

## 1.8 AUSTRALIAN CONTENT

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The Australian Communications and Media Authority (ACMA) regulates minimum Australian content levels and collects program expenditure information for commercial and subscription broadcast television.

The ACMA also collects and reports on Australian content levels and program expenditure, provided on a voluntary basis, for major subscription video on demand services (SVODs).

### KEY ISSUES

#### *Proposed Australian content regulations for SVOD services*

- On 30 January 2023, the government released its National Cultural Policy, *Revive*, aimed at establishing a comprehensive roadmap for Australia's arts and culture sector.
- As part of the policy, the government has committed to introducing Australian screen content requirements for streaming platforms with further consultation to occur in Q4. The government remains committed to commencement of the obligation by 1 July 2024.
- The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) is coordinating industry consultation.
- The ACMA will continue to provide assistance to the Department, including providing implementation advice on a proposed SVOD regulatory scheme.
- We understand the ACMA's Australian content reports, across broadcast and video-on-demand, provide an important data set that reports on the commissioning and availability of Australian content to audiences.

#### *Compliance results and reports*

- The ACMA's collection and reporting on Australian content data reflects a range of Australian content initiatives across content providers. This includes:
  - **commercial television licensees** broadcasting minimum hours and points of Australian content, measured across a calendar year, and reported to the ACMA by 31 March each year
  - **commercial television licensees** also reporting voluntarily on program expenditure information, measured across a financial year, and reported to the ACMA by 31 March each year
  - **subscription television licensees** spending on new Australian drama programs, measured across a financial year, and reported to the ACMA by 29 August each year
  - select **subscription video on demand providers** voluntarily reporting on the provision of, and expenditure on, local content, measured across a financial year, and reported to the ACMA by 29 August each year.
- The ACMA's compliance reports and aggregated expenditure results are published on its website, generally within 6 months of receipt.

**Commercial TV – Australian content compliance results**

- Each year, the ACMA assesses commercial television licensee reporting on:
  - compliance with the Australian content transmission quotas required by section 121G of the *Broadcasting Services Act 1992* (BSA)
  - compliance with first-release Australian program points quota required by the Broadcasting Services (Australian Content and Children’s Television) Standards 2020 (ACCTS)
  - program expenditure information by genre, reported voluntarily by commercial television licensees.
- Licensees’ compliance results for the transmission quota and ACCTS points quota obligations during the 2022 calendar year were reported to the ACMA on 31 March 2023.
- In July 2023, the ACMA published the 2022 compliance results for Australian content under both the BSA and the ACCTS for metropolitan and regional commercial television licensees. A summary of the results is provided in the background.

**Compliance results and expenditure on Australian drama, documentary, and children’s programming**

- Since the ACCTS commenced in 2021, some concerns have been raised about the amount of Australian programming being produced and broadcast on commercial television.
- The points allocated to Australian drama, documentary and children’s programming in 2021 and 2022 cannot be directly compared to results from earlier years because the previous standard and the ACCTS use different metrics to measure quota levels and, where ‘points’ are used, calibrate those points differently.
- The standards incentivise programs with higher production budgets by awarding more points per hour broadcast where there is a higher cost of production. For documentary, programs receive one point per hour broadcast and there is cap of 50 points per licensee.
- The previous standard awarded points for drama programs on the basis of a program’s format (series, mini-series, film). For documentary and children’s programs, quotas were hour based.

**Commercial TV - Children’s TV**

- The ACMA is aware of calls from the Australian production sector to review the ACCTS to address concerns that commercial broadcasters are not providing Australian children with adequate free and accessible Australian stories that reflect children’s culture and lives (see Screen Producers Australia (SPA) 30 August 2023 media release at **Attachment A**).
- In July 2023, SPA raised similar concerns about the quantity of Australian children’s television in response to the ACMA’s publication of ACCTS compliance reports. SPA’s media release at the time contained incorrect data about children’s television hours, which was corrected on request of the ACMA. **Attachment A** reflects the corrected information.
- The ACMA does not have an immediate plan to review the ACCTS but will continue to advise and work closely with our portfolio Department about Australian content. The ACMA will also continue to assess and closely monitor the operation of the ACCTS.

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- The standards were made in 2021 in conjunction with a range of new measures aimed at supporting Australian content. These included:
  - funding of \$30 million over two years to Screen Australia to support the production of Australian drama, documentary and children's film and television content
  - funding of \$3 million over three years for Screen Australia to establish a Script Writing and Script Development Fund
  - funding of \$20 million over two years to the Australian Children's Television Foundation (ACTF) to support the development and production of high quality Australian children's screen content.