

**4 September 2023**

**Screen Producers Australia's submission to the Review of options to support the independence of the national broadcasters**

**About Screen Producers Australia**

Screen Producers Australia (SPA) was formed by the screen industry businesses representing large and small enterprises across a diverse production all forms and formats of screen content.

As the peak industry and trade body, we consult with a membership of more than 700 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and members. Our members employ hundreds of producers, thousands of related industry practitioners and drive between \$1 billion and \$2 billion worth of annual production activity from the independent sector.

SPA's members are drawn from all elements of the Australian production ecosystem, including emerging and established producers, production businesses, services and facilities. Our members vary in size from large internationally owned entities, to partnerships, to sole traders and other corporate entities, and are found in every region, state and territory of Australia.

On behalf of these businesses, we are focused on delivering a healthy commercial environment for the entire screen industry through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

Screen Producers Australia welcomes the opportunity to make a submission to the Review of options to support the independence of the national broadcasters.

For further information about this submission please contact Jane Mulligan, Director of Policy [REDACTED]

## EXECUTIVE SUMMARY

To support the SPA submission, SPA conducted a short survey amongst its members and those responses are reflected in SPA comments. SPA members had comments on some of the questions posed in the Department's Public consultation paper, but in some cases, did not feel they had sufficient knowledge to comment.

Overall, SPA members support moves to provide national broadcasters with funding certainty through 5-year funding agreements through the mechanism of amendments to the ABC and SBS Acts.

SPA members also supported the need for selection criteria for both the Nomination Panel itself and for selection to the ABC and SBS boards. Members believe that this selection criteria for both the Nomination Panel and Boards should include relevant media experience.

SPA believes that as is the case for many other countries with national broadcasters, there would be significant transparency and accountability benefits in national broadcasters reporting their expenditure and production hours associated with different genres and types of content.

## SCREEN INDUSTRY CONTEXT

A number of SPA members are commissioned by the ABC and SBS for Australian content across drama, light entertainment and children's programs. They are important if not the most commissioning entities across the production landscape and have an important role to ensure that there is diversity in production commissioning and that a variety of different producers across the country are able to sustain their production businesses. SPA members therefore regularly engaged with the ABC and SBS as important commissioners in the marketplace for Australian programs.

As background for this review and a comment on the market in which the national broadcasters engage with the screen industry, SPA notes that since the introduction of the *Australian Content and Children's Television Standards* (ACCTS) in 2020, that the ABC is now the leading commissioner for children's content.

This is due to the resulting sharp decline in commissioning of children's titles by commercial broadcasters, leaving the ABC as the only free-to-air broadcaster that provides newly commissioned titles for Australian children who make up 21% of the Australian population.

This is also demonstrated in the *Screen Australia Drama Report* for 2021-22, which showed that of the 11 titles financed in that year, the ABC financed eight, with just one from a commercial broadcaster and one from a streaming service – and the remaining one from NITV.

SPA notes that the ABC and SBS have traditionally had an important role in film and television production as 'model commissioners'. However, due to both budget pressures and the changing nature of the television production business in the transition towards digital platforms, this is no longer the case. National broadcasters are now increasingly adopting the business practices of streaming platforms in seeking a broader array of licensing rights, to the cost of Australian independent screen producers.

This change in business practice is wholly unlike the situation in the UK where their national broadcaster, the BBC, is party to important "terms of trade" through provisions in their *Communications Act* 2003 that act as a brake on this aggressive contracting.

Unfortunately, Australia lacks a similar mechanism which is putting Australian independent screen producers in a vulnerable situation for business conditions that are part of the transition from linear broadcasting to digital platforms for audience viewing.

The ABC and SPA did for a period, under the leadership of Kim Dalton, the then Director of Television (2006 to 2012), benefit from an agreed Terms of Trade between producers and the ABC where agreed contracting processes and frameworks created certainty and business stability as well efficiency with benefits for both producers and the ABC. When Kim left the ABC this was not renewed and Terms of Trade have not been agreed since that time. SBS has never been willing to enter into agreed Terms of Trade with producers.

This has been a source of some concern for the production industry for many years as it benefits and brings stability for both the commissioner and the production company. The value of Terms of Trade has been reviewed and confirmed a number of times in the UK.

## FUNDING MECHANISMS

SPA members strongly support the proposed 5-year funding levels for ABC and SBS. One member has suggested the Government consider 10-year funding and a public review every 10 years (as per the UK). Another view is that funding should never be able to decline below a base level every five years but should only ever be increased at that review point.

SPA believes that longer funding agreements that would provide greater funding stability are important but also that this should be accompanied by greater transparency. In particular, SPA suggests that a breakdown of budget spend on commissioning of programs across all genres would be helpful to the screen industry to understand the programming priorities of the ABC and SBS.

[and a wide ranging public review each 10 years where we consider the fundamental role of the ABC in national life - cultural, civic, etc - and whether it is playing that role effectively - and what resources it needs to play that role effectively.

## APPOINTMENTS TO THE ABC AND SBS BOARDS

SPA members believe it is important that the ABC and SBS boards each have an experienced screen practitioner included as part of the mandatory skills and experience criteria provided.

In addition, other SPA members have indicated that it is important for these boards to demonstrate diversity in race, orientation, culture, gender and experience.

## ROLE OF THE BOARD'S CHAIRS IN APPOINTMENTS PROCESS

SPA members believe that the ABC and SBS chairs should have a role in the appointments process for their boards including in developing the selection criteria, advising on desired skills and experience of board appointments, or be consulted on potential appointments.

Furthermore, a Chair should be able to advise the Minister on the skill mix of the current Board and the kinds of skills and experience that would enhance the Board.

## APPOINTMENTS TO THE NOMINATION PANEL

The majority of SPA members believe there should be selection criteria for appointments to the nomination panel.

## FUNCTIONS OF THE NOMINATION PANEL

The majority of SPA members believe the existing powers of the nomination panel are adequate.

## OTHER GOVERNANCE MATTERS SUPPORTING STABILITY, INDEPENDENCE AND ACCOUNTABILITY

The ABC and SBS do not report their production expenditure and output across genres in any helpful way to the Government or the creative industries. Commercial television, streaming platforms and to a lesser extent subscription television all do this but our national broadcasters do not.

Information at times has been made available through Senate Estimates processes by the ABC whilst SBS has been unwilling to provide information through these same requests.

Transparency is important here as it helps determine policy thinking, how the national broadcasters are meeting their charter obligations and it establishes a type of openness and trust enabling business and creative planning which is critical to the creative industries who work with the ABC and SBS.

Requirements for annual transparent reporting across an agreed framework of data should be part of any funding obligations.

SPA notes that in other major markets with national broadcasters such as in the UK (BBC) and Canada (CBC) agreed outcomes including expenditure and hours associated with different types of content have been in place for many years. In Australia, the ABC has traditionally publicly argued against such requirements on the basis of editorial interference. Noting that this has never presented as an actual concern in another territory, to SPA the argument does not hold water. SPA notes that previously SBS has been publicly stated it's willingness to meet targets if they are funded to do so.

It is clear there would be benefits in having a defined quantum of resourcing provided to content, independently produced content, and content of different genres for many reasons including for the benefit of stable funding for both national broadcasters with significant flow on effects that would benefit the creative industries that work with both broadcasters as well as – and most importantly – the Australian public.