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Response to Media Reform Green Paper – Modernising television regulation in Australia, November 2020

## About Wide Angle Tasmania

Wide Angle Tasmania (WAT) has encouraged, developed and supported Tasmanian screen practitioners for 18 years. WAT bridges a dynamic space where our services are used for education, employment and creative expression. Our programmes provide low-cost or free access to opportunities that are accessible to all.

In 2020 Wide Angle:

- operated the Wide Angle Screen Centre in South Hobart
- Hired 1,101 pieces of film, sound and photography equipment to Tasmanians
- Provided 170 hours of mentorship connecting emerging practitioners with more

experienced players

- Employed 24 filmmakers to deliver programmes
- Delivered non-accredited training to 359 people and connected 194 people at our

networking events

- Donated \$24,000 value in equipment hire to the screen community
- Advocated for the screen sector and broader arts sector in the media and government (at a local, state and federal level).

WAT is a not-for-profit organisation whose business model includes philanthropic donations, earned income and programmes funded from government and non-government partnerships. WAT has a strong track-record of partnering to deliver projects that leverage our resources and community.

WAT has a FTE staff of 2 and an active volunteer Board of governance who provide strategic direction to the organisation. Additional staff are appointed on a project by project basis and contractors provide additional casual service to the organisation. There are a number of individuals and businesses that provide pro-bono services including legal and accountancy advice – they are committed to WAT for the long term.

WAT's community includes 8,100+ social media connections, 1,300+ subscribers to our monthly newsletter and 200 financial members. WAT has an active and engaged volunteer base that annually commits to bring their skills and expertise to support our projects. In addition to Wide Angle Tasmania's volunteer Board of Management, each year around 200 crew and cast participate directly in mentored production initiatives supported by Wide Angle Tasmania.

Our work is designed to develop skilled and enterprising practitioners, create new screen works and build a strong screen community.

Watch some of the films that Wide Angle Tasmania has supported here:

[https://www.wideangle.org.au/watch\\_some\\_films](https://www.wideangle.org.au/watch_some_films)

Following are Wide Angle's comments and recommendations in response to the *Media Reform Green Paper – Modernising television regulation in Australia, November 2020*

## **GENERAL COMMENTS**

It is Wide Angle's view that the proposed reforms appear to be primarily for the benefit of the Commercial Free-to-Air broadcasters and Foxtel, and of significant detriment to the Australian broader screen sector.

There does not appear to be any good explanation for why the Federal Government would reduce Foxtel's Australian content quota from 10% to 5% at a time when Foxtel's subscriber base and revenue was growing substantially, and when the economy could have benefitted from the jobs that would have been created by at least retaining the 10% quota.

**Wide Angle does not support a decrease in Foxtel's Australian content obligations from 10% to 5%.**

Nor does there appear to be any justification for STAN to be excluded from any Australian content quota obligations on the incorrect or misinformed basis that, being owned by Nine Entertainment, STAN is subject to the same content requirements as the broadcaster. STAN is in fact currently exempt from any Australian content quota requirements and the proposed future exemption could also be applied to the soon to launch Paramount Plus through its corporate association with Ten Network, or any other streaming platform that takes a commercial interest in an Australian terrestrial broadcaster.

**Wide Angle does not support the exemption from Australian content obligations of any streaming platform that is owned by or affiliated with an Australian broadcasting service.**

The cancellation of the Children's content quotas has resulted in a negligible saving for the Commercial Free-to-Air broadcasters at a time when Australians are desperately in need of employment. This move has unnecessarily put a great many people out of work both in Tasmania and throughout Australia.

**Wide Angle does not support the exemption from Australian children's content obligations of any Commercial Free-to-Air broadcaster and urges the Federal Government to reinstate the children's content quotas as a matter of urgency.**

Most importantly, the reduction of Australian content, particularly children's content and the failure to implement content quotas on the streaming platforms has greatly deprived Australian audiences from experiencing Australian content on the key platforms they are using to access their entertainment. It is crucial that Australian children dream Australian dreams – see and hear their own stories on screen. This is key to the future of our national identity and children comprise approximately 20% of our population. They are the future of our nation.

