MEDIA REFORM GREEN PAPER:
MODERNISING TELEVISION REGULATION IN AUSTRALIA

Screen Territory Submission

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INTRODUCTION

The media landscape of Australia is, and continues to be, diverse with the ever-increasing acceleration of technology playing a large role in the changing consumption and distribution of content. With 46% of Australians now having more than one subscription to a streaming service (Deloitte's Media Consumer Survey), the time is apt to re-examine the regulatory environment around Australian content obligations.

Screen Territory welcomes the chance to respond to the *Media Reform Green Paper: Modernising television regulation in Australia*. Screen Territory, in consultation with the Northern Territory Screen Industry Advisory Council, which has been established to provide expert advice to the Northern Territory Government on matters related to the development and growth of the Northern Territory Screen industry, has considered the response in this submission.

Screen Territory believes regulatory reform should:

1. Support Australian stories and increase the amount of Australian content available to Australians.

2. Support and grow the Australian independent production sector.

3. Level the playing field with all commercial platforms that have cultural impact and derive benefit from operating in the Australian market contributing to Australian storytelling and the development and growth of the Australian independent production sector.

This submission is structured in response to the five key proposals in the Green Paper. The key proposals and recommendations are interconnected and collectively aim to meet the above regulatory objectives.

PROPOSAL 1: A NEW LICENCE FOR COMMERCIAL BROADCASTERS

Screen Territory supports the proposal to remove the multichannel requirement <u>on the condition</u> that Proposal 3 and Proposal 4 are implemented and successfully increase the amount of new Australian content available to Australians to offset the decrease in content that will result from removing the multichannel requirement.

PROPOSAL 2: RESHAPE AN INDUSTRY AND REALISE A DIGITAL DIVIDEND

Screen Territory is supportive of the Federal Government facilitating a second digital dividend where a substantial portion of the proceeds of any spectrum auction are used to support new Australian content and the Australian screen production sector.

It is recognized that the commercial broadcasters may not accept proposal 2 as presented in this Green Paper, which may result in delaying the establishment of the Create Australia Screen Trust (CAST) under proposal 3 or CAST never being established.

Should CAST be significantly delayed or fail to be established, the Federal Government should identify other means to support the creation of Australian content and the Australian independent production sector to help the industry to grow. In particular, the support offered to regional areas of Australia and their screen practitioners.

PROPOSAL 3: SET ASIDE A PORTION OF THE PROCEEDS FROM THE AUCTION OF DIGITAL DIVIDEND SPECTRUM TO SUPPORT A STRONGER MEDIA SECTOR AND PUBLIC POLICY OUTCOMES

In principle, Screen Territory supports the proposal to establish the Create Australian Screen Trust (CAST) and that CAST must represent additional funding for Australian content production, rather than replace Screen Australia or other Federal Government funding.

Screen Territory would recommend the following regarding the establishment of CAST:

1. CAST has one funding pool to support Australian content.

2. That CAST services all Australian jurisdictions but places particular focus on regional development and production support to increase non-metropolitan capacity for screen production.

3. Funding is provided on a grant (up to $500,000) or assigned production investment basis (over $500,000) in line with existing approaches to government funding.

4. That the objectives for CAST include supporting new and emerging talent.

5. That the trust supports content with a clearly articulated audience and identified pathway to marketplace or with confirmed marketplace attachment.

6. The Federal Government explores other models to ensure there is minimal administrative duplication.

7. That CAST administers at least $40 million of program funding annually. This will require a capital base of at least $400 million.

8. The Federal Government consults with industry again to determine the particulars of how CAST will operate.

9. The Federal Government conducts a review every two years to determine any adjustments required to how CAST operates to ensure it meets its objectives.

10. The CAST trustees represent the interests of the Australian screen industry and include representatives from the state and territory screen agencies.

11. The CAST trustees have full independence to make the final decision on which projects should be funded.

Expanding upon point 2, there are significant obstacles that face regional screen productions and screen practitioners which are not present in metropolitan centers.

Focused support by CAST on Regional and Remote Location criteria will ensure the amplification of the instrumental impacts on the sector; to guarantee that remote locales are supported and that the Australian screen expenditure is spread broadly throughout the Australian economy and not just focused upon urban centers. The Northern Territory for example, given its vastness, does not enjoy the same privilege as urban locales and is disadvantaged with much higher financial costs for production due to geographical distances and lack of access.

Expanding upon point 6, further consideration should be made over the administration of the CAST fund.

