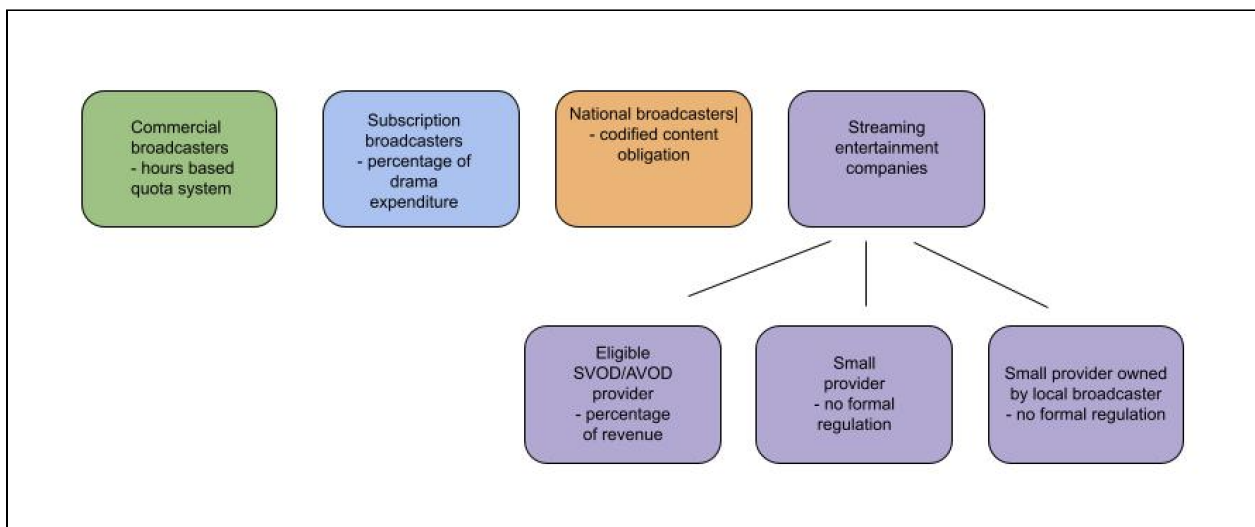
⁸⁶ Excluding the impact of foreign acquisition laws or decisions made by the Australian Competition and Consumer Commission (ACCC) regarding mergers/acquisitions that have the effect of substantially lessening competition.

Figure 4: The status quo regarding content obligations



However Figure 5 demonstrates that rather than moving towards a more platform neutral regulatory framework, the Green Paper’s proposals would introduce three additional categories of regulation, adding further inconsistency and distortion to the media landscape.

Figure 5: Content obligations under Green Paper proposals



The Green Paper proposes further exacerbating inconsistent regulation, rather than considering options such as:

- harmonisation by de-regulation, which may be realistic in a healthy production ecosystem; or
- suggesting that a consistent “percentage of program expenditure” approach be adopted for both streaming entertainment companies and subscription television broadcasters.

Instead, the Green Paper proposes a third subscriber revenue based obligation, which would only apply to some forms of ‘SVOD’ and ‘AVOD’ providers as demonstrated in Figure 5, and

would still leave significant content providers such as Stan, Binge, YouTube and new market entrants such as Paramount+ outside the scope of any of the proposals.

This outcome would be inconsistent with the overarching policy goals of harmonisation recommended by the ACCC and the stated policy objective of the Green Paper. It would also result in non-equivalent treatment for local and global services, which would be inconsistent with Australia's international obligations.

5.2 Maintaining the volume, variety and quality of Australian content

The Green Paper claims that there is a public policy problem that due to financial pressure on broadcasters⁸⁷, “the volume, variety and quality of Australian content available is likely to decline; audiences will have access to fewer Australian voices and stories.”⁸⁸

We have outlined above that there is no actual evidence of market failure in the production of and access to Australian content. In fact, local production is at record levels and Australians here and abroad have never been presented with such a volume of choice of Australian content. As well as record levels of investment across the content production sector as a whole, it has been demonstrated that Netflix and other streaming entertainment providers are already making significant contributions to Australian content production.

