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Screen Producers Australia's submission to the Inquiry into Inquiry into promoting economic dynamism, competition and business formation

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 \$2 billion and \$3 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 House of Representatives Standing Committee on Economics Inquiry into Inquiry into promoting economic dynamism, competition and business formation.

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

EXECUTIVE SUMMARY

- The Australian screen industry is facing critical competition issues due to the unfair business practices of digital streaming platforms due to the aggressive “buy-outs” of all licencing rights in Australian-produced screen content.
- Streamers (or SVODs) are highly successful mostly global, technology businesses with rapidly increasing revenues and audiences and which are increasingly replacing more traditional platforms as the predominant place Australians seek screen entertainment and, to meet the growing demand for screen content, as the leading screen program commissioners for the industry.
- The Australian screen industry is characterised by a large number of SME production businesses, spread across Australia including in many regional locations. Due to the oligopsonic nature of screen commissioning, with market power residing with the small number of buyers in the market (digital streaming platforms), and the large number of sellers (independent producers), this is now resulting in unfair contracting practices of streamers dominating the industry with significant long term consequences for local screen producers.
- Australian screen businesses rely on commissioning deals with licencing arrangements that enable them to both receive and retain a stake in the success (or otherwise) of their creative output which in turn means that they can maintain some stability of employment and the capacity to create new screen content.
- Streaming platforms are increasingly demanding Australian SME screen businesses licence all primary and ancilliary licensing rights (intellectual property) in the Australian screen stories they have created and, unlike traditional rights deals through other commissioning platforms, these rights are now frequently demanded for extended periods – sometimes even in perpetuity.
- These streaming contracts are resulting in an accelerating loss of Australian intellectual property and business autonomy for Australian screen producers. The future risk is that without government intervention, the Australian screen industry will quickly become “hollowed out” of its independent structure as producers lose creative autonomy and only serve as a “service provider” for streaming platforms.
- That outcome would have serious creative, structural and economic consequences for the Australian industry. Creativity would be lost because US streaming businesses would dominate decisions about what screen stories are funded and made. Australian screen businesses would lose creative autonomy. The economic consequences would include the loss of revenue from a strong and growing sovereign industry sector. The SME characteristics of the Australian industry that drives diversity and creativity would rapidly decline and become highly consolidated.
- Australia is not alone in confronting this global problem. Other countries with strong domestic screen sectors like those in the EU and Canada are taking concrete steps to address this problem, either through a framework that protects their independent screen sector or which prescribes “terms of trade” in commissioning contracts. The intent is the same, to ensure diversity of commissioned content and that a nation’s creativity and cultural expression remains under the ownership and control of its peoples.

- With the prospect of government regulation to regulate investment by streaming platforms in Australian content, it is important that complementary measures are put in place to ensure that in the context of a global race for lucrative intellectual property ownership, that Australia retains ownership and control of Australian screen stories.

BACKGROUND

The context

In January 2023, through the new National Cultural Policy *Revive*, the Australian Government committed to introduce requirements for Australian screen content on streaming platforms.

While regulation has long existed for both broadcasting and cable television services, streaming services have operated in Australia without relevant regulation for many years. This long-awaited regulation of online services is both long overdue and of critical importance that SPA has been advocating for and has been strongly welcomed across the industry.

The National Cultural Policy exists within a commercial business framework and as global streaming services increase their presence and influence, the Australian screen sector is increasingly subject to global business drivers.

It is therefore important for a National Cultural Policy to ensure that our screen industry practitioners operate within an economic framework that enables them to create, participate and prosper within this important cultural sector. Without profitable screen businesses that rewards successes, screen culture would lose its characteristics of diversity and dynamism.

That is why SPA believes that screen production deals should be underpinned by fair negotiation of commercial contracts to ensure our screen businesses and that those they employ are all able to operate sustainably and are not disadvantaged by the business practices of global corporate interests.

SPA argues that as this regulation requires an important integrity measure, to support and continue the SME character of this industry sector by recognising the importance of the independent producer.

This could be achieved if investment by streaming platforms under the any proposed regulation should include included a cap of 20% on how much of the regulated investment obligation can be allocated within vertically integrated businesses, with the remaining 80% to be directed to genuinely arms-length commissions with genuinely independent producers.