**Screen content is a vital part of the Australian culture and depriving Australian children, is to undermine our national identity and jeopardise the value of Australian culture in the future.**

Chapter Six of the Media Reform Green Paper asks several questions with respect to the proposed harmonisation of Australian content obligations. Chapter 8 asks questions around the timeframe for implementation of a quota on the streaming platforms. From Wide Angle's perspective, the key questions are:

6.1 *Should an Australian content investment obligation apply to all types of streaming services (SVODs, BVODs and AVODs)?* **Yes.**

6.2 *Would a rate of investment of five percent of Australian revenue be reasonable? No. Is there an alternative rate that would be more appropriate?* **Yes, a 20% overall quota with a 20% sub-quota for children's content (children comprise approximately 20% of the Australian demographic). There should also be a sub-quota for First Nations content, and a sub-quota for documentary content.**

6.5 *Should the investment obligation be able to be fulfilled by any genre of Australia content or should there be specific sub-genre quotas?* **There should be sub-quotas for children’s content, First Nations content, and documentary content.**

6.6 *Should the investment obligations be geared to commissioned content?* **Yes. Fulfillment of the quota obligations should only be from the commissioning of new Australian content.**

8.1 and 8.2 *Are the timings proposed in the Green Paper realistic and are there any areas that require a greater or lesser period of time?* **No. It is Wide Angle’s view that there is no justification in tying the implementation of the quotas to the UHF spectrum sale as that serves no purpose other than to delay the recovery of the sector and to delay the repatriation of a share of more than \$2.0b in revenue the streaming platforms take from Australia each year that could be used to grow and sustain the Australian production sector.**

## **AUSTRALIA CONTENT INVESTMENT OBLIGATION**

A legislated Australian content quota should be imposed on Streaming Video-on-Demand (**SVOD**) services, Broadcaster Video-on-Demand (**BVOD**), Ad-based Video-on-Demand (**AVOD**), and equivalent services that are streaming platforms once they reach and appropriate revenue and/or subscriber thresholds. Wide Angle recommends that the applicable threshold is a minimum of \$50million per annum in subscription and or other revenue derived from the Australian marketplace.

There should be no exclusion for broadcaster-owned or affiliated platforms such as the broadcaster’s digital channels regardless of whether the broadcaster is operating under the “old licence” or the “new licence”.

**Wide Angle supports an Australian content obligation for each of the streaming platforms at a minimum of 20% of their Australian derived revenue on the commissioning of new independent Australian content and that should exclude any spend on acquisition or licencing of already produced programming.**

Of this 20% obligation, a sub quota of 20% should be directed to specifically Children’s screen content, (as defined by ACMA) \*. \*ACMA: *Broadcasting Services (Australian Content and Children’s Television) Standards 2020*

**Wide Angle supports a 20% sub-quota for children’s content, a sub-quota for First Nations content and a sub-quota for documentary content.**

The 20% local content expenditure should exclude all in-house productions by the Streaming Platforms and productions by any company owned or affiliated with the Streaming Platforms.

The Australian content quota should be supported by key terms of trade protecting Australian intellectual property and ensuring discoverability of Australian content to Australian viewers.

The required expenditure by the streaming platforms need to exclude any funds that are expended outside Australia, other than those funds expended in accordance with an official Co-Production Treaty.

## **TIMING OF INTRODUCTION OF QUOTAS ON STREAMING PLATFORMS**

It is Wide Angle’s view that the streaming platforms’ Australian content obligations should be introduced immediately, and it is difficult to find any good reason why the government would delay the introduction of these instead of asking for vague voluntary reporting with no set parameters. The impact of the Government’s announcement to remove the Commercial Free-to Air broadcaster’s obligations *temporarily* meant several already commissioned television series were cancelled. Many production companies, particularly those operating in the children’s sector that had employed thousands of highly skilled workers for decades, were left facing an uncertain future.

This *temporary* hold on Australian children's content became permanent with the Government's policy released on 30 September 2020. As a consequence, thousands of jobs have been lost to the children's production sector, and many companies are now urgently seeking financial assistance in order to survive.

**Wide Angle supports the immediate introduction of a 20% Australian content quota on the streaming platforms.**

The introduction of quotas on the streaming platforms is particularly important given the amount of revenue that the streaming platforms are taking from the Australian economy while contributing the least they possibly can.

The growth in subscription take-up for streaming platforms is also significant and through the introduction of quotas the Federal Government has an unprecedented opportunity to significantly grow the industry and create many thousands of jobs throughout Australia.

It is Wide Angle's understanding that to date, there have been no "voluntary" reports provided by the streaming platforms.

**STREAMING PLATFORMS QUOTA LEVEL**

The proposal in the Media Reform Green Paper for an obligation upon the highly successful and popular streaming platforms of 5% of Australian revenue to be spent on Australian content is in Wide Angle's view, underselling the Australian industry and manifestly inadequate as it would not achieve the stated purpose for imposing an obligation in the first place. Linking the obligation on the new streaming platforms to the reduced obligation on Foxtel, which operates under an entirely different business and revenue model, is detrimental to the sector.

For example, if a platform's Australian revenue was \$100.0m, a 5% obligation would amount to \$5.0m, which is substantially less than the budget for a single drama or animated series (whether adult or children's series) or most Australian feature films. An obligation of this level could be fulfilled with the commissioning of a single production per year for which substantial additional financing would still be essential in order for the production to be carried out.