This has led to an incredibly diverse range of content offerings benefitting Australian consumers, and even suggestions that Australians are ‘overwhelmed for choice’.⁸⁹

Requiring every streaming entertainment service of a certain size threshold to invest in the same forms of content offerings could inadvertently lead to a reduction in the volume, variety and quality of Australian content, rather than increase it.

If all streaming entertainment companies are required to invest in the same forms of content, this could lessen the diversity and range of content offerings available to Australian consumers, and negatively impact providers - including free-to-air broadcasters - who differentiate themselves in the market based on their local content offerings.

It is therefore necessary to ensure that policy interventions do not unintentionally undermine the industry potential by failing to focus on encouraging the production of high-quality content that can appeal to local and international audiences. For example, AlphaBeta has found that overly onerous content regulation in the context of content quotas could result in ‘quantity over quality’ approaches to the creation of local content.⁹⁰

⁸⁷ [Nine's net profit soars 79%, promises to return \\$2m of JobKeeper](#)

⁸⁸ Department of Infrastructure, Transport, Regional Development and Communications, *Media Reform Green Paper: Modernising television regulation in Australia*, November 2020, p11.

⁸⁹ ABC News, *Streaming services in Australia: Are we overwhelmed for choice?*, 12 April 2020. Available at: <https://www.abc.net.au/news/2020-04-12/streaming-services-in-australia:-are-we-overwhelmed-for-choice/12141410>

⁹⁰ AlphaBeta, *Asia On-Demand: The Growth of VOD Investment in Local Entertainment Industries*, October 2018, p13. Available at: https://alphabetabeta.com/wp-content/uploads/2018/10/asia-on-demand_fa_spread_interactive.pdf

A recent report on the economic impacts of video on demand services in South Korea noted that:

“Protectionist policies intended to shield local companies from international competition could result in local industries that are inward-looking, less innovative and less able to produce high-quality content that is in demand internationally. Many countries have cultural policies aimed at promoting local content, but some come at a cost and prove ineffective at achieving the goals they pursue.”⁹¹

The approach set out in the Green Paper risks damaging the industry permanently as it could:

- exacerbate the current capacity and capability problems;
- create a content ‘arms race’ driving up prices for certain forms of content production, and adding greater costs to the free-to-air television business model (contrary to the goals of the Green Paper);
- reduce diversity of content for consumers;
- reduce capacity for domestic broadcasters and content providers to differentiate their services;
- reduce incentives for streaming entertainment companies to enter into co-production arrangements with commercial broadcasters, meaning fewer benefits such as enhanced budgets and content quality, and making it harder for broadcasters to meet quotas;
- incentivise content production decisions that prioritise ‘quantity over quality’; and
- set a potentially artificial cap by designating a minimum spend, encouraging a ‘tick a box’ compliance approach rather than incentivising wide-ranging ongoing investment;

A recent article by Australian academics Anna Potter and Amanda Lotz echoes many of these concerns, and suggests that applying a narrow set of interventionary regulations could have unintended consequences on the market. For example:

“Netflix could become more like Stan, reducing Stan’s key value proposition - Offering a substantial amount of Australian content makes sense for a domestic service and distinguishes Stan from global providers. However, if global streamers are forced to make Australian content, they become more direct competitors, potentially eroding Stan’s point of difference.”⁹²

5.3 Recognising the importance of co-productions to the ecosystem

It is critical to recognise that co-productions with streaming entertainment companies is an increasingly important aspect of the business model for many participants in Australia’s content production ecosystem, including free-to-air and public broadcasters.

⁹¹ Frontier Economics, *The Economic Impact of Video on Demand Services in Korea*, May 2021. Available at: <https://www.mpa-apac.org/wp-content/uploads/2021/05/KR-Frontier-The-Economic-Impact-of-VOD-in-Korea-30.04.pdf>

⁹² The Conversation, *How local content rules on streamers could seriously backfire*, 17 March 2021. Available at: <https://theconversation.com/how-local-content-rules-on-streamers-could-seriously-backfire-157233>

It is a fundamental feature of the co-production business model that while streaming companies make significant contributions to the development of high-quality Australian programming (sometimes 50 percent or more of the overall content budget), the nature of co-production arrangements mean that at least initially, the title will not be available on the local streaming service. This initial 'exclusivity window' provides significant benefit to broadcasters in the local market.