To avoid the likelihood of global corporate ownership of Australian cultural intellectual property, SPA believes that the concept of “independent” producer should be linked with IP ownership. That is, a producer should be considered independent if they retain some creative rights or control over the IP they create. Again, this is an issue that has been adopted in France and Italy and under active consideration in Canada as they similarly grapple with the issues associated with online streaming regulation. structural issues for industry driven by streaming platforms.

SPA believes that in conjunction with any regulation for additional investment by streaming platforms or others, that Australia must urgently implement a “terms of trade” framework in order to maintain the sustainability and viability of Australia’s screen industry.

Past reviews

Screen Producers Australia has actively engaged in the Australian Government's review of digital and media platform regulation since the 2011 Convergence Review.

In the past decade, there have been a number of subsequent inquiries and reviews to examine how regulatory settings should adapt to new digital platforms and SPA has regularly engaged in this process.

For example, in 2021, the Australian Government produced a [Media Reform Green Paper](#) in 2021. In its [submission](#) to the Media Reform Green Paper, SPA detailed how one of the foundations to the sustainability of independent screen businesses is their ability to secure fair and equitable terms during deal-making with commissioning platforms.

The submission explained that at present, there is a failure of the market to provide fair and equitable terms in commercial deal making for screen content, due to the oligopsonic market structure, in which power resides with the small number of buyers in the market (digital streaming/commissioning platforms), to the detriment of the large number of sellers (Australian independent producers).

In 2022, the Australian Government proposed a new framework, the [Streaming Services Reporting and Investment Scheme](#), to which SPA made a [submission](#) on similar grounds. These issues were also raised by SPA in our [submission](#) to the National Cultural Policy in 2022.

SPA notes that the National Cultural Policy refers to the importance of intellectual property for creative industries but does not specifically address the issues that SPA has raised regarding the loss of Australian cultural intellectual property as the result of the unfair contracting practices of streaming platforms.

Given the importance of this issue to the economic sustainability and vitality of the independent production sector, and the role that sustainability plays in underpinning the creation of high quality, diverse, relevant, and compelling Australian content, the ongoing absence of any consideration of this issue is of substantial concern.

Screen is a regulated industry

Market interventions are not an uncommon government action and are deemed necessary where it is evident that the market is unable to meet an expected public policy outcome.

The Australian Government has long recognised the need for intervention into commercial markets to address bargaining power imbalances through, for example, the ACCC prescribed industry codes under the *Competition and Consumer Act 2010* and across industries as broad and varied as dairy, electricity, grocery, and in media, through the News Bargaining Code. *Market interventions are not an uncommon government action and are deemed necessary where it is evident that the market is unable to meet an expected public policy outcome.*

The Australian screen industry, particularly broadcasting, operates in a regulated market for well-established and sound public policy reasons. This regulation has served Australian audiences relatively well, (although 2021 deregulation of commercial broadcasting has significantly diminished the provision of programming for Australian children on free-to-air television).

The Government's policy objective of reflecting Australian identity is set out in the *Broadcasting Services Act 1992* (BSA), which includes the object "to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity."

The aim of Australian media content regulations recognises that without regulation, Australian content, particularly more expensive and culturally valuable drama, documentary and children's content, would be under-represented as the viewing audiences and markets for Australian content are small, Australian content is expensive to produce, and broadcasters have access to cheaper international content in the English language from the USA and UK.

Australian Government Industry Incentives and Rebates

Australian taxpayers already provide significant investment to the screen industry, both domestic and international. As various reports have proved, this public investment generates significant economic and employment returns by a significant factor.¹

In providing this industry support, Australia joins many other countries around the world that offer various levels of funding and incentives to support their local screen industry and attract international productions to work in their jurisdictions as the benefits, both cultural and economic, as well as trade, tourism and "soft diplomacy" far outweigh the public investment provided. This also supports the truism that "investment in creativity creates its own demand".

