

2 March 2023

## Screen Producers Australia's submission on the design of a prominence framework

### 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 600 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 on the design of a prominence framework as requested by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

For further information about this submission please contact Jane Mulligan, Director of Policy ([jane.mulligan@screenproducers.org.au](mailto:jane.mulligan@screenproducers.org.au))

## EXECUTIVE SUMMARY

- SPA believes that a new government regulation for a Prominence framework has to have a strong public interest benefit that helps to meet the relevant principles of Australia's new National Cultural Policy for Australian stories to be seen and heard, regardless of platform.
- As an industry organisation representing Australian screen producers, SPA has been concerned for some time about the decline in important local content on commercial broadcasting platforms, particularly children's titles, drama and documentary.
- For that reason, SPA believes that Prominence and Discoverability are inextricably linked and that in considering any new regulatory framework, the Australian Government should aim to deliver on both objectives.
- As audiences shift from linear FTA broadcasts towards Streaming Video on Demand (SVOD), it is important that for regulatory consistency, that all regulated platforms are included in a Prominence framework.
- For these reasons, SPA supports Proposal 5.3: content services providing Australian programming and the application of a Prominence framework to any platform subject to regulated requirements for Australian content.
- SPA notes the willingness of the Australian Government to intervene in a marketplace to address an outcome that has arisen due to a market dynamic that is unfavourable to free-to-air broadcasting businesses and seeks a similar willingness to regulate to respond to poor outcomes faced by Australian producers in their commercial negotiations with commissioners including digital platforms.

## BACKGROUND

As noted in the Proposals Paper, SPA notes that the objectives of media policy as enshrined in the *Broadcasting Services Act 1992* (BSA) include:

- the provision of Australian content;
- the availability of a diverse range of services; and
- the provision of news and local content.

As the Proposals Paper notes, the need for a Prominence framework has arisen because of the shift from linear TV towards on-demand and VOD services, delivered on smart TV devices. It is relevant that according to the ACMA, as at June 2021, 70% of adults had a smart TV connected to the internet.<sup>1</sup>

The justification outlined for a Prominence framework is so that Australian audiences can easily locate local TV services "so that they can continue to contribute to Australia's public and cultural life."

The purpose of a Prominence framework is therefore identified as being to ensure audiences are able to easily access the local (ie, Australian) content available on linear TV services on smart TV devices.

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<sup>1</sup> Prominence framework for connected TV devices, Proposals Paper, December 2022, p 22.

## SUBMISSION

### Importance of “discoverability”

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As an industry organisation representing Australian screen producers, SPA has been concerned for some time about the decline in important Australian content on commercial broadcasting platforms, particularly children’s titles, drama and documentary.

SPA agrees with the UK approach where the design of a consideration of the design of a Prominence framework takes into consideration the actual benefit being provided and whether it meets the right audience test rather than merely seeking to confer a commercial benefit.

In Australia, the discussion about the role of the broadcasting sector is occurring at a time of a significant decline in the public benefit being provided by commercial FTA broadcasters. While commercial broadcasters meet their requirements under the *Australian Content and Children’s Television Standards (ACCTS)*, SPA believes that this standard, in place just since 2021, places a significantly lowered expectation on commercial broadcasters and has led to a decline in programming that meets a media policy objective.

Relevant to this discussion is the consideration of the decline in spending on local content by commercial FTA broadcasters. As the figures from the ACMA show<sup>2</sup>, expenditure on many areas of local content has been steadily declining and has accelerated in some categories as a result of the deregulation of Australian content requirements for commercial FTA through the ACCTS.

In the case of Australian children’s drama and other programs, this decline is severe.

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<sup>2</sup> ACMA, [Program expenditure information 2020–21, Aggregated data for commercial television August 2022](#), p 4.

## Commercial television program expenditure (\$) – Australia

	2018–19	2019–20	2020–21
<b>Number of stations</b>	<b>69</b>	<b>69</b>	<b>69</b>
<b>Program expenditure</b>			
Australian adult drama	95,706,338	79,084,379	69,735,138
Australian children's drama	11,659,436	5,288,035	1,989,138
Australian children's other	13,209,991	5,288,361	1,639,859
Australian news and current affairs	362,420,373	342,412,660	315,448,008
Australian documentaries	9,612,059	7,060,018	8,368,787
Australian sport	526,866,730	504,828,397	623,071,290
Australian light entertainment – variety	3,653,337	546,166	740,769
Australian light entertainment – other	530,624,500	529,882,666	499,159,902
Australian other programming	12,767,942	4,852,420	4,375,478
<b>Total Australian programs</b>	<b>1,566,520,706</b>	<b>1,479,243,102</b>	<b>1,524,528,369</b>
Overseas drama	230,803,648	234,562,893	202,967,443
Overseas other	52,613,294	51,204,079	57,045,314
<b>Total overseas programs</b>	<b>283,416,942</b>	<b>285,766,972</b>	<b>260,012,757</b>
<b>Total programs</b>	<b>1,849,937,648</b>	<b>1,765,010,074</b>	<b>1,784,541,126</b>

The only growth in Australian programming evident here is in Australian sport. SPA does not support arguments that the delivery of content that supports “Australia’s public and cultural life” can rest primarily on access to Australian sport.

SPA has raised the issue of Australian public policy being developed to deliver a commercial benefit to commercial FTA broadcasters in the context of the current consideration by the Australian Government of the Anti-siphoning framework which gives these broadcasters priority to secure rights to valuable sporting events.

SPA believes that any government regulatory benefit provided to a commercial business must have a strong nexus with a clearly defined and robust public outcome. At present, the Australian content obligations for commercial FTA broadcasters are weak and require no minimum investment in Australian children’s programs.

### FRAMEWORK PROPOSALS

SPA supports Proposal 5.3: content services providing Australian programming to ensure that a Prominence framework applied to any entity subject to regulated requirements for Australian content. SPA believes that it remains important that government regulation is as consistent as possible across platforms. For that reason, SPA does not believe there is any case to exclude SVOD services from this framework.

Proposal 5.3 would ensure that the Prominence regulation had the benefit of prioritising Australian content. SPA does not agree with the Proposals Paper which suggests (at page 30) that doing this would downplay the production and distribution of news and emergency information. SPA asks if any evidence exists to support this suggestion?