



**Response to the 'Supporting Australian Stories on Our Screens'  
Options Paper**

## 1. Executive Summary

- ASTRA welcomes the opportunity to respond to the Federal Government 'Supporting Australian stories on our screens' Options Paper (**Options Paper**).
- Subscription television broadcasting licensees and channel providers remain the most heavily regulated media businesses in Australia. The anti-siphoning regime, Australian content expenditure obligation and significant captioning requirements are just some examples of the extensive regulation.
- There has been a significant increase in the number of international streaming services available within Australia over the last few years. These international players, however, enjoy both the freedom and flexibility to attract local audiences on a large scale yet have no obligation to carry Australian content. Furthermore, these global competitors face minimal local taxation and their business model allows for limited local investment.
- The challenging environment faced by ASTRA members has been further exacerbated by the COVID-19 pandemic. The impact of the pandemic on the Australian subscription television industry has been significant and severe. ASTRA's members have been impacted by the increase in unemployment, the loss of advertising revenue; the cessation of live sports; and the closure of licenced venues.
- The emergence of digital technology has also resulted in audience viewing habits becoming increasingly fragmented. The current regulatory system does not adequately reflect this change in the environment and as such ASTRA members are not afforded the flexibility to effectively compete for viewers' attention.
- ASTRA is of the view that government support is needed not only for the Australian production industry but also other Australian media businesses including ASTRA's members to ensure the industry is able to effectively compete with incoming global competitors.
- ASTRA supports the proposed model of deregulation of the current regulatory system which must be coupled with ongoing Government incentives.
- The Producer Offset also needs to undergo extensive reform in order to create an even playing field in the Australian media landscape. This includes reviewing the eligibility of formats available for the Producer Offset; lowering the minimum spend requirements; and reviewing the minimum licence fees for drama programming.

## 2. Background

ASTRA is the peak body representing the subscription television and radio industry in Australia. ASTRA's members include television operators, independent content companies, technology companies and the industries that support them. ASTRA manages codes of practice and represents the industry with regulators and Government.

ASTRA was formed in 1997 with the purpose of providing businesses an opportunity to come together to represent the subscription broadcasting industry. ASTRA's membership is varied, and members range from subscription-funded distribution platforms that deliver screen-based content over cable, satellite and the internet, to independent content providers, media sales agencies, technology and communications companies as well as small domestic channel groups and community-based organisations.

## 3. Current Environment

The current media environment has created a particularly challenging time for the Australian media industry. There are a number of contributing factors which were outlined in the Options Paper. ASTRA has identified the entry of new global competitors, changing consumer viewing habits and external economic factors as three main drivers of environmental pressure in the current media environment. ASTRA strongly believes that in order to overcome these challenges, continued Government support is imperative.

### 3.1 Global competitors

Australia has seen an influx of global competitors in the current market. These competitors sit mainly in the subscription video on demand space and have the benefit of the backing of large global companies which leads to a greater overall market share and low business costs.

Netflix, for example, has seen great success in Australia. The subscription streaming service offers low-priced subscriptions to Australian audiences. The Deloitte Media Consumer Survey 2018 indicated that 16 per cent of the surveyed consumers intended to cancel their pay television subscriptions due to being able to access the relevant content through their Netflix subscriptions. However, as highlighted in the Options Paper Netflix only carries 1.7 per cent of Australian content on its services. Therefore, a number of consumers are dropping Australian subscription providers for services who do not offer a sufficient level of Australian programming.

The ability of Netflix to rely on its sizeable global business in order to attract domestic customers leaves local subscription television services hapless to compete. The production costs for the Netflix original series *The Crown* came in at a staggering USD\$130 million for its first season.<sup>1</sup> Similarly, Amazon Prime's upcoming production for the *Lord of the Rings* series is expected to cost over USD\$1 billion making it the most expensive series ever made.<sup>2</sup>

---

<sup>1</sup> <https://www.marketwatch.com/story/netflix-is-pouring-money-into-some-of-tvs-most-expensive-shows-2016-09-28>

<sup>2</sup> <https://www.hollywoodreporter.com/live-feed/how-lord-rings-tv-series-landed-at-amazon-not-netflix-1099213>

It is clear that local content producers cannot successfully compete with these figures. ASTRA's members find themselves forced to continually increase investment in new and existing content in an attempt to try and compete despite operating at a smaller scale and without access to the same funds.

