

## Screen Producers Australia's submission to the ACCC's *Digital Platforms Inquiry – Preliminary Report*

Screen Producers Australia welcomes the opportunity to provide a submission to the ACCC's *Digital Platforms Inquiry - Preliminary Report*.

For further information about this submission please contact Pravin Menon, Director of Government Relations & Operations ([pravin.menon@screenproducers.org.au](mailto:pravin.menon@screenproducers.org.au)).

### About SPA

Screen Producers Australia (**SPA**) is the peak industry and trade association for the independent film and television sector in Australia. SPA's members employ thousands of related practitioners and drive more than \$1.7 Billion worth of annual production activity from the independent sector as well as nearly \$1 Billion in export earnings and tourism expenditure within the overall screen industry. This in turn supports hundreds of small businesses and vendors in the tourism, hospitality and construction industry.

On behalf of these businesses, SPA campaigns for a healthy commercial environment that ensures the Australian independent sector is commercially successful, employment levels are strong and the community's expectations of access to diverse and high-quality Australian content have been met.

### Executive Summary

SPA welcomes the ACCC's 11 preliminary recommendations and specific areas for further analysis as set out in its *Digital Platforms Inquiry - Preliminary Report*.

Digital platforms have helped to improve consumer choice, but they have also had a significant impact on the ability of media businesses to monetise content through advertising revenue.

SPA notes that the Ministerial Direction by the Treasurer on 4 December 2017 requires the ACCC to undertake a public inquiry into the impact of digital platforms on the state of competition in the media and advertising services market, pursuant to subsection 95H(1) of the *Competition and Consumer Act 2010* (Cth).

While the ACCC is required to focus "in particular in relation to the supply of news and journalistic content", SPA notes that the ACCC's analysis is not explicitly limited by the Digital Platforms Inquiry to these matters.

In SPA's view, the current analysis understates the degree to which traditional broadcasters are required to engage in cross-subsidisation, bundling and/or substitution between news and non-news services as well as markets for the acquisition of content from content providers and the supply of advertising opportunities to advertisers in order to compete with digital platforms such as

Subscription Video on Demand services (**SVODs**) and Advertising supported Video on Demand services (**AVODs**).

The impact of SVODs (e.g. Netflix) and AVODs (e.g. YouTube) on audience share and advertising revenue in turn affects the sustainability of the commercial news sector.

Furthermore, the competition between broadcasters and online streaming services, combined with the lack of Australian content regulation of SVODs, has resulted in perverse outcomes at the infrastructure and broadcaster level which have had a detrimental effect on Small to Medium Sized Enterprises (**SMEs**) and their workers in the production sector.

These structural effects, combined with funding cuts to national agencies such as the ABC and Screen Australia, have exacerbated issues of imperfect competition and market asymmetry. The effect is an increased risk of consumer and SME detriment - limiting the availability, diversity and quality of Australian content.

According to the ACMA's *Communications Report 2017-18* as at May 2018, 50% of Australians are reported as having a Netflix subscription in their home, while viewing audiences for free-to-air television have declined to 48%.

## Recommendation

Given the above, SPA recommends that further analysis be undertaken to examine the state of competition and SME and consumer detriment in the supply of content on broadcasting and digital media services and not only "news and journalistic content".

The ACCC has demonstrated its capability at undertaking a broader market analysis in the recent *Merger Review of Nine Entertainment Co Holdings Limited proposed merger with Fairfax Media Limited and Birtetu Pty Ltd and Illyria Nominees Television Pty Limited - proposed joint bid for interests in Ten Network Holdings Limited*.

As stated by the ACCC, it is critical that governments and regulators consider the potential issues created by the concentration of market power and the broader impacts of digital platforms<sup>1</sup>.

A copy of SPA's submission to the ACCC's Digital Platforms Inquiry dated 20 April 2018 is **attached** for reference.

---

<sup>1</sup> ACCC releases preliminary report into Google, Facebook and Australian news and advertising, 10 December 2018