

Australian Children's Producers (ACP) response to the draft Broadcasting Services (Australian Content and Children's Television) Standards 2020

The ACP welcomes the opportunity to review and provide comment on the draft Broadcasting Services (Australian Content and Children's Television) Standards 2020. We note that ACMA does not seek any comments on the merits of the policy changes nor is ACMA able to implement any comments which are inconsistent with the terms issued and directed by the Minister for Communications, Cyber Safety and the Arts. As ACP is an invested stakeholder in the content and implementation of the revised standards we have chosen to only comment on what we believe to be anomalies in the draft and which we believe require further clarification before implementation which we note is scheduled in under four weeks time on 1st January 2021.

Notwithstanding the above, we reiterate that it is our view that the policy changes have already had, and will continue to have, enormous immediate and long term detrimental effects on the Australian Children's Television Production Industry. The removal of any obligation by the commercial FTA broadcasters to commission and transmit Australian first run children's content nor being offered any encouragement or benefit to provide any P or C content in their programming will, we believe, progressively end Australian produced children's television being shown on free to air TV other than on the ABC and perhaps, funds permitting, on SBS/NITV. This progressive outcome has already been our experience and became a reality effective immediately there was any hint that the pre COVID licence obligations would change.

Australian Children's Producers (ACP)

Australian Children's Producers (ACP) comprises more than 20 Australian children's television production companies. Together we have developed the most globally focused and market driven sub-sector of the Australian film and television industry. Whilst Children's content creation in the general community may fly under the radar, as against higher and commercially driven adult market content, the ACP has none the less built a thriving industry that is both local and export market focused. It has been a leader in raising international investment in Australian productions, forging international relationships and presenting Australian culture and values to all corners of the world.

On a more pragmatic level the ACP has directly employed and assisted in the training of thousands of highly skilled, predominantly young, tech-smart graduates in a diverse and gender parity driven industry which is now totally under threat. To date ACP has been the largest provider of long-term employment in the screen production sector, producing content that is export focussed, profitable and award winning.

ACP support a progressive outlook for Australian children's content in an evolving on-demand world, and we are in consensus with the Federal Government on the need for policy change that supports a market driven approach to the sector. In particular, as government policy has removed any obligation to screen Australian children's content on FTA commercial broadcasters, ACP urges the Federal Government to respond rapidly to the significant opportunities for economic growth and job creation that quota implementation on the SVOD services would provide.

Australian Children's Producers (ACP) - Key Responses/Concerns

1. Whether ACMA will be sufficiently empowered to monitor Australian program production from 2021 and beyond ensuring transparency and the ability to report back if, as we believe, there will be a serious reduction or indeed abandonment of Australian children's television on FTA. How this information is ultimately dealt with to ensure a viable and sustainable Australian film industry of which the Australian Children's television sector is a corner stone is not covered.
2. ACP believe that clarification is required as to what constitutes "material and meaningful financial contribution" for commissioned content. We wonder how this is to be assessed and what, if any, are the consequences if this is deemed to be too little? Our expectation is also that it would ACMA's responsibility to ensure that a material and meaningful contribution is the same for a NZ commission as an Australian commission to ensure broadcasters do not lower the level of contribution across the board because NZ content is cheaper.
3. ACP also notes that the first release requirement should be clarified to be "first release" in Australia, so a New Zealand program or Australian New Zealand program is not first released in NZ and then released in Australia as 'first release', unless it is a co-production.
4. With regards to C and P classification amendments we note that ACMA have been instructed to relinquish their right to classify a program as C or P for the networks and that ACMA classification is optional and that the networks are able to self-classify. It now appears that C and P classification is only relevant for the purposes of Part 4 (Protection of Child Viewers). This raises the issue of the motivation to broadcasters classifying P and C programs when the broadcasters will only receive 1.5 points for non-drama P and C. There would not seem to be any incentive for the commissioning of P and C programming by the commercial FTA broadcasters, other than that they receive the same points as if they were commissioning drama of under \$450,000 per hour, often for a substantially lower cost. We also note that: given the restrictions under Part 4 of the Standards only apply to P and C programming; there are no specific P and C drama obligations; and the Networks can claim points for any Australian drama regardless of its classification, it is probable that the Networks will not classify any drama as P and C (where they can use G or PG classification), and will therefore avoid the Part 4 restrictions altogether. Additionally, the ABC and SBS/NITV don't use the P and C classifications, but use the G and PG classifications where required. We believe there may need to be a further review of the classification system to achieve the outcomes of Part 4 of the Standards.
5. We note that the current triennial quota would have been finishing next June and that the commercial FTA channels have already been given an 18 month grace period owing to the COVID -19 pandemic. The networks are now being permitted to use previously commissioned shows to acquit their points obligations for the 2021 year. The pandemic has affected both Producers and Broadcasters alike –we believe the new quotas should start with a clean slate, or the networks can either acquit their triennial obligations and then be required to meet the 2021 points on a pro rate basis for the remaining 6 months. Many children's producers were producing and delivering content to FTA channels prior to the suspension of their quotas, which has resulted in much of this content being shelved and not aired. We believe it unfair to the Australian children's audience and children's Producers alike for this completed, delivered and shelved content to suddenly appear as 2021 quota content, leading to a further drop in production for the children's sector. If this further

appeasement to the broadcasters is to proceed, we are assuming it will be subject to the 'material and meaningful financial contribution' test if used to meet new quota obligations.

6. Finally, the ACP also notes broadcasters are allowed to carry over 50 points under the new quota system but there is no language about how they will be penalised if they don't achieve the minimum requirements.