

**Who we are:**

The Australian Directors' Guild (ADG) is a Registered Organisation under the Fair Work Act 2009 and union representing Australian directors who are engaged in work in the film, television, online, arts and entertainment, music clips, animation, commercial advertising and related industries. Formed in 1982, the ADG currently has 700 members nationally.

Directors are responsible for creatively leading stories on the screen as well as the cast and crew behind them. Our members play a significant role in the production process as creators. It is important that we continue to shift our thinking in the screen industry to a creator-led industry – whether that creator is the writer, director, producer, composer, actor, editor or a combination of roles – when we consider new regulatory reform, as this will make our industry a more powerful one.

For this response to the Options Paper, the ADG sent a callout to all members for feedback and conducted two working groups of drama and documentary members to collate key feedback. This contributed to the collective paper with the Australian screen industry guilds and organisations and to our specific response in this proposal.

Why regulation is essential:

There is a long-standing history of regulation in the Australian screen industry. The benefits to supporting Australian content, specifically in the market failure areas, are its significant contribution to the Australian economy, to tourism and to share our stories with the world but the world has changed, audiences are consuming content differently, competition for viewing content is high, and production budgets are increasing in order to meet high standards in quality shows, especially coming out of the COVID-19 crisis.

With the options presented to the industry, the ADG recognises that we need to think differently about regulation, but deregulation will collapse the industry, making it less sustainable, putting more weight on public funds and a huge drop in employment.

We have the talent and skills to make strong, distinctive Australian content - for cultural diversity, to make us competitive globally and to create jobs. But there is no point in making it if we can't see it. And we have a danger of becoming a nation of formats if advertising revenue drives content.

Quotas are the most effective way to ensure our content is seen and gives assurance to direct public funding and private investors in knowing there is a pathway to audience.

We also recognise that any new system must be calibrated across regulation, tax offsets and direct funding.

The ADG supports the collective AUSTRALIAN SCREEN INDUSTRY GUILDS AND ORGANISATIONS RECOMMENDATIONS for Model 3: Significant:

- All service providers must be required to put a minimum percentage of Australian-derived revenue back into new Australian scripted content on their platform annually. A minimum requirement of total Australian content on all platforms and catalogues should also be considered.

In addition, THE ADG RECOMMENDS:

- A minimum percentage of Revenue:
 - At least 5-7.5% of revenue from all service providers to go back into new Australian scripted content, proportionate to their business model. An estimated revenue across all service providers would bring between \$200 million to \$400 million annually back into new Australian scripted content.
- A new Creative Fund:
 - If the service provider does not meet its annual revenue quota, the remaining revenue will go into a Creative Fund into development, production and industry innovation and will support vulnerable areas of the industry that cannot rely on market-based decisions. This fund to be managed by Screen Australia, with decisions made by external industry experts.

- All service providers must be required to have specific sub-quotas for new Australian scripted content, defined as new drama, documentary and children's programs, as appropriate to their platform, annually. These sub-quotas are designed to secure Australians' access to these genres and underpin our capacity to sustain a production base for scripted stories. A minimum requirement such as a number of hours will be set for each service provider, taking into account the type of programming relevant to each platform and the time of day the program will best reach its audience. For example, a platform that shows international drama must also make and show a proportionate amount of Australian drama. Due to their dominant and privileged position, FTA broadcasters must maintain a minimum hours requirement for new drama, documentary and youth content.

In addition, THE ADG RECOMMENDS:

- A set number of hours across platforms to be set by the ACMA that is essential for new scripted drama, documentary and children's content made by Australians progress from the current quotas and not send the industry backwards. This as part of the stage 2 modelling process indicated in the Australian screen industry guild and organisations response.

- Given broadcasters' overall failure to serve the children, pre-school and children's content should move to national broadcasters and streamers (on the basis outlined above, i.e. that platforms offering international children's content must have an obligation to support Australian children's content) with a minimum hours requirement.
- Each service provider will be regulated by the ACMA according to their business model. The ACMA should have powers to set annual revenue and sub-quota obligations underpinned by transparent guidelines and legislated minimum so, along with the additional government support needed to negotiate and administer the scheme. The creation of such a scheme would require a stage two process for government to model out the specific regulations for each service provider before a final implementation decision is taken. The modelling must support decision-making that ensures a level of production that allows for substantial growth in the amount of diverse Australian content available to audiences. The modelling must demonstrate that changed regulations will not result in a drop in production.
- All service providers must be required to meet new reporting and transparency requirements to the ACMA that include their annual revenue, promotion and discoverability of new Australian scripted content and the number of hours provided. National broadcasters will also be required to report annually to Parliament on expenditure on new Australian scripted content and the number of hours provided.
- The Producer Offset for Australian drama, documentary and children's programs should be harmonised at 40%, with the Location and PDV Offsets set at 30%. Offsets should apply to all platforms and across one-off and series content.

In addition, THE ADG RECOMMENDS:

- The Producer Offset should be renamed to the Creative Offset which allows IP to remain with the creator of the project and their production company which may not be the Producer.
 - The Creative Offset to be only for new scripted content – drama, documentary and children's programs made by Australians.
 - A 30% stricter and clearer Significant Australian Content test with a 10% Cultural Uplift to the Creative Offset that must include an Australian Director and be all Australian key creatives, heads of department, crew and cast (excluding Executive Producers).
 - The Creative Offset will have a percentage threshold for higher budget productions and new pathway to audience assessment that meets current viewing habits across platforms.
- National broadcasters must receive additional funding specifically for Indigenous and children's content in order to compensate for the loss of this content on the FTAs.
 - Access to and administration of tax incentives must be streamlined. This should encompass a broad range of measures, including a review of the effectiveness of the current Significant Australian Content (SAC) test, a revised assessment process which is less subjective, revised threshold requirements, stricter budget requirements that prevent exploitative re-investments or working arrangements, improved payment systems, prioritising new Australian content, removing the 65-episode cap, and introducing a sector-agreed Terms of Trade to ensure there is ongoing support for Australian key creatives and heads of department and the retention of IP.
 - Training and support for SMEs who are creating their own IP that will export internationally.
 - Expanding the number of co-production treaties that will significantly increase export potential as well as modernising existing guidelines to ensure specific cultural exemptions.
 - A further contribution from Internet Service Providers and other digital platforms towards Australian content should also be considered in the scope of the regulatory framework.
 - Additional funding to government screen agencies in order to support the development of new Australian scripted content and screen businesses in meeting the additional demand across all platforms, as well as a more streamlined process for direct production investment across state and federal agencies.
 - Content categories to be defined accurately and clearly in line with current industry standards in order to provide certainty around funding eligibility.

We note the current suspension of FTA sub-quotas due to the coronavirus pandemic. The screen industry and the overall arts and entertainment sector has been hit extremely hard by the pandemic. Despite this, the screen industry has worked hard to ensure that production can resume safely. As such, we oppose any proposal to extend the current suspension of sub-quotas into 2021.

In addition, THE ADG DOES NOT SUPPORT:

The ADG does not support the inclusion of Light Entertainment in the Creative Offset/ Producer Offset. The intention of the Offset is to support market failure in vulnerable content and this is even more important today with the overwhelming competition in the marketplace.

The ADG does not support a combined Offset that would include Producer, Location and PDV. Different rules a regulations apply to each Offset and should remain separate.

The ADG does not support Model 4: Deregulation as this will cause our industry to collapse completely.

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