These Australian Government tax rebates, include:

- The Producer Offset rebate for qualifying expenditure of 40% for feature films and 30% for television and other formats;
- The Post, Digital and Visual Effects tax rebate for qualifying expenditure of 30%
- The Location Offset for international footloose productions shot in Australia of 30%.

The Screen Australia [Drama Report](#) for 2021-22 estimated the Producer Offset expenditure by the Australian Government was \$274 million. The growth trajectory of the Australian screen industry can be seen through the near 30% increase in public expenditure on the Producer Offset from \$76 million in 2019-20.

In addition to these tax rebates, many Australian States also offer incentives of up to an additional 10% to attract screen productions to film in their own state.²

From this public expenditure, it can be seen that Australia, through taxpayer funded supports, has a significant financial stake in screen production. However, despite this support, through unfair streamer contracts, the commercial deals done for the output of the screen industry, (the intellectual property created), mean Australia is losing out on much of the value generated by its investment in creating screen IP.

Australia would be in a far more robust and sustainable economic position if the Australian Government recognised the value of the screen IP it has invested in, and sought to ensure it stayed under Australian ownership and control.

¹ See for example, "[Study on the Impact of Film and Television Production Incentives in Australia](#)", February 2023, Olsberg SPI Report

² These State incentives are detailed on the Ausfilm website [STATE & TERRITORY LOCATION INCENTIVES – UP TO 10% - Ausfilm](#)

The Screen Producer's Problem

The economic sustainability and vitality of the independent production sector is a crucial underpinning of the creation of high quality, diverse, relevant, and compelling Australian content. The importance of the independent sector is demonstrated by the high number of SME businesses that characterise the sector. The foundation to the sustainability of independent screen businesses is their ability to secure fair and equitable terms during deal-making with commissioning platforms.

At present, there is a failure of the market to provide fair and equitable terms in deal-making, due to the oligopsonic market structure, in which power resides with the small number of buyers in the market (digital streaming or commissioning platforms), to the detriment of the large number of sellers (independent producers).

This market failure is evident in buyers seeking "more for less" from producers, in particular in relation to the level of licence fees paid for primary and ancillary rights to screen content and the ability of producers to retain ownership and control of their screen IP.

Retention of IP is vital for the predominantly SME producer community, as it provides an asset they can leverage into other revenue streams (in particular, exports) and helps to build an economic base that provides stability and opportunity for their business. Retention (or reversion of IP to producers) also ensures that they share in the success of their creative work once the initial rights agreement has expired.

SPA has been on the record in support of regulated terms of trade for many years, highlighting the relative market power of the small number of television platform buyers, compared to the large number SME producers competing for commissions.

This imbalance in market power is dramatically more pronounced and damaging as regards streaming platforms. This is in part due to their size and scale (the market mostly features global streaming giants who have incredibly large corporate structures), but also due to the fact that with deregulation of linear broadcast media, streaming platforms are increasingly the primary means through which production businesses can seek commissions.

The overwhelming trend in the market is for streaming platforms to use this imbalance in bargaining power to take all international and ancillary rights in a project for an extended licence term (sometimes for all time). Where a producer may previously have retained ancillary rights or rights to exploit outside of Australia, and in so doing generate a revenue stream that supported a sustainable production business as an ongoing concern, this option is now no longer available.

Due to the oligopsonic market conditions, producers are not in a favourable position in which to negotiate for the retention of any IP, which severely harms their ability to build sustainable businesses based on strong IP assets.

The fees going back to producers in these deals are not necessarily increasing despite the increased value of the deal to commissioning platforms. These licence fees also do not recognise or reward producers for the success of their work.

Previous protections

There were previously some minimum incentives/protections in the regulatory framework for Australian content on commercial free-to-air television (Australian content and children's

television standards (ACCTS), through the minimum licence fee protection and the incentive to work with the independent production sector.

Whilst these were removed in the [regulatory changes](#) that took effect on 1 January 2021, they were a recognition of the need for some protections against oligopsonic market dynamics.

