

10 August 2020

Screen Producers Australia's supplementary submission to the *Supporting Australian stories on our screens options paper*

Introduction

Screen Producers Australia (SPA) has made a comprehensive submission to the Supporting Australian Stories on our Screens Options Paper. The submission sets out a progressive, comprehensive and forward-looking plan for the future of government support and intervention for Australian screen content, which would deliver sizeable gains in Australian content delivered to audiences, jobs, investment and exports.

This supplementary submission provides some perspectives on the various submissions from key stakeholders which have been made to Government and published. In particular, SPA addresses the excessively damaging and drastic implications of the deregulatory response put forward by licensed television broadcasters.

SPA is concerned not only that the deregulatory proposals would harm widely supported cultural and economic public policy objectives, but also that the submissions supporting deregulation contain a number of key inconsistencies. SPA is also concerned that data has been used selectively and in ways that would greatly benefit from contextualisation.

This submission also provides some observations regarding the submissions from the national broadcasters and the streaming services, who will also have a key role in the new framework for Australian screen content.

The information and observations contained in this letter are provided through the lens of maximising the cultural and economic potential of Australian screen content, and ensuring a sustainable and forward-looking framework of Government intervention and support. Please also refer to section 4 of the main SPA submission which addresses the full range of policy principles informing the SPA position.

Impacts of deregulation

SPA notes the proposals contained in submissions from Free TV Australia and also from individual commercial free-to-air (FTA) television broadcasters for complete deregulation of Australian content sub-quotas.

SPA draws attention to section 6.4 of the SPA submission to the options paper, which sets out the damaging impacts of deregulation in terms of cultural and economic objectives.

SPA reiterates that this should be disregarded as a feasible policy response, given the ongoing support at all levels and on all sides of Government for the cultural and economic good served by Australian screen content.

Indeed, the Free TV submission serves as a useful reminder of the underlying market failure that would occur in the absence of regulation. The Free TV submission aims to remove regulation on the basis that broadcasters would otherwise choose not to make drama, documentary and children's content. The submission is therefore an instructive illustration of why quotas will remain a necessary part of the overall framework for screen content, given the underlying market failure that exists for this cultural content.

The Foxtel and ASTRA submissions similarly favour deregulation, acknowledging that if not for quotas, the existing levels of drama production would not be maintained. These submissions favour the additional 'flexibility' that deregulation would provide, and point to the lack of regulation which applies to their competitors in the streaming sector.

Whilst regulatory disparity is an important issue, we contend that the appropriate response is not to walk away from regulation, but rather to ensure it is appropriately flexible and applies equitably across market participants. These are central features of the SPA regulatory proposal, which includes the ability for content providers to propose regulatory parameters and to have them change over time, and which would also apply across all categories of content provider.

We note also that Free TV put forward an alternative points proposal for adult drama, C and P programs and documentary, which is described as 'simplified', but which is in practice an aggressively deregulatory proposal.

SPA's analysis of the Free TV proposal (at Attachment A) is that it would represent a dramatic abandonment of their cultural obligation, with the impacts in drama alone representing:

- A reduction of 51% of expenditure, or \$165m
- Drop in hours of 141
- Potential loss of 4,600 jobs

The proposal would also likely remove children's content from the platform, save for potential minimum investments from Network Ten given the announced rebrand of 10 Shake, but with no assurance of any ongoing investment or commitment.

It might be branded as a 'simpler' model, but the impacts would be far reaching and complex.

Impact of voluntary obligations

We note that the streaming services, through joint and individual submissions, propose a system of voluntary commitments, as an alternative to direct regulation or co-regulation of Australian content on their services.

We draw attention to section 6.2 of the SPA submission which notes the inefficacy of voluntary obligations, and the fundamental shortcoming inherent in this option in failing to address underlying regulatory disparity amongst content service providers.

We also note proposals for voluntary commitments to take into account a broad range of investments that extend beyond commissioning of original content. Such an approach would significantly dilute the cultural impact of government intervention and should not be considered. Further we note that if adopted, there would be pressure to ensure this approach applied consistently across all content providers, thereby exacerbating the damaging impact of this approach.

In addition, SPA notes that investment figures cited by some international streaming services include a substantial number of investments which are co-commissions with broadcasters (commercial FTA and public). This should be borne in mind when considering the extent to which the streaming companies are making direct investments in the current unregulated environment.

We also note that given the broadcaster involvement, these investments from streaming companies are in fact triggered by the underlying regulatory framework that governs licensed broadcasters. Without this layer of regulation, investment at these levels would be unlikely and we note that much of the work of commissioning is still undertaken by the licensed broadcasters in these deals.

The national broadcasters

We note that submissions from the national broadcasters are opposed to the imposition of quotas or minimum requirements for the production of Australian content, with the submissions arguing that this intervention would represent an unacceptable incursion into their independence.

We refer to page 22 of the SPA submission, in which we note that minimum requirements for content would not impinge on the *editorial* independence of the national broadcasters, which is the primary prism through which ‘independence’ is typically understood.

We also note that a regulatory overlay has successfully been applied to the BBC,¹ with Ofcom now responsible for developing and administering an operating framework for the BBC. This framework covers key aspects of the BBC’s performance, including content standards. This demonstrates it is possible for public broadcasters to be held accountable to specified standards by an independent regulatory body.

We note that both the ABC and SBS submissions express that a commitment to Australian content could be effected through tied funding. Whilst SPA welcomes the willingness expressed by the ABC and SBS to commit to certain levels of Australian content, we submit that tied funding would only be an effective mechanism when coupled with binding content quotas. This is due to the potential for tied funding to be reallocated following the completion of the funding triennium in which it was originally granted.²

This, combined with the ongoing pressure on the budget allocations for the public broadcasters, means that minimum quotas/requirements remain the most direct and effective way of safeguarding levels of Australian content on these services.