The Green Paper focuses on the policy challenges faced by commercial broadcasters, and suggests a number of regulatory approaches designed to support the free-to-air business model. However a number of the policy approaches or metrics explored in the Green Paper risk undermining or disincentivising investments in co-productions from streaming entertainment companies.

For example, the Green Paper:

- adopts various quantitative metrics such as the number of titles on a streaming service, or the percentage of Australian content in a catalogue, as a way to measure the investment by streaming content providers; and
- highlights the importance of ensuring Australians are able to view programs that enhance their understanding and experience of our national culture across all media platforms.

If policymakers measure the content investments of streaming companies by reference to simplistic metrics such as the number of titles available on the service, this does not recognise the large scale investments that streaming providers make to content production in Australia.

There is a significant risk that an unintended consequence of overly prescriptive regulation would be that streaming services would choose not to enter into co-production arrangements, if these investments are not 'counted' in any assessment of the local content investments by streaming platforms. This would be a significant market distortion that would harm the entire content production ecosystem, including free-to-air broadcasters, contrary to the policy goals articulated in the Green Paper.

5.4 Ensuring policy decisions are made on the best available data

As discussed in Part 1 of this submission, the policy decisions set out in the Green Paper are being made against the background of a complex and rapidly evolving screen production and broadcast ecosystem, which is experiencing record levels of production activity and new market entrants.

The Green Paper must also be seen in the context of the Government's response to the *Supporting Australian Stories on our Screens Options Paper*⁹³, where the Government said the response:

⁹³ Department of Infrastructure, Transport, Regional Development and Communications, *Supporting Australian Stories on our Screens - Options Paper*, April 2020. Available at: <https://www.communications.gov.au/have-your-say/supporting-australian-stories-our-screens-options-paper>

“...forms part of the Government’s 2019 commitment, in response to the Australian Competition and Consumer Commission’s Digital Platforms Inquiry, to a staged process to reform media regulation towards an end state of a platform-neutral regulatory framework covering both online and offline delivery of media content to Australian consumers.

Work will continue under that process, including examining whether to introduce an Australian content spend obligation on streaming video on demand services above a minimum size threshold in the Australian market.

As an initial measure, the largest streaming video services will be asked to commence reporting to the Australian Communications and Media Authority on Australian content acquisition from the 2021 calendar year”.⁹⁴ [Emphasis added]

The Green Paper forms an important part of this ongoing policy work. However, it is critically important that any policy or regulatory recommendations are directly informed by the first stage of the Government’s response - the voluntary investment reporting process that has just commenced between streaming entertainment companies and the ACMA. The evidence from this data reporting over a sufficient sample of time (a minimum two to three years) should form a key component of the ongoing policy work in this area.

It is also important to recognise that many other key data inputs for assessing the current health and sustainability of Australia’s content ecosystem are not yet available, such as:

- evidence of the expected positive impacts of the recent welcome changes to the Producer Offset;
- the Screen Australia Drama Report for Financial Year 2020/21, which will provide a better sense of the impact on the sector from COVID-19 filming shutdowns, and subsequent boom in content production; and
- economic modelling of the impact of the Green Paper’s proposals.

Netflix understands from a recent Senate Estimates hearing that this modelling has not been undertaken by the ACMA:

Senator Pratt: “As the regulator, have you done any modelling or forecasting in relation to the impact of the new model on content?”

*Ms O’Loughlin: “No.”*⁹⁵

⁹⁴ The Honourable Paul Fletcher, *New funding in Budget to deliver Australian screen content*, 30 September 2020. Available at: <https://minister.infrastructure.gov.au/fletcher/media-release/new-funding-budget-deliver-australian-screen-content-0>

⁹⁵ Statement of Ms Nerida O’Loughlin, Chair and Agency Head, Australian Communications and Media Authority, Environment and Communications Legislation Committee, Additional Estimates hearing, transcript 23 March 2021, p90. Available at: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22committees%2Festimate%2F140f26dd-8d3b-4457-a348-9baa49ecf095%2F0000%22>

If similar modelling has been undertaken by the Department of Infrastructure, Transport, Regional Development and Communications, the public release of this modelling would represent an important contribution to public debate on these issues.