A similar recognition currently exists through Screen Australia's Terms of Trade, applicable to projects that receive direct funding through that agency. These are commonly expressed as follows:

Screen Australia requires the producer to have, or be in a position to acquire on appropriate terms, an assignment of all underlying rights required to make and exploit the project and any sequels, spinoffs and remakes (including a format).³
[emphasis added]

Since there may, however, be a gradual drift away from direct funding for television projects towards a preference to instead access the increased Producer Offset for television programs as a result of the lifting of the rebate from 20% to 30% in 2021⁴. This will further dilute the effectiveness of the Screen Australia Terms of Trade in the sector as a whole.

The loss of the previous protections offered through the previous ACS and diminution of current Screen Australia Terms of Trade in conjunction with the rise in dominance of digital screening platforms further supports the need for the Australian Government to take an updated approach to competition issues arising from commercial contracts for the Australian screen industry.

Evidence of need for competition protections

SPA Advocacy on competition issues

SPA has raised this important issue on a number of occasions and in a number of ways to Government including:

- A major report by Lateral Economics in 2021, updated with case studies in 2023;
- Individual testimony to Ministers, Parliamentarians and Department officers in June 2023 by production businesses;
- Collection and presentation of confidential commissioning data in November-December 2022, verified with independent data from MEAA;
- SPA submission to the 2022 National Cultural Policy;
- SPA submissions to numerous Parliamentary Committee inquiries and Departmental consultations;
- SPA Commissioning Survey in 2022 and 2023;

³ Screen Australia, [TERMS OF TRADE](#) Effective 4 December 2017, para 6.1.

⁴ SPA Media Release, "[HISTORIC DAY FOR AUSTRALIAN SCREEN SECTOR](#)" 1 December 2021

- Meetings between screen producers, SPA and the Australian Small Business Ombudsman over a number of years presenting evidence of intractable practices with a reference and evidence to the ACCC;

In presenting this evidence to date, SPA has had to navigate the commercial risks that screen producers take each and every time they raise issues of this nature. Despite these real risks to their businesses, Australian screen producers have, through SPA, provided evidence to government on these practices, often on a completely confidential basis.

Lateral Economics Report

In December 2021, SPA released a report commissioned from Lateral Economics containing discussion, analysis and recommendations relating to the ‘terms of trade’ for bargaining between producers and commissioners. This report was updated in 2023 to include relevant case studies.⁵ The focus of this report is on the relationships between local SME businesses, who employ and invest locally, and global digital giants, who are increasingly taking economic value offshore.

The report examines the serious implications of the unequal bargaining dynamic for the economics and sustainability of the Australian production sector, and the compelling need for Government intervention to correct damaging imbalances.

Key findings of the report include:

- There is a high degree of concentration amongst commissioning entities.
- Buyers have greater bargaining power than production companies.
- Buyers are hence able to secure rights which would have previously remained with, or reverted to, producers.
- These changes are denying Australian production companies streams of future earnings and are sending earnings overseas.
- Australia is lagging behind other countries (eg, UK, France) in addressing these imbalances.
- The regulated UK terms of trade offer a promising policy model for Australia, and could be administered here by the ACCC.
- Regulated terms of trade should be accompanied by local content requirements for streaming companies.

The report is based on extensive interviews and field work, with Lateral Economics engaging broadly across the sector and internationally to inquire into and measure the real world bargaining conditions and impacts on local businesses.

The recommendations follow on from the precedent set by the Government in establishing the News Media Bargaining Code, which was essentially an intervention into unequal bargaining relationships between local content creators and global platforms.

A copy of the 2023 updated Lateral Economics report is attached to this submission.

SPA Commissioning Survey Results

In July 2023, SPA released findings from their second annual Commissioning Survey, which aims to better understand the challenges faced by Australian production businesses when dealing with the leading commissioning platforms in Australia.

⁵ Lateral Economics, “[Taking Australian stories and skills to the world in the age of global streaming](#)”, 2023

Of the 16 commissioning platforms reported on which included national and commercial broadcasters, streamers ranked lowest when it came to the perceived fairness of deals. Perceived fairness of deals includes views on the overall fairness of budgets, deliverables, and terms of trade.

Notably, one international streamer stood out as particularly unfair, with just 10% of producers who have been commissioned by them over the last three years seeing them as offering fair deals.

Importantly for the Australian screen industry, of all the sixteen platforms covered in the survey, streaming platforms are those most likely to be acquiring rights they have no intention of using.