The national broadcasters, as they acknowledge in their submissions, play a central role in the production and distribution of cultural content and it is therefore crucial that their role in the new framework for Australian screen content will support and guarantee the future of this contribution and commitment.

The Free TV submission

SPA is concerned that the Free TV submission contains a number of contradictions and a concerning use of data and international comparison.

¹ <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework>

² See, for example: Kim Dalton, *Missing in Action: The ABC and Australia’s screen culture*, 2017

The role of commercial free-to-air television in the cultural landscape and regulatory system

The overall inconsistencies include a tension between the ongoing claim that commercial FTA broadcasters are an important feature of Australian life, with influence, popularity and universal reach (the traditional justifications for the imposition of public service obligations such as content quotas)³, and their desire to walk away from the delivery of public service content.

Indeed, a report prepared for Free TV by Deloitte ('Everybody Gets It'⁴) reinforced the central place of the commercial FTA platform in the Australian entertainment and cultural landscape.

The report found 89 per cent of Australians think commercial television is a valuable service and 76 per cent believe it is more important than ever, while 86 percent think it supports Australian culture. More than 17 million people watch commercial television in an average week, with 87 per cent valuing the ability to access commercial FTA television for free without data or internet access.

The popularity and free, universal availability of the platform means that commercial FTA television has an enduring and important role in meeting public policy outcomes. It undermines arguments that their public service obligations can justifiably be significantly reduced in the way that Free TV and the broadcasters have proposed.

SPA also notes a tension between the Free TV claims that the platform is the 'engine room' of Australian content production, and the undoubted damage that deregulation would do to the Australian screen content production industry.

The use of data in the Free TV submission

SPA is concerned that some depictions of data in the Free TV submission may give a misleading impression, particularly in regards to the cost of drama production and changes over time.

For example, we refer to 'figure 3' in the Free TV submission, which plots an increase over 10 years in the cost of Australian content. This data is used to support an overall thesis that the cost of regulated content is increasing. However, if we look to program expenditure data published by the ACMA,⁵ we can see that, for the drama, documentary and children's categories (it is these categories which Free TV seeks deregulation for), expenditure has remained somewhat stable or is trending down. The meaningful increases in expenditure have been in the light entertainment category. Overall, sub-quota content represents a mere fraction of overall program expenditure (7.04%), with the cost of children's content particularly small in context of overall program expenditure (1.34%).⁶

SPA therefore queries the extent to which Free TV's data supports an argument that the sub-quotas are unduly burdensome.

³ See subsection 4(1) of the *Broadcasting Services Act 1992*

⁴ <https://www.freetv.com.au/wp-content/uploads/2020/07/Free-TV-Industry-Report-Everybody-Gets-It-20-July-2020.pdf>

⁵ https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx

⁶ Refer to ACMA Program Expenditure reports - https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx

SPA also notes Free TV's 'figure 7' shows that drama costs per hour are increasing alongside increasing Australian content expenditure. However, as noted above, increases in Australian content expenditure have not been driven by the regulated sub-quotas, and hence we question the extent to which this data can support a deregulatory argument.

Further, whilst costs per hour for drama have increased, this does not represent an increase in commercial FTA broadcasters' expenditure, as their contribution to total budgets has proportionately decreased over time as international and co-production finance increasingly comes on board. For example, in children's drama, the commercial FTA contribution is typically in the realm of 10-15%,⁷ but importantly this investment triggers international investment.

Data published in the Government's options paper clearly shows what commercial FTA broadcasters are spending on adult drama is trending down (refer to the options paper's 'figure 13').

SPA also notes Free TV's 'figure 7' may give the impression that drama and Australian content costs are in excess of revenue, whereas in fact 2019 revenues were \$3.3bn⁸ compared to a drama spend of \$95m.⁹

As an alternative to the Free TV contentions, we submit the following contextualisation of the impact of sub-quota regulation:

- Sub quota content represents 1.57% of total annual broadcast hours¹⁰
- Sub quota content represents 7.04% of overall program expenditure¹¹
- Sub quota content expenditure represents 3.37% of annual revenues¹²
- Children's content represents 1.34% of overall program expenditure.¹³

Please refer to Attachment B for a visualisation of these observations.

SPA believes this data refutes the contention that maintaining the current system could lead to the market being unable to support three competing commercial television broadcasters.¹⁴

The Free TV submission contends that it is a 'scare campaign' to say that deregulation would lead to a downturn in Australian content¹⁵, and points to its ongoing exceeding of content

⁷ Figures based on feedback from producers. Refer also to Screen Australia Drama Report 2018/19 which shows Australian children's TV drama spend at \$95m, and to ACMA Program Expenditure information for 2018/19, which shows commercial FTA expenditure on children's drama of \$11.7m

⁸ <https://thinktv.com.au/news/total-tv-market-records-3-4-billion-in-ad-revenue-for-fy-2019-20/>

⁹ Refer to ACMA Program Expenditure reports - https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx

¹⁰ Refer to ACMA 2019 Australian Content Compliance Reports - <https://www.acma.gov.au/publications/2020-06/report/2019-compliance-australian-and-childrens-content-compliance-tv-content-standards>

Calculation based on 24-hour broadcast day for primary channels and multi-channels of metropolitan licensees

¹¹ Refer to ACMA Program Expenditure reports - https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx

¹² Refer to ACMA Program Expenditure reports - https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx and Think TV revenue reporting - <https://thinktv.com.au/news/total-tv-market-records-1-95-billion-in-advertising-revenue-for-first-half-of-fy2020/>

¹³ Refer to ACMA Program Expenditure reports - https://www.acma.gov.au/sites/default/files/2020-06/Program-expenditure-information-2018-19_0.docx

¹⁴ Free TV submission p 17

¹⁵ Free TV submission p 23

quotas as evidence that content production would continue. However, whilst overall transmission quotas are exceeded, sub-quota obligations are only just met¹⁶, and Free TV's own submission argues that it should no longer be required to make sub-quota content. It cannot be questioned that a removal of regulation in sub-quotas would lead to a downturn in these categories, given the positioning in the Free TV submission.