The Green Paper gives the impression that Screen Australia is largely responsible for the mechanics of the CAST fund and that Screen Australia's Board would be the delegate for decision-making. However, the board would be operating on the advice of the CAST trustees and not Screen Australia's executives.

While there is some potential benefit in providing a "second door" of funding for Australian content makers, there is risk of redundancy in this approach and the Australian government should consider models that ensure there is minimal administrative duplication.

PROPOSAL 4: IMPOSE AN AUSTRALIAN CONTENT INVESTMENT OBLIGATION ON SVOD AND AVOD SERVICES

Screen Territory supports:

- ***A new content investment obligation being imposed on Video on Demand (VOD) services that provide professional content to Australian audiences.***
- ***Making Australian content discoverable to Australian audiences.***
- ***The proposed reporting requirements to ACMA.***
- ***That VOD services owned by the holder of a broadcast licence or subscription television licence should not be exempt from meeting the obligations.***

Screen Territory recommends that the new content investment obligation:

1. Applies to all VOD services that provide professionally produced content delivered over the internet, regardless of the genre of content they provide.
2. Is set at a <u>minimum</u> of 20% of the VOD's total Australian revenue from their local service/s.
3. Is tied to a minimum revenue threshold, which should be set at $50 million per annum of Australian revenue generated directly or indirectly from Australian audiences viewing content on their service/s. A revenue threshold will target service providers that are actively commercialising their content, as opposed to those that are accumulating subscribers without a profit motive.
4. Concurrently, that the Federal Government considers applying a $ rate per subscriber approach to calculate the investment obligation, rather than a percentage of revenue approach, particularly for VODs that have a more complex business model. The $ rate per subscriber approach should create an investment obligation commensurate to 20% of revenue for similar sized services. And;
5. Includes appropriate anti-avoidance provisions to ensure that service providers do not avoid the obligation by adopting commercial models that allow them to argue the revenue as not being directly related to the commercialisation of viewing content (e.g. buying Amazon delivery services and receiving Amazon Prime Video for free).

Screen Territory recommends the following in relation to the new content investment obligation:

1. VODs are required to acquit their investment obligation by commissioning new Australian content which:

- Meets the definition of an Australian program in the *Broadcasting Services (Australian Content and Children's Television) Standards 2020*.

- Has significant involvement from Australian production Heads of Department (HODs)

- Matches the genres available on their service and has its first release on the platform. Noting that the Federal Government must consider how best to structure the obligation to ensure a reasonable volume of production activity is generated for drama, documentary and children's content.

2. The content investment obligation is supported by new regulation that caps the global rights position that VODs can take on the Australian program to a maximum period of 36-48 months to support Australian producers to negotiate better terms of trade.

3. The Federal Government undertakes modelling to determine the volume and type of production activity likely to be generated by the new investment obligation on VODs to ensure it:

- Restores lost production activity due to the reduced content quotas on the commercial FTA broadcasters.

- Increases the overall level of production activity to support the development and growth of the Australian independent production sector.

4. The Federal Government conducts a review every two years to determine any adjustments required to how the content investment obligation operates to ensure it meets its objectives.

PROPOSAL 5: IMPOSE AN AUSTRALIAN CONTENT COMMITMENT AND REPORTING REQUIREMENTS FOR NATIONAL BROADCASTERS

Screen Territory supports imposing mandatory minimum Australian programming requirements on the public broadcasters. These requirements must be accompanied by sufficient Federal Government funding to ensure quality Australian content is able to be commissioned and aired by the ABC and SBS.

Australia's public broadcasters play an integral role in supporting the production and consumption of Australian stories by the Australian independent production sector.

Screen Territory recommends that the minimum requirements should be applied on an hour-basis for Australian drama, documentary and children's content, with different requirements for each broadcaster to reflect their respective charters. This approach will provide certainty to the Australian independent production sector and Australian audiences and maintain flexibility for the ABC and SBS to exercise editorial independence.

Any concerns regarding the amount of Australian content commissioned by the ABC and SBS relates to funding and not intent; the latter clearly mandated in their respective charters. Therefore, should a new Australian programming requirement be imposed on the public broadcasters, it must be tied to additional Federal Government funding to ensure quality Australian content is able to be commissioned and screened by the ABC and SBS.

The Federal Government should conduct further consultation and quantitative analysis to better understand the advantages and disadvantages of an Australian programming requirement based on a points, hours or expenditure basis and compare this with the status quo.

The elected approach should balance the desire to provide certainty to Australian audiences and the Australian independent production sector with the ability for the ABC and SBS to exercise independence over its commissioning and programming decisions.