These results highlight the harmful and unfair industry conditions for Australian production businesses, a majority of whom are SMEs, and identify poor business practices imported by international streamers here in Australia.

SPA's commissioning surveys serve as a barometer for the health of production deals taking place between production businesses and commissioning bodies, and these results highlight some troubling trends. 110 SME (Small and medium-sized enterprises) production businesses that had recent commissions or had engaged in commissioning processes with streaming platforms participated in the Survey.

Other concerning results that reflect on the unfair contracting practices of streaming platforms are:

- Over a quarter of respondents (26%) reported being pressured into variations (additional deliverables or additional rights) without any material benefits.
- 36% reported they had to agree to unfavourable agreement variations with little or no perceived benefits when dealing with streamers. This is a worrying increase from 19% in 2021, where streamers were industry leaders.

SPA believes that there is now sufficient evidence before the Australian Government to justify a policy intervention which addresses the underlying issues outlined above and which are critical to Australia's continuing ability to create high quality, diverse, relevant, and compelling Australian content.

Relevance of US Writers Strike Agreement

SPA notes that while structurally different, the current industrial unrest for our industry in the USA as evidenced by the actors and writers strikes is at least in part connected to argued unfair contracting practices by streaming platforms.

It is relevant to note that in September 2023, the US Writers Guild of America (WGA) was able to negotiate for its members to receive the first success-based residual payment, so that additional residuals for screenwriters will now be calculated based on the success of a screen program.

This agreement is a significant breakthrough in negotiations for the global screen industry as until now, streaming services were reluctant to both share data or provide writers (or other creative workers) with any stake in the success of their work.

The draft Summary of the agreement includes the following relevant clauses:

7. Improved Terms in High Budget Subscription Video on Demand (HBSVOD)

...

Viewership-based streaming bonus: The Guild negotiated a new residual based on viewership. Made-for HBSVOD series and films that are viewed by 20% or more of the service's domestic subscribers in the first 90 days of release, or in the first 90 days in any subsequent exhibition year, get a bonus equal to 50% of the fixed domestic and foreign residual, with views calculated as hours streamed domestically of the season or film divided by runtime.

Streaming Data Transparency: The Companies agree to provide the Guild, subject to a confidentiality agreement, the total number of hours streamed, both domestically and internationally, of self-produced high budget streaming programs (e.g., a Netflix original series). The Guild may share information with the membership in aggregated form.⁶

Writers who are working in streaming already were receiving a fixed residual which is a pre-calculated amount based on the length and the budget of a show. Importantly, the new agreement has secured payment for when shows are viewed internationally – which is how streaming offers programs.

It has long been a goal of the WGA to ensure that if a program is successful, then the writers who wrote that hit deserve to share in that success, even in a small way. Such a framework had been strongly resisted by streamers for many years. Importantly, many expect that the establishment of this framework will also be extended to actors who are also remunerated through residual payments.

The principle behind these residual payments for writer and actors is near-identical to the principles that underpin a “terms of trade” framework for screen producers. This principle acknowledges that the creative input into a screen production creates a “right” that can be licensed by the creative to the program commissioner and that the terms of these rights are set out in commercial contracts.

International Action

Australia is far from alone in seeking to come to terms with the market imbalance between SVODs and independent producers. The range of regulatory actions implemented and proposed varies, although the underlying rationale is identical to the circumstances being experienced in Australia. The following are the key international examples of regulatory action.

United Kingdom – “terms of trade”

In the UK, ‘terms of trade’ is a code of practice established in the *Communications Act 2003* that ensures independent television producers retain an interest in intellectual property in works commissioned by public service broadcasters.

⁶ Writers Guild America West, [Summary of the 2023 WGA MBA](#), September 2023.

This regulatory intervention had a critical impact on the dynamics of the UK production sector by ensuring that producers of programming, as opposed to the historically powerful broadcasters, known as public service broadcasters (PSBs) that commission the content, retain control of secondary IP rights that subsist within productions. The motive for the 'terms of trade' framework was to foster a competitive and diverse independent production sector by limiting the buyer power of PSBs.