Indeed, this was indicated in the 2011 PwC study, which found that, if quotas were removed documentary production would halve and no children's content would be produced.¹⁷

The use of international comparisons in the Free TV submission

A key supporting argument put forward by Free TV is in relation to the experience in the UK and New Zealand markets, which Free TV contends are paradigms of deregulation.

Whilst it is true there are no quota obligations in New Zealand, the extent to which this is a desirable end state is arguable. For example, New Zealand is prevented through trade agreements from introducing content quotas¹⁸, so their continued absence from the market is not evidence that they have been considered unnecessary or undesirable. Indeed, given the ongoing pressure on NZ On Air funding (the key support mechanism for New Zealand cultural television content), regulatory intervention is universally accepted in the local production industry and by independent commentators as desirable compared to the status quo.

Free TV also cite New Zealand production industry data to support their contention that production has flourished in an unregulated environment. However the data quoted takes in all film and TV production, including big budget 'tent pole' international film productions and is not limited to New Zealand cultural content on television.¹⁹ We therefore question whether it can sensibly be used as evidence that cultural objectives for television content would continue to be met in the absence of regulation. Indeed funding for cultural television content has remained static over the last decade.

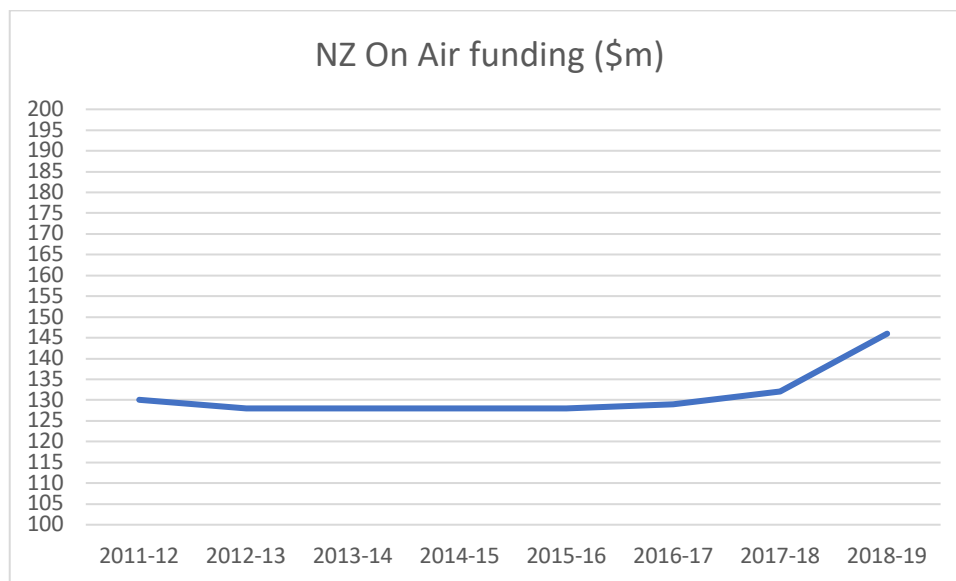
¹⁶ Refer to ACMA 2019 Australian Content Compliance Reports - <https://www.acma.gov.au/publications/2020-06/report/2019-compliance-australian-and-childrens-content-compliance-tv-content-standards>

¹⁷ 9 PwC, Minimum content requirements research report, 2011

¹⁸ Unlike Australia, New Zealand did not negotiate an exemption for audio-visual services when it signed the General Agreement on Trade and Services. See p 688 -

<http://www.austlii.edu.au/nz/journals/AukULawRw/2002/3.pdf>

¹⁹ <https://www.mbie.govt.nz/business-and-employment/economic-development/screen-sector/the-benefits-of-the-new-zealand-screen-industry/>



Source: NZ On Air Annual Reports²⁰

SPA also notes the substantial differences in the New Zealand and Australian television sectors in terms of both the regulatory privileges accorded to Australian broadcasters (there is no anti-siphoning scheme in New Zealand) and in terms of the reach and influence of the commercial FTA sectors in each country (New Zealand's FTA broadcasters face much stronger competition from subscription television with Sky Television at 43% penetration)²¹. With the Australian regulatory framework premised on a balancing of privileges and obligations, this makes for a limited usefulness in comparing it to the New Zealand regulatory framework.

Additionally, the local New Zealand industry benefits from commissioning or co-commissioning from, or sales to, Australian broadcasters motivated by New Zealand's higher television production offset, a relatively deregulated workforce, and the capacity to claim the content as Australian courtesy of the current New Zealand 'loophole'.

SPA also queries the characterisation of the UK market as deregulated, and notes that to the extent that deregulation has occurred, it has in fact led to damaging impacts.

Whilst there was a removal of genre quotas in 2003, regulation remains in areas of market failure in the UK (notably in relation to production in the regions, independent production²² and regulated terms of trade²³). There is also a layer of content regulation that applies to the BBC in relation to the content it produces.²⁴

SPA also notes that following deregulation of children's content in 2003, expenditure from the public service broadcasters fell 93% in this genre²⁵, which has seen the regulator granted renewed powers to reinvigorate children's content.²⁶

²⁰ <https://www.nzonair.govt.nz/about/annual-reports-and-corporate-documents/>

²¹ https://www.sky.co.nz/-/mk_pressrelease_200219

²² <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/public-service-broadcasting/public-service-broadcasting-annual-report-2019>

²³ <https://www.itv.com/commissioning/articles/terms-of-trade>

²⁴ <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/bbc-operating-framework>

²⁵ <https://www.telegraph.co.uk/news/2017/04/17/broadcasters-forced-invest-british-made-childrens-tv-programmes/>

²⁶ <https://www.ofcom.org.uk/consultations-and-statements/category-2/childrens-content-review>

SPA also notes that UK drama hours are down from 627 hours in 2008 to 338 today.²⁷

In fact we can see the UK as an instructive example of the dangers of deregulation in vulnerable genres, and the advantages of regulation in the form of mandatory terms of trade (as noted in our submission, regulated terms of trade are seen as a key contributing factor in the strength of the UK's independent production sector).²⁸

SPA is also aware of arguments from Free TV that Australia is an outlier in regulating for local content. This is not reflective of international approaches to content regulation, which in many key markets (notably Canada, the UK, and most of Europe²⁹) feature regulated minimums for local/regional content and the mandated requirement to contribute to, or screen, various genres whether in terms of hours or expenditure.