The inequality is intensified by the fact that for most of these global competitors, their content production and streaming services are a means to an end. For example, for Amazon, its streaming service, Amazon Prime, is simply a way to attract more customers to its wider retail business. For Apple, its content on Apple TV+ is another way the company can engage with consumers and ensure that they are watching content on one of the many devices the company has on offer. This clear difference in business model and overall purpose means that although Australian subscription providers aim to provide Australian consumers with access to high-quality content — including Australian content — their voices are becoming lost in the sea of global competition.

The uneven landscape is further exacerbated by the lack of regulation of these international streaming services. With no quotas, expenditure obligations or minimum content requirements to adhere to, these global operators are free to operate unencumbered by the same constraints faced by Australian subscription television licensees and channel providers.

### 3.2 *Changing viewer habits*

Changing consumer viewing habits is also having significant impacts on the Australian media landscape. As consumers find themselves being offered a smorgasbord of content from a variety of providers it has naturally followed that audiences have become fragmented. As the Options Paper points out, while television remains the most widely used content platform, these over-the-top services are staking their claim in the landscape and causing a shift in consumer viewing habits.

The Deloitte Consumer Survey 2019 found that at the time of publication there were twelve streaming services available in Australia. The modicum of choice in the market therefore means that self-aggregation and fragmented viewing is emerging as the norm. Consequently, local subscription providers have been forced to diversify their offerings and come up with new ways to attract audiences whilst at the same time promote local content offerings and adhere to regulatory requirements.

It is clear that digital technological advancements have made mobile and on-the-go viewing easier for consumers. As such, ASTRA's members have found that in order to address these changing viewing habits, they are forced to work harder than ever before to provide consumers with a wide range of options and niche programming. As more international competitors enter the market and take back their distribution rights, consumers will likely have even more platforms to choose from forcing local subscription service providers to increase their investments and work to further diversify their offerings. Having to do so in the face of regulatory burdens, will no doubt find some subscription service providers in danger of being unable to sustain their businesses.

### 3.3 *External Economic Burdens*

Increasing economic burden is also having an impact on the state of the current media environment. Most recently the COVID-19 global pandemic has caused significant economic hardship for local subscription providers as well as the wider Australian

production and media sector. ASTRA's members have suffered great financial losses including drastic reduction in revenue and loss of staff.

It is currently unknown what continued effects the global COVID-19 pandemic will have on the economy and ASTRA's members predict that the downturn in business may continue for some time to come. This may mean that some businesses will have to make drastic changes to the nature of their business and day-to-day operations.

## 4. Government Incentives for Industry

The Options Paper highlights the system of government incentives for the Australian media industry. Subscription television providers continue to be heavily regulated and subject to restrictions that free-to-air providers and new platform streaming services are not. Examples of such regulatory regimes include anti-siphoning and the NEDE scheme as well as significant captioning obligations. It is clear, that in the face of the current environmental pressures, change needs to occur in order to address inequality in the landscape. ASTRA supports the 'Deregulation Model' proposed in the Options Paper which will allow freedom of competition, enhanced creativity and adaptability.

This section of the submission will look at existing Government support and incentives for the subscription broadcasting industry as well as the current regulatory system in which ASTRA's members operate. This section will also demonstrate what regulatory reform needs to occur in order to create the optimal environment for subscription television service providers while being able to compete on a level playing field.

### 4.1 *NEDE Scheme*

The NEDE scheme mandates that Australian subscription television broadcasters must spend a minimum 10 per cent of total program expenditure on new Australian drama. The NEDE scheme is one of the most restrictive pieces of regulation for Australian subscription television broadcasting licensees and channel providers and ASTRA supports the removal of the scheme.

Removal of the scheme will simply allow subscription television broadcasters and channel providers the opportunity to adapt and base funding and investment efforts on existing environmental factors.