An obligation to spend 20% of Australian revenue of locally sourced revenue on commissioning new Australian scripted and documentary content as proposed by SPA and other peak industry bodies, would generate more substantial content and genuinely fulfill the stated intentions of the obligations to have local stories on local screens. It will also allow for the sustainability of the independent Australian industry, as set out in more detail below and minimise the need for the Federal Government to heavily subsidise low-end fee-for-service work such as that generated by foreign productions seeking incentivised low cost services in Australia.

An obligation of 20% of revenue is approximately in line with, although lower than, the levels being imposed on the Streaming Platforms in other territories. As noted in the Green Paper, the imposition of obligations on these platforms in other territories has not resulted in the platforms withdrawing from the relevant territories or the overall provision of content.

To implement a quota level that is substantially below the international territories with which Australia frequently co-produces would put Australian production companies at a severe disadvantage in any attempt to participate in an international co-production. The streaming platforms will commission in the territories where they have the highest obligations and productions could easily be financed without the need for the meagre amount of money that a potential Australian co-production partner could bring to the table if the quota was set at 5%. Given that most international co-production treaties require the producers of each territory to bring a minimum of 30% of the total production budget to the table in order to participate, the 5% quota would minimise any Australian participation.

Wide Angle also recommends that a children's sub-genre quota of 20% of the total quota be imposed on the streaming platforms. Children comprise approximately 20% of the Australian population and should therefore be supported by a pro rata level of Australian content.

A sub-genre quota of 20% would not equate to an additional burden on the streaming platforms and in fact enhances their business model because children's and family audiences represent the biggest demographic for retention of paid subscriptions. Families' subscriptions are more likely to maintain their subscriptions based upon the children's viewing requirements than for any other purpose.

Wide Angle strongly recommends a minimum obligation on the streaming platforms to produce First Nations content, and an obligation to engage with the Australian independent production sector.

It is Wide Angle's view that a critical component of any regulatory framework around the streaming platforms will be a pathway towards the negotiation of mutually beneficial terms of trade, in order to give producers the ability to retain IP assets and build sustainable businesses. Regulation that encompasses this will ensure Australians are able to enjoy Australian content on the services they are consuming in increasing quantities, and the pervasiveness of these platforms makes them an efficient means through which to achieve Australian cultural policy objectives. This result would be a strong and sustainable local production sector capable of delivering high quality product to the marketplace.

As the Federal Government has commenced a transition of the focus of regulations away from Commercial Free-to-Air broadcasters to the streaming platforms it is imperative that it urgently completes the transition by implementing progressive Australian content requirements upon the highly successful and market dominating streaming platforms.

It is difficult to understand why the Federal Government has not implemented regulatory intervention when the state of the market has been known for many years. We are now in a situation in which the Australian industry is being severely damaged by the Federal Government's inertia which appears to serve no purpose other than to placate the Commercial Free-to-Air broadcasters and Foxtel. Now is the time to act to secure the future of Australian content in the new media landscape.

## **DEFINITION OF AUSTRALIAN CONTENT**

There are two critical existing definitions of *Australian* content in current regulatory framework – the Australian and Children's Content Standard 2020 and within the Producer Offset.

Wide Angle supports the adoption of one of these existing definitions. The creation of a third, separate definition would add an unnecessary level of complexity.

As an alternative, Wide Angle would support the establishment of a single definition of Australian content to be applicable in all the regulations and funding situations.

## **STREAMING PLATFORMS ELIGIBILITY AND THRESHOLD**

Wide Angle suggests that streaming platforms whose primary purpose is to provide professionally produced content delivered over the internet to Australians would be eligible for an Australian content quota.

They should have a turnover of a minimum of \$50m per annum and/or at least 500,000 subscribers.

**It is Wide Angle's view that there should be no exemption for services owned by or affiliated with a corporate structure that also owns an Australian broadcasting licence.**

Further, 80% of the Australian content quota should be expended with the independent sector.

## **TRANSPARENCY AND REPORTING BY STREAMING PLATFORMS**

The streaming platforms should immediately be required to report on a quarterly basis to the ACMA, their expenditure on Australian screen content by providing a breakdown of their Australian expenditure on both newly commissioned works and acquisitions of already produced works. The reports should detail expenditure by genre.

Given the very significant variation in financing and licensing arrangements of rights across various forms of content, representatives of the screen sector should be entitled to provide information to the Federal Government's aggregated streaming platforms' reporting surrounding these obligations for the commissioning of new programming based on their knowledge of the industry and to report to the Federal Government any incorrect information or irregularities in the reporting.

### **DISCOVERABILITY**

Wide Angle recommends that a key requirement attached to the quota on the streaming platforms must be a commitment to ensuring that Australian content is easily discoverable on the Streaming Platforms by Australian audiences.

Submitted on behalf of the Wide Angle Tasmania Board

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