Frequency of review of regulatory framework

The Free TV submission contends that the regulatory framework is outdated and should therefore be abandoned. SPA agrees that reform of the regulatory framework is overdue, given the numerous reviews conducted over the last 10 years (including the Convergence Review, two Parliamentary Inquiries and the 2017 Australian and Children's Screen Content Review). However, we disagree that this is justification for complete deregulation and propose instead that the regulatory framework be evolved to ensure it is future-proofed and flexible.

SPA also notes that despite the lack of reform in content regulation, commercial FTA broadcasters have heavily benefited from reform of other media regulation, including:

- multiple rounds of media-ownership reform
- legislated bans on new licences
- reforms to allow content quotas to be acquitted across multi-channels
- removal of revenue-based licence fees
- reforms to allow anti-siphoning content to be broadcast on multi-channels
- deregulatory changes to the Commercial Television Industry Code of Practice.

This has greatly benefited the operating position of the broadcasters and provides important context for claims that the regulatory environment is a disadvantage.

Children's content

SPA acknowledges the evolution in children's viewing habits, and for this reason we have proposed a new paradigm for children's content (refer to section 5.1 of the SPA submission). However we do note that the audience data for children's content included in the Free TV submission refers to initial broadcasts only, and doesn't account for the considerable

²⁷ <https://publications.parliament.uk/pa/ld201919/ldselect/ldcomuni/16/16.pdf> p 37

²⁸ Chalaby, J. (2010). The rise of Britain's super-indies: Policy-making in the age of the global media market. *International Communication Gazette*, 72(8), pp. 675-693

²⁹ <http://avmsd.obs.coe.int/>

additional viewership gained for these programs through subsequent airings, online viewing and as on-licenced content.

However, there is an enduring need for children to have access to free and universally available content that is made especially for them. Hence the SPA proposal retains a role for commercial FTA television in delivering to audiences aged between 0-16, albeit through a more flexible requirement and with a relaxation of advertising restrictions, intended to make children's content more sustainable.

Commercial FTA television continues to provide a free, safe environment and child audiences would lose out significantly if this environment were removed completely.

There is clearly some benefit for broadcasters in addressing the child audience, given the welcome news that Network 10 will be launching a new multi-channel designed specifically for young audiences.³⁰

This is evidence of the potential success for children's content if sufficient resources and care are invested in its promotion and scheduling. It also refutes the claims in the Free TV submission that children's content cannot be successful on commercial FTA television.

We note the ongoing issue of whether commercial FTA broadcasters have adequately promoted and positioned children's content for success on their platforms.³¹ We note reference is made in the Free TV submission to the launch of a kids-only platform on Nine, which was 'unable to build any meaningful audience'.

The GoKids! example could benefit from additional context, in that feedback from industry participants indicates that promotion and marketing resources were placed behind the international content on the service and not local children's programming. We are also aware that Nine continues to position its engagement with child audiences to advertisers, suggesting there is inherent value in that demographic.

As noted above, existing commitments represent a fraction of overall program expenditure and SPA questions the extent to which children's commitments are unduly burdensome for broadcasters.

Cultural value of unscripted reality programming

In arguing for the abandonment of drama quotas, Free TV contend that the narratives contained in reality programming can fulfil the cultural objectives currently met through scripted narrative content.³² It is highly questionable whether the cultural benefits of storytelling in traditional scripted content can be supplanted by participant back stories in competitive reality programs.

The narratives in these programs are typically presented through the very narrow prism of competition in relation to activities such as cooking, singing, dating or completing an obstacle course. Whilst these are entertaining narratives in popular programs, and this can be celebrated and supported, the narratives are framed in artificial settings for the narrow purpose of giving colour and background to who might win an ultimate prize.

³⁰ <https://www.viacomcbsanz.com/news-and-insights/new-channel-will-shake-it-up/>

³¹ Refer to Free TV submission p 19

³² Free TV submission, p 8, p 14

It is not substitutable for the fulsome and nuanced exploration of human character and experience that can be delivered through a scripted, narrative piece of content. Scripted Australian content can present any chosen time period in Australia's history and can incorporate the full diversity of the Australian population and human experience in a way that participant back stories can not.

It is SPA's view that the popularity and entertaining nature of reality programs can not fulfil cultural objectives in the same way as traditional story telling.

Free TV comments on model 3

SPA is concerned that in criticising model 3 as a rigid and risky one-size-fits-all approach, Free TV misunderstands the potential flexibility that model 3 could entail. Rather than introducing "unheard of" levels of regulatory intervention, model 3b could follow the well-established Canadian model in which broadcasters have increased agency to form and propose bespoke regulatory obligations which can flex and change over time as well as the model that is being embraced in the UK by Ofcom in relation to children's content. Free TV are critical of the current system not having been reformed for some time – model 3b would enable frequent and regular revisiting of regulatory obligations.

In addition, and contrary to the Free TV submission, this would not necessarily involve regulatory intervention into broadcast schedules and in fact would recognise the broadcasters' expertise in audiences and programming.

Free TV also suggest that the increased competition for content would push prices to unsustainable levels. This ignores the potential to phase in new obligations and the agility and elasticity in the production sector, which has an inherent ability to scale up and down depending on demand.