Netflix submits that all of these sources of data, including appropriate economic modelling as part of a detailed regulatory impact statement, should be considered before any decisions regarding the Green Paper consultation are taken.

Evidence based policy making is particularly important in the context of Australia's strong emergence from the devastating initial impacts of COVID-19 on the ecosystem. The issues contemplated in the Green Paper are long term structural policy issues. It is important that decisions aren't made in a reflexive manner due to short term considerations linked to COVID-19.

It is also important to note that the co-production business model poses specific challenges for policy makers in interpreting the data relied on in the Green Paper from the Screen Australia Drama Report 2019/20.

Australian and foreign online streaming services were reported to have made a combined contribution of \$46 million for six titles – three by Stan, and one each by Amazon Prime, Netflix and Adult Swim. It states commercial free-to-air networks provided the largest collective contribution to Australian drama content - \$61 million for 18 titles.

However due to the way that Screen Australia measures and categorises production spend, investment made by the streaming industry is often not captured in its Drama Reports. Many of the productions that Netflix and others co-produce with broadcasters like the ABC are not attributed to the financial contributions made by online streaming services in the Report as the first release in Australia will be on the local broadcaster's platform.

For example, while in the 2018-19 financial year Netflix contributed to the production of titles such as *The Letdown*, *Glitch*, *The InBESTigators*, *The King*, *Secret City* and *The New Legends of Monkey*, the only title that is specifically attributed to Netflix in the Drama Report 2018/19 is *The New Legends of Monkey*.

In the 2019/2020 financial year, Netflix commissioned or co-commissioned 16 new titles, and acquired licensing rights to over 70 Australian shows. However, the Drama Report 2019/2020 only reports our contribution to one title.

As a result of the report's categorisations, many of the productions that Netflix and others co-produce with broadcasters like the ABC are not attributed to the financial contributions made by online streaming services.

Whilst acknowledging the importance of not double-counting, this methodology results in a significant under-reporting of Netflix's investment, and that of the streaming entertainment industry more generally.

5.5 Ensuring regulation is consistent with international best practice

Demand for quality content around the world is growing, and regulators in other markets are confronted with similar questions about how to adapt to shifts in market conditions. The Green Paper considers the examples of proposed local content obligations in other jurisdictions such as Canada and France.

The Canadian Parliament has referred a draft Bill to a Select Committee which, if enacted, will give the local regulator the power to regulate VOD services. However it does not make any references to whether, or at what level, VOD services are required to invest in local screen content.⁹⁶

France is currently considering implementing a 20% local content obligation, however, if implemented this would be unusual internationally and even in Europe. In fact the majority of EU Member States have no system of levies or investment obligations. Those that do have much lower thresholds than those proposed by France and Italy (17%). Poland recently introduced a levy of 1.5% the same rate as is currently proposed by Greek legislation. Germany has an established levy of 3%, and Spain one of 5%. Belgium, Croatia and Denmark have all set their thresholds at 2%.⁹⁷

We note that where investment obligations have been introduced in other jurisdictions, they are required to be applied in a proportionate and non-discriminatory manner to both local and non-domestic services with due caution for potential market impact. For example, the screen industry in France has always had an unusually high proportion of local content compared to its EU Member State peers. Given that cinema attendance is generally unregulated, it is a good basis to assess the natural interest level in local content. In France, local films take 34.8% of the box office. In Australia that number is 3.3%. If Australia would adopt a similar ratio as the French have chosen to do, the investment obligation rate would be 1.9%.⁹⁸

Meanwhile in South Korea, a light touch regulatory environment for the production sector has been hugely successful and demonstrates how a balanced approach, with strong copyright enforcement and competitive incentives along with a strong trade and export focus, can stimulate significant production. In February, Netflix announced it would spend USD \$500 million on Korean film and television series in 2021 alone and Disney and HBO Max look certain to follow.⁹⁹ These significant investments in South Korean content are being made with no regulatory requirement to do so.

