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Screen Producers Australia's submission to the review of Digital Television Regulation, January 2015

Screen Producers Australia was formed by the screen industry to represent large and small enterprises across a diverse production slate of feature film, television and interactive content.

As the peak industry and trade body, we consult with a membership of more than 300 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Working Group representatives. Our members employ hundreds of producers, thousands of related practitioners and drive more than \$1.7 billion worth of annual production activity from the independent sector.

On behalf of these businesses we are focused on delivering a healthy commercial environment 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 this opportunity to make a submission to the Consultation Paper: Digital Television Regulation, January 2015. Our recommendations are:

- 1. Measures that support the growth and diversity of free-to-air broadcasters are encouraged.**
- 2. Increases in viewing hours should result in a relative increase in Australian content. If commercial and public broadcasters are given the capacity and legal remit for more channels these new channels should be subject to Australian quota obligations.**
- 3. Datacasting and narrowcasting channels as well as third party channels on broadcaster multiplexes should carry similar Australian content obligations as the multichannels.**
- 4. Broadcasters should decide on the pathway to new compression according to commercial factors and in the context of the overriding interests of audiences.**

Contact details

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The independent production sector in Australia is highly competitive. These businesses are characterised by their professionalism, entrepreneurial spirit and quality of output. They operate alongside broadcasters in a digital media landscape that is equally characterised by its dynamism, in which technological changes are giving rise to changes in production, distribution, consumption and business models.

Screen Producers Australia acknowledges that the consultation paper explicitly states that the Government will separately consider Australian content obligations. However, many of the issues and proposals raised in the paper will have implications for the levels of Australian content broadcast on free-to-air television and should not be considered in isolation.

The free-to-air broadcasters are major investors in local content. Their investment is significant and essential to the continued success and vitality of the local production sector. But this investment cannot be taken for granted. Whilst balancing the need to enable opportunities for broadcaster growth there must also be corresponding measures to support local content objectives, which is good for industry and audience alike.

In the context of ongoing policy discussions relating to competition, revenue and regulation, it is important to remember the value of the existing mechanisms that support local content on our screens. Any review of the regulatory foundations must consider the wider impact on the ecosystem, and the implications of free-to-air broadcasters moving onto new delivery platforms should be considered now before the current framework, which is reliant on spectrum licensing, becomes obsolete.

Flexibility in spectrum use

It will be important for Government to consider how and within what scope Australian content obligations will be imposed on commercial and public broadcasters if or when the concept of a primary channel is reviewed.

There are strong arguments for maintaining a regime that imposes minimum requirements on broadcasters. A minimum number of Australian hours is essential to driving demand for locally produced content across a range of genres which in turn has benefits for audiences and the production industry.

Similarly, changes that promote the growth of datacasting and narrowcasting services may impact Australian content obligations. While Screen Producers Australia agrees that any regulatory framework needs to achieve a balance between greater flexibility for broadcasters and meeting public policy objectives, it is important that the balance of reform not come at the expense of local content levels.

The economics of content creation within Australia may not always represent the cheapest or most efficient means of acquiring content in the face of a substantial and strong international market. It is for this reason that the existing support framework for Australian content production and distribution exists. In this framework, the demand-side (effective quotas) is as important as the supply-side (financial support).

A regime in which narrowcasting, datacasting or other niche services form a significant part of a multiplex arrangement may be to the detriment of widely available Australian content where those services are exempt from the regulatory arrangements that apply to traditional broadcasting services. The same arguments apply to the types of third party services that might be available within a multiplex arrangement.

A consideration of how third party services, narrowcast and datacast licences are constituted and the regulatory obligations that could be placed on them should be in scope at the early stages of review. While Screen Producers Australia supports more flexibility for broadcasters, including being able to provide additional datacasting and narrowcasting services, this support is contingent on these channels having Australian content obligations imposed on them.

Spectrum efficiency

Commercial imperatives should primarily guide decisions around the migration to new forms of compression for free-to-air television. The costs to the industry of moving to a new standard should be assessed transparently against the estimated benefit to Government of freeing up spectrum for alternative uses. While delivering a range of benefits alternative uses do not, and most likely never will without regulatory intervention, deliver the cultural benefits of free-to-air television carrying Australian content.

A clear and open consultation process, weighing up the potential risks to the free-to-air broadcasters of moving to new compression standards should be undertaken. Given that the standards governing levels of Australian content on free-to-air television depend on licences issued for spectrum use, any move to encourage broadcasters to move to alternative delivery mechanisms must be rigorously examined. Free-to-air television delivered via means other than radio spectrum will break the regulatory link between licensing and content obligations. Unless alternative measures are put in place this could have devastating consequences for the levels of Australian content on our screens.

While MPEG-4 technologies offer appealing compression benefits it is possible that greater benefits might be realised by adopting a 'leap frog' approach and phasing in DVB-T2 or HEVC, however such considerations are best addressed by broadcasters.

In conclusion, policy decisions about the delivery of free-to-air television should not be only informed by potential alternative uses of broadcasting spectrum but should equally address the long-term health and growth of free-to-air television.