Additional observations

There are a range of other statements and claims in the Free TV submissions which benefit from additional context.

- Free TV support enabling broadcasters to acquit sub-quota obligations on BVOD services³³:
 - However, the submission also posits that BVOD represents only 3% of viewing³⁴, meaning that any content distributed exclusively on BVOD would immediately lose cultural impact, a result that may give rise to further claims for deregulation.
 - This would also remove from Australians the ability to view this content freely through transmission over the valuable spectrum resource allocated to the broadcasters.
- Free TV suggest people 'are not watching' quota content and it is therefore not having a cultural impact³⁵:

³³ Free TV submission p 32

³⁴ Free TV submission p 13

³⁵ Free TV submission p 19

- Whilst audiences are changing for commercial FTA television, this isn't limited to quota content, with trends being evidence across genres of programming.
- Additionally, we should not look only at initial airings of content to assess its cultural impact as there are other avenues for that impact to be achieved. Broadcasters are investing less in content, increasingly bringing in other providers to contribute financing, which gives the content greater airings across other platforms. The life span of content is getting longer, which only increases the rate of cultural return. For example, a broadcaster commission triggers financing support from other territories, which sees the content distributed in an international market. *Mako Mermaids* was originally a Network Ten commission,, but this was at a minimum price, with the majority of money coming from international markets, where the series has been extensively redistributed.
- Free TV suggest that sub-quotas are focused on a declining broadcast market, which puts downward pressure on production budgets³⁶:
 - Elsewhere in the submission, Free TV emphasise that drama costs per hour are increasing.³⁷
- Free TV argues that commercial FTA broadcasters should face no restrictions in accessing funding from Screen Australia³⁸:
 - SPA's position is that the policy intention of excluding broadcasters from access to Screen Australia's investment is appropriate and aims to avoid distorting the market and accelerating vertical integration, to the detriment of independent producers, the diversity of writers, directors, cast and crew and ultimately, Australian audiences.

Regulatory intervention in deal-making

Whilst not addressed significantly in other submissions to the options paper, SPA notes the release on 31 July 2020 of the ACCC's draft mandatory code for bargaining between news media businesses and digital platforms. The release of the draft code is further recognition of the value of government intervention to address bargaining imbalances between larger distribution businesses and smaller content creators and forms a useful precedent in the discussion regarding regulated terms of trade for the screen sector.

Please refer to page 23 of the SPA submission, which notes that fair an equitable terms in deal-making with commissioning platforms underpins the sustainability of independent screen businesses, and in turn, the creation of Australian content. There is a market failure in this regard, due to the small number of buyers (broadcasters) and the large number of sellers (production businesses). There is a clear role for Government to intervene and require equitable terms.

³⁶ Free TV submission p 26

³⁷ Free TV submission p 16

³⁸ Free TV submission p 36

ATTACHMENT A

COMPARISON OF CURRENT REGULATORY REQUIREMENTS IMPOSED ON COMMERCIAL BROADCAST LICENSEES FOR FIRST RELEASE AUSTRALIAN DRAMA WITH FREE TV'S PROPOSAL

	CURRENT	FTV PROPOSAL
TOTAL DRAMA HOURS	427.8	286.38
TOTAL POINTS (Min 250 per network per yr)	907.7	795.13
TOTAL DRAMA BUDGETS	\$319,344,666	\$153,853,333
AVERAGE DRAMA BUDGET PER HOUR	\$746,481	\$537,234
AVERAGE DRAMA POINTS PER HOUR	2.12	5.35

ESTIMATED ECONOMIC IMPACT OF THE FREE TV RECOMMENDATIONS

REDUCTION IN EXPENDITURE	\$165,491,333
PERCENTAGE EXPENDITURE REDUCTION	51.82%
REDUCTION IN HOURS	141.42
FTE EMPLOYMENT PER \$M MULTIPLIER	28
FTE EMPLOYMENT IMPACT (JOBS LOST)	4,633.76

NOTES AND ASSUMPTIONS ON MODELLING

- Model is based on a comparison with the ACMA published compliance results of 2016 as this was the last year that Broadcasting Financial Results (BFR) were published. There has been no change to the points system since then.
- The 2016 compliance results for all networks is 3% higher than the 3-year average.
- It is assumed network commissioning practices will continue whereby the points each year will be close to the minimum regulatory requirement.
- Historically the commercial networks have only exceeded their minimum compliance levels by narrow margins. ACMA's compliance results for 2014-2018 show that the networks exceeded their requirements by 1.8% for the period.
- Assumptions have been made about which programs the networks would chose to commission.
- It is assumed networks Seven and Ten will derive the majority of their points from serials Home and Away and Neighbours.
- Feature films are included in the points scoring.
- All budgets are estimates based on consultation with producers

- In the case of foreign acquisitions (NZ) budget estimates are in Australian dollars
- The estimated total cost of NZ programs for 2016 had they been produced in Australia is 46.35 million.
- The estimated cost of acquisition for NZ programs in 2016 by the Australian networks was 1.96 million.
- ACMA reports for ACS Compliance are calendar year and Broadcasting Financial Results are financial year which means they cannot be accurately cross referenced.
- ACMA's Broadcasting Financial Results for the financial year 2015/16 reported a total Australian qualifying drama expenditure by the networks of \$315 million.
- Our estimate of the calendar year 2016 total Australian qualifying drama expenditure is \$319 million.
- The cost to the networks is much less than the budgets. ACMA's Broadcasting Financial Results reported network expenditure as \$95.2 million in the 2015/16 financial year.
- The remainder of the budgets are met by foreign sales, other distribution arrangements, and government sources including the tax offset.
- A very large proportion of the Australian expenditure is on the serials Home & Away and Neighbours which are majority funded by British TV networks.
- It is reasonable to assume that some of the expenditure savings would be applied to the purchase of foreign programs.
- The expenditure savings could not all be guaranteed to be domestically substituted so Australia's balance of trade would be negatively affected.
- Any substitution of expenditure for foreign purchases would have a negative impact on the value added to the economy by the prior domestic expenditure.
- Economic impact FTE estimates are based on the last published ABS Input Output tables 1998/99.