⁹⁶ Department of Justice (Canada), *Bill C-10: An Act to amend the Broadcasting Act and to make consequential amendments to other Acts*, 18 November 2020. Available at: <https://www.justice.gc.ca/eng/csj-sjc/pl/charter-charte/c10.html>

⁹⁷ Council of Europe, *Chart of signatures and ratifications of Treaty 132*, 18 May 2021. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/132/signatures?p_auth=5hk0XuAA

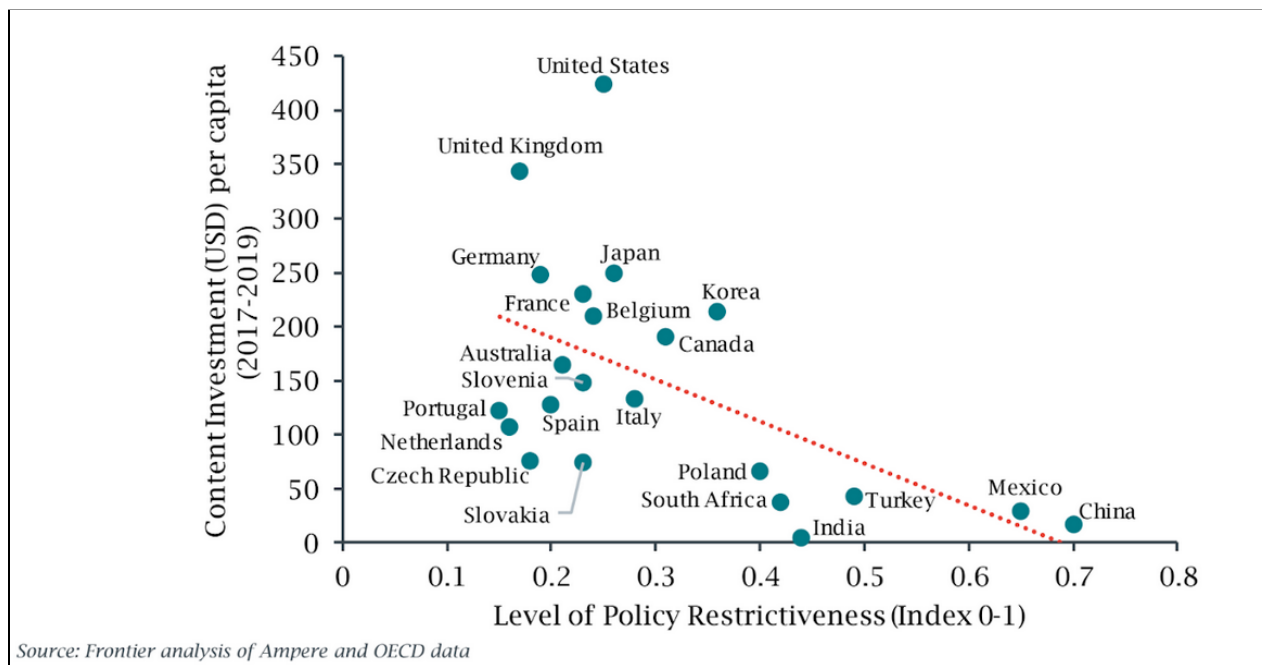
⁹⁸ The French box office data is taken from page 19 of the UNIC Annual Report 2019. The Australian box office data is provided by the Motion Picture Distributors Association of Australia. The equivalent Australia rate has been calculated as follows: $20\%/34.8\% \times 3.3\%$.

⁹⁹ Patrick Brzeski, *South Korea and Japan Emerge as Key Battlegrounds in the Streaming Wars*, 16 April 2021, Hollywood Reporter. Available at: <https://www.hollywoodreporter.com/news/south-korea-and-japan-emerge-as-key-battlegrounds-in-the-streaming-wars>

In addition, countries such as Austria, Bulgaria, Czech Republic, Estonia, Finland, Hungary, Latvia, Lithuania and Sweden have elected not to implement mandated local content investment obligations.