This strategy has been hugely successful in retaining IP and growing the independent screen sector. A report on the impact of Terms of Trade on the UK's television content production sector for the Canadian Media Producers Association (CMPA) by Oliver & Ohlbaum in December 2018 showed that since the introduction of a 'terms of trade' framework in 2004, the UK independent production sector has grown to become a global leader in TV production, in particular:

- TV related revenues have increased from around £1.5 billion in 2004 to more than £2.6 billion in 2017
- International UK TV rights income grew at an average annual rate of 22 per cent between 2004 and 2008 and continues to grow at approximately 7 per cent.⁷

Unlike Australia, the UK has recognised the importance of intellectual property as key to the continued growth and success of their "creative industries" which featured as one of the four key sectors to drive the country's growth after the pandemic in the economy-wide *Build Back Better* strategy.⁸

France – "rights reversion"

In Europe, a regulatory system has been introduced under the auspices of the European *Audiovisual Media Services Directive* (AVMSD) which is aimed at facilitating regulation of streaming platforms at the individual nation level.

In France, the regulation of content from SVODs (under which the government will require streamers to invest up to 25% of their local revenues in French-language content) is linked to the reversion of intellectual property rights to independent producers.

Of the regulated SVOD platforms, 66% of the investment in French TV series will have to be done through independent producers to whom rights will revert within 36 months. For cinema releases, SVODs must channel 75% of their investments through independent producers who will get their rights back after 18 months.

Canada – Online Streaming Act regulations

Canada legislated a new law to empower their media regulator, Canadian Radio-television and Telecommunications Commission (CRTC) to regulate online streaming through the [C-11 Act](#), earlier this year.

This Act directs the CRTC to create regulations that create a framework that protects the independent production sector and Canadian intellectual property, as follows:

Regulations — Canadian programs

10 (1.1) In making regulations under paragraph (1)(b), the Commission shall consider the following matters:

⁷ [Oliver & Ohlbaum - The impact of the UK terms of trade \(cmpa.ca\)](#)

⁸ [Build Back Better: our plan for growth - GOV.UK \(www.gov.uk\)](#)

- a. whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a significant and equitable manner from the exploitation of the program;
- b. whether key creative positions in the production of a program are primarily held by Canadians;
- c. whether a program furthers Canadian artistic and cultural expression;
- d. the extent to which persons carrying on online undertakings or programming undertakings collaborate with independent Canadian producers, with persons carrying on Canadian broadcasting undertakings producing their own programs, with producers associated with Canadian broadcasting undertakings or with any other person involved in the Canadian program production industry, including Canadian owners of copyright in musical works or in sound recordings made in Canada; and
- e. any other matter that may be prescribed by regulation. [emphasis added]

SPA also notes that Subsection 3(1) of the Act lists the foundational objectives of Canadian broadcasting policy objectives. Among them is subpara 3(1)(i)(v), which emphasizes the need for a contribution from the independent production sector:

3 (1) It is hereby declared as the broadcasting policy for Canada that [...]
 (i) the programming provided by the Canadian broadcasting system should[...]
 (v) include a significant contribution from the Canadian independent production sector;

SPA's position

SPA has long considered both the competition problem in Australia, the approaches to dealing with this in other jurisdictions and which framework would work best in Australia. In reaching this formulation, SPA has been cognizant of the need to maintain the primarily independent character of Australia's screen industry.

This independent characteristic ensures both competition, creativity and diversity and is at the heart of Australia's past screen successes. Recognition of the importance of the independent screen industry should also be reflected in any legislation to regulate the streaming industry and should address the critical need for screen producers to retain ownership and control of their creative output.

Therefore, SPA believes that regulation should require a streaming platform to expend at least 80% of their expenditure obligation with an independent Australian production business.

The test of what constitutes an independent producer will be determined by consideration of the following factors:

- The production business is a non-related corporate entity as an arms-length commission;
- Ownership in the intellectual property rights is retained by the Australian production business;
- The licence granted to the commissioner for the use on their streaming business reverts back to the Australian production business after a fixed period of time of three-five years.
- To be clear, this licence would exclude any rights as a co-producer or distributor because this undermines the independence of the production business.