SUMMARY OF IMPACT ON THE INDEPENDENT SECTOR

- Assuming the networks were to continue to just meet their requirements, their proposed new minimum compliance levels would reduce the capacity of the independent sector by approximately 51% resulting in the loss of over 4,600 jobs.
- A reduction of this magnitude would devastate the independent production sector particularly if it is combined with broadcaster access to an increase in the producer tax offset to 30%.
- The erasure of the independent production sector would have a devastating impact on the government's cultural objectives reducing the number of hours of original Australian content on our screens and stifling innovation and diversity.
- ACMA's BFR results show that the networks spent \$300.5 million on foreign drama and \$95.2 million on Australian drama in the 2015/16 financial year. This imbalance in trade would most likely increase if the recommendations were implemented.
- The existing system has developed flaws which undermine the original intention of the government's regulation which was to celebrate and promote Australian culture and identity.

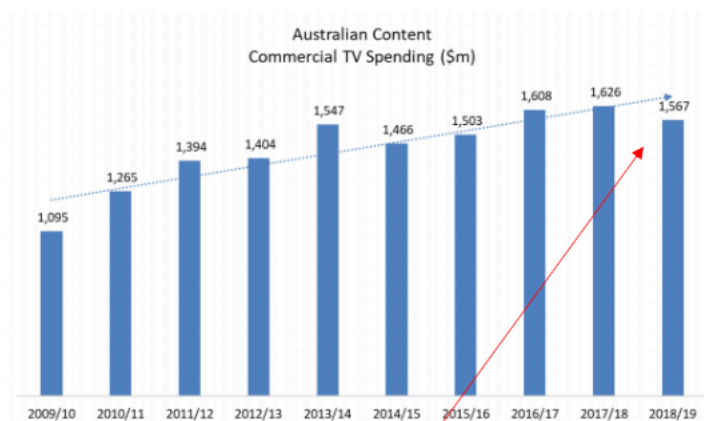
- Claiming NZ programming as Australian content is clearly contrary to the spirit of the original regulations and, while legal, cannot be characterised in any other way but a cynical attempt to undermine the integrity of the regulation.
- Under FTV's proposal the Nine network could have acquitted its entire Australian content requirement with NZ content in 2016.
- The distinction between series (3 points) and mini-series (4 points) has effectively been lost due to a technical change in definition by the former Australian Film Finance Corporation. It was not the intention of the regulation that all series qualify for mini-series points which has now become the norm.
- Allowing programs screened on the networks secondary multi channels to qualify has seriously undermined the integrity of the regulation. The intent was to ensure that audiences for Australian programs were maximised by requiring the programs to be screened in prime time. With few exceptions the primary 'maximised audience' has remained on the primary channel. In 2016, 57.2% of the points qualifying programs were screened on the secondary multi-channels.

ATTACHMENT B

Free TV claims Australian content spend is increasing but this is predominantly driven by light entertainment boom - not drama, docs or kids



Figure 3: Australian Content Spend on Commercial Free-to-Air Television 2010-19



Source: Free TV submission p 9



Television—Australia

Television—Australia—Total

	2016–17	2017–18	2018–19
Number of stations	69	69	69
Program expenditure			
Australian adult drama	126,286,202	92,397,985	95,706,338
Australian children’s drama	5,741,662	10,589,565	11,659,436
Australian children’s other	12,158,518	15,036,763	13,209,991
Australian news and current affairs	377,598,853	363,708,169	362,420,373
Australian documentaries	14,118,470	10,437,675	9,612,059
Australian sport	602,939,117	634,258,029	526,866,730
Australian light entertainment—variety	217,748,923	1,172,365	3,653,337
Australian light entertainment—other	210,005,957	485,579,570	530,624,500
Australian other programming	41,248,922	12,780,150	12,767,942
Total Australian programs	1,607,846,624	1,625,960,271	1,566,520,706
Overseas drama	277,168,342	242,904,660	230,803,648
Overseas other	90,266,879	56,229,895	52,613,294
Total overseas programs	367,435,221	299,134,555	283,416,942
Total programs	1,975,281,845	1,925,094,826	1,849,937,648

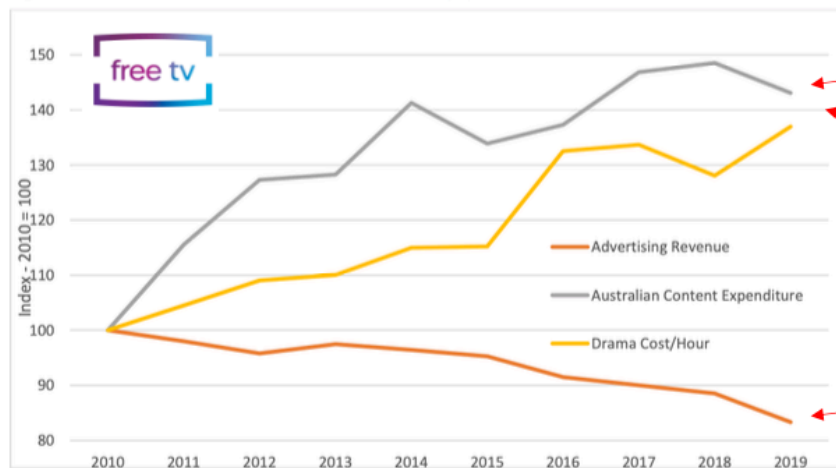
Source: ACMA 2018-19 Program Expenditure reporting

This figure is about 90% made up of news, sport and light entertainment (ie, not the regulated sub quotas of drama and children’s, which Free TV are arguing against).