A recent report by Frontier Economics found a correlation between less restrictive policies and higher levels of investment in local content amongst OECD countries. Countries such as the United Kingdom and Germany have the highest levels of investment, yet have lower levels of policy restrictiveness.¹⁰⁰

Figure 6 - Restrictive AV Policy correlates to lower investment (Selected OECD Countries and China)¹⁰¹



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Getting the right balance of regulatory incentives and obligations, combined with a strong skills base and world class infrastructure will provide significant opportunities for Australia to continue to grow its market share internationally.

¹⁰⁰ Frontier Economics, *The Economic Impact of Video on Demand Services in Korea*, May 2021. Available at: <https://www.mpa-apac.org/wp-content/uploads/2021/05/KR-Frontier-The-Economic-Impact-of-VOD-in-Korea-30.04.pdf>

¹⁰¹ Ibid p10.

¹⁰² Ibid.

Part 6 - Formalising the commitment of Australia's streaming industry to local content production

Netflix supports the adoption of an appropriate policy framework to give transparency and certainty on future investment levels in Australian content, however it is important that a broad and proportionate view of investment is applied.

Any policy framework should be pragmatic and flexible enough to maximise the opportunities that the diverse media landscape brings, and remain robust into the future as technology continues to rapidly evolve. A fundamental first step is to clearly identify the policy problem needing to be solved and then to assess the available data to help inform the development of an appropriate solution to that problem.

We support the broad policy objective of creating a modern regulatory framework that will benefit the entire Australian content ecosystem. However, in our view this objective is more likely to be achieved by modernising legacy frameworks to encourage investment, rather than shifting the burden of legacy regulation to emerging services. We believe that inflexible and overly prescriptive regulatory intervention at this stage risks significant unintended consequences for the free-to-air television broadcaster industry and the rapidly evolving streaming entertainment industry, as well as the wider set of content production industries that are increasingly finding opportunities within this growing and global sector.

Netflix submits that in making these important policy decisions, at least three other factors must be taken into account:

1. There is no market failure in the production of and access to Australian content

The streaming sector is already making significant investments in the local screen industry ecosystem and Australian content. Any regulatory intervention should only be considered if there is clear evidence of a lack of access to Australian content overall. As outlined in Part 1, there is no evidence to demonstrate that there is a lack of Australian content being produced.

2. Caution needs to be taken in regulating a nascent industry

Given we are still in the early stages of the streaming industry's development, and the speed at which technology is evolving, we believe that inflexible and overly prescriptive regulatory intervention risks significant unintended consequences for the screen industry, as well as the wider set of content production industries that are increasingly finding opportunities within this growing and global sector.

Policy decisions should be focussed on further enabling the range of unique players in the market to collaborate where there are efficiencies, but ultimately to diversify and complement each other to strengthen the industry as a whole. In turn, this will maximise the economic, cultural and digital opportunities that the screen industry can

bring to Australia.

3. Policy frameworks must incentivise investment in the entire ecosystem and avoid exacerbating known problems

Great care must be taken to ensure that any policy interventions do not exacerbate existing capacity constraints and skills shortages. A flexible, forward-looking policy framework should not narrowly focus on content production alone, but encourage and facilitate a range of policy considerations, including:

- ensuring a skills and employment pipeline from pre to post production;
- ensuring that Australian productions can obtain the talent and crew they need to meet the global demand for content;
- enhancing production capacity - fixing the problem of the extreme shortage of physical production space leading to capacity constraints for new productions;
- ensuring continued investment in pre-production, physical production, post and visual effects, and building on programs such as the Netflix Post Partner Program to continue to attract inbound investment;
- attracting inbound investment and building on existing foreign production investments;
- maximising the export benefits provided to creators from global entertainment services; and
- maximising the direct and indirect economic benefits that flow from a strong production sector, through job creation to wider economic benefits such as tourism.

We look forward to engaging further on the development of a modern and holistic regulatory framework that achieves the broadest range of important social, policy and economic outcomes for Australia.

Nick O'Donnell

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