### 4.2 *Producer Offset: Equalisation*

The Producer Offset is a Government incentive regime for screen expenditure whereby Screen Australia provides a 40 per cent rebate on 'qualifying Australian production expenditure' (**QAPE**) for feature film production and 20 per cent of QAPE for television. ASTRA submits that in the proposed changes to the current regulatory system, these support mechanisms should be maintained however the television rebate should be increased to 40 per cent in line with feature film.

PwC research commissioned by ASTRA in 2017 found that increasing the television Offset amount would have positive economic effects on the economy and Australian production industry as a whole. The Producer Offset has already proven to be a success in providing opportunities for numerous productions, some of which, may not have been able to be made without this means of assistance. It naturally follows that increasing the Producer Offset, should only amplify those advantages.

Increasing the television Producer Offset to 40 per cent would also ensure that the

policy objectives continue to be met. It is important that the cultural significance of Australian content continues to be recognised. Television is a deserving platform and content producers should be encouraged to continue to innovate and create in this medium while at the same time providing job opportunities, expertise and investment.

Aligning the television Producer Offset with the feature film Producer Offset provides an even playing field in the current environment. Increasing the television Offset will ensure that Australian content continues to shine which should then prompt greater investment and support overall.

#### *4.2.1 Producer Offset: Eligible formats*

ASTRA submits that the eligibility of formats available for the Producer Offset should also be widened. In the current Producer Offset eligibility guidelines, infotainment, lifestyle and magazine programs are exempt from eligibility in the documentary sector.

The Australian subscription production sector has seen great success with lifestyle and magazine programming. Allowing these formats to become eligible will encourage creativity and incentivise producers to raise the bar in terms of providing new and innovative programming for Australian audiences. ASTRA sees no reason why documentary production should be limited in how it is expressed and encouraging a variety of formats would only expose the genre to a wider audience and generate more ideas. The limitation of the Producer Offset in this area only disadvantages subscription television providers.

#### *4.2.2 Producer Offset: Minimum spend requirements*

Regulatory reform of the production industry must also include lowering the minimum spend requirements for the Producer Offset. In order to be eligible for the Producer Offset, a production must include a minimum level of QAPE. For example, for a single episode programming hour the QAPE threshold is \$500,000.

This minimum spend requirement does not take into account the differences in platforms. This particular regime is clearly garnered toward free-to-air programming, which is naturally geared towards large scale audiences. This singular approach creates unfair disadvantages for subscription programming which naturally has smaller audience numbers and niche programming.

#### *4.2.3 Producer Offset: Minimum licence fees*

A minimum licence fee of \$440,000 per hour applies to drama programming. Similarly to the minimum spend requirements discussed above, this 'one size fits all' approach to the minimum licence fees also places subscription television broadcasters at a disadvantage. Drastic reform in this space is needed in order to reflect the current environment.

The licence fee guidelines were implemented at a time when the concept of multiple platform viewing was not the norm. However, as discussed above audiences are becoming increasingly fragmented and as such it is important that the infrastructure that supports production funding reflects this. Currently, a subscription television broadcaster must pay an additional fee in order to garner broadcast rights for its additional platforms. This hinders the ability for subscription television broadcasters to utilise an essential aspect of broadcasting content i.e. flexibility of platform and ease of access.

Licence fee reform in this space is essential in order to adequately reflect the current landscape and provide subscription television services the opportunity to take full advantage of digital platform viewing. This change is not only important for the subscription television industry, but the Australian drama production industry as well.

## **5. Conclusion**

ASTRA supports extensive reform of the current regulatory system in order to create a platform neutral environment that allows healthy competition between players in the market. In order to do so restrictive regulation such as the NEDE scheme must be removed.

This Submission has also highlighted the necessary reform needed to occur in the production and investment guidelines for Australian content. This is particularly important if the policy objectives of the various regimes are to continue to be met.

It is evident that continued Government support is needed in order for the local subscription television industry to continue to thrive and there is a clear role for Government in ensuring Australian voices are heard. The ideal outcome would be for ASTRA to continue to work with the Government in order to re-examine and work through in further detail what necessary changes are required to be made in order to deregulate the current system and allow the Australian subscription television industry to not only survive but thrive in the face of intense global competition and economic uncertainty. ASTRA welcomes continued Government consultation as well as collaboration with the wider Australian production and media industry in order to bring about positive change.