The increases have been driven by large increases in light entertainment spending.

Free TV claim drama costs are going up. But Free TV drama spend is trending down, despite increasing cost per hour and is far outstripped by revenues

Figure 7: Growth rates over the last decade: Revenue, Spend and Costs



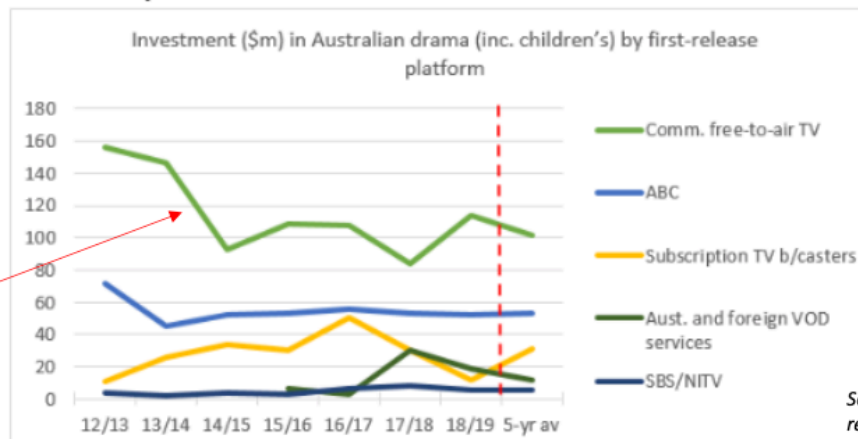
Includes sport, light entertainment, news and current affairs (90%)

This is not the cost to broadcasters, as they only tip in part of the finance

Gives you the impression drama spend outstrips revenue
Revenues were \$3.3bn in 2019, compared to drama spend of \$95m

Source: Free TV submission p 16

Figure 13: Investment into, and hours of Australian drama (including children's) by first-release TV and online platforms

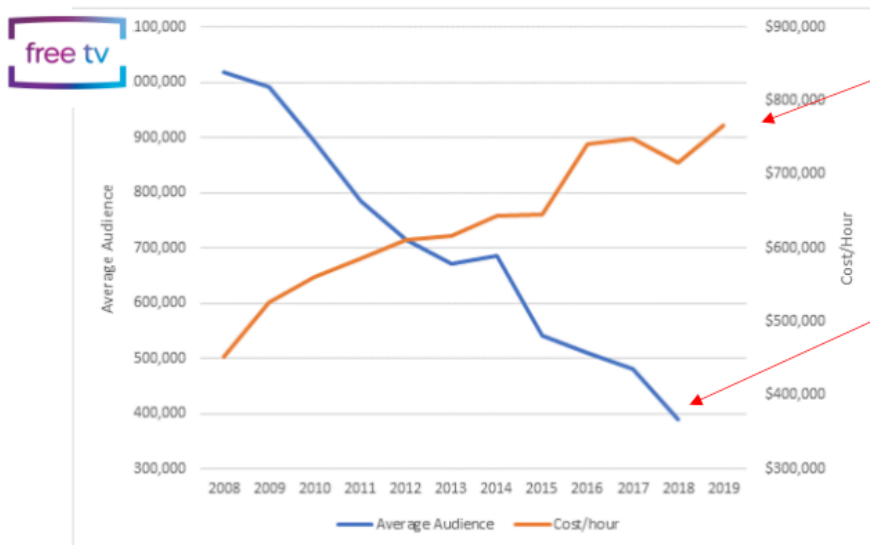


What Free TV actually spends on drama is trending down

Source: Screen Australia drama production statistics, recently featured in 2018-19 Drama Report.

The cost to Free TV broadcasters of drama is not trending upwards and selective viewing stats have been used

Figure 10: Average audience and cost/hour of drama production, 2008 – 2018.



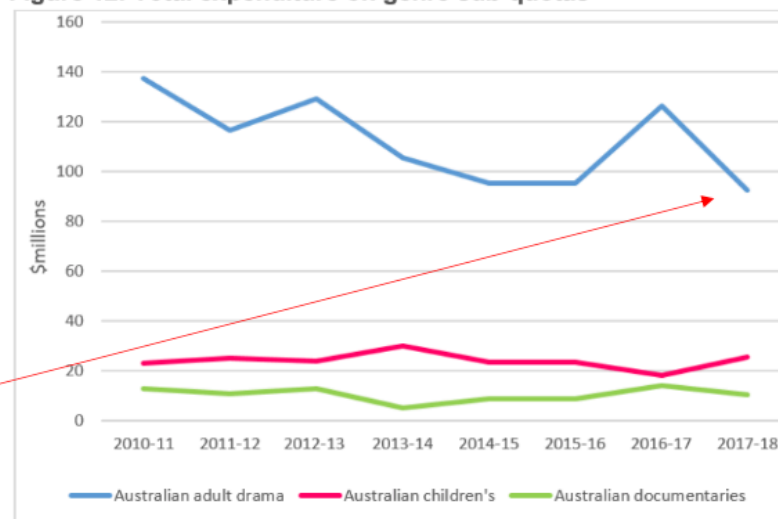
Source: Free TV submission p 21

In fact, Free TV expenditure on drama is on a downward trend

This is not the cost to broadcasters, as they are contributing less to drama budgets

It's not clear but this appears to be initial viewings only, and doesn't include catch-up or online/BVOD. 'Reach' would give you a different set of numbers too.

Figure 12: Total expenditure on genre sub-quotas

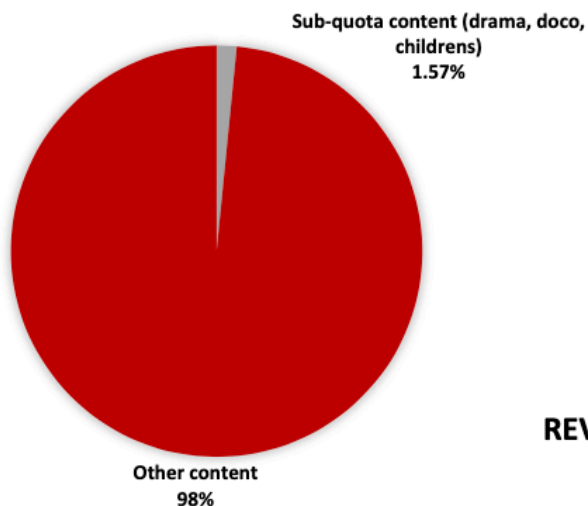


Source: ACMA program commercial television aggregated expenditure information 2010 to 2018.



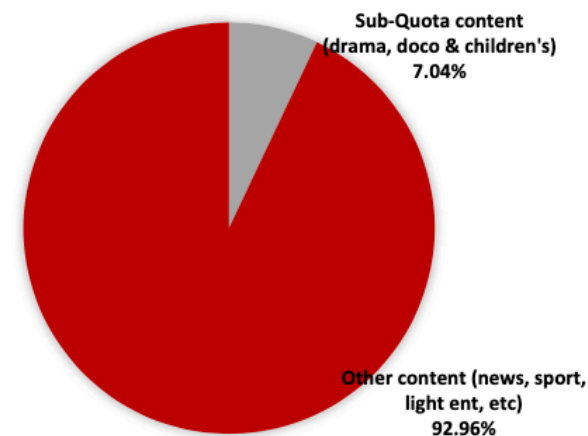
Drama, documentary and children's content makes up a fraction of Free TV broadcast hours and expenditure and is a fraction of revenue

ANNUAL BROADCAST HOURS - METRO FREE TV



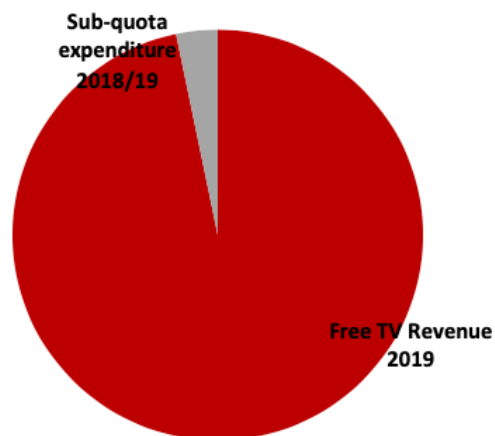
Source: ACMA 2019 Compliance Reports

FREE TV PROGRAM EXPENDITURE 2018-19



Source: ACMA 2018-19 Program Expenditure Reporting

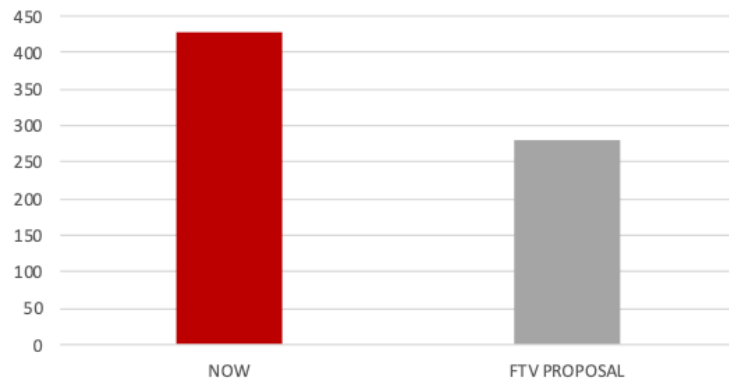
REVENUE VS SUB QUOTA EXPENDITURE



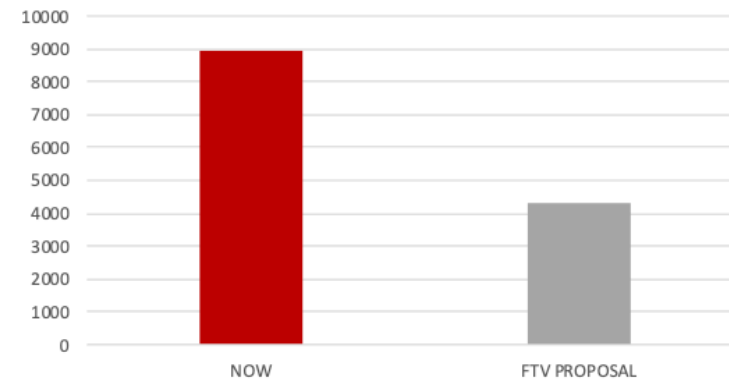
Sources: Think TV and ACMA 2018-19 Program Expenditure Reporting

The Free TV 'simplified points' proposal would devastate drama production and employment

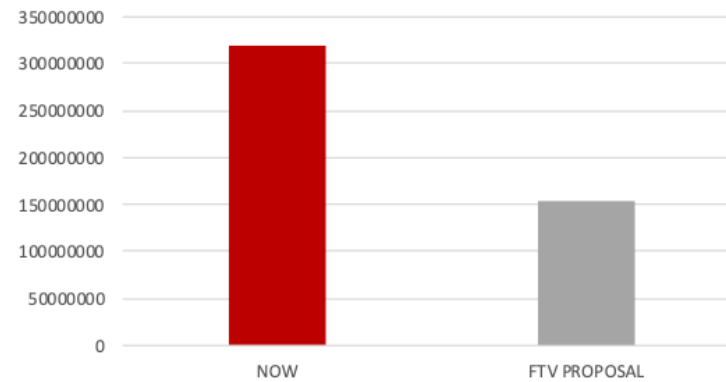
DRAMA HOURS



EMPLOYMENT (DRAMA)



DRAMA BUDGETS



Source: SPA modelling based on Free TV submission and ACMA 2016 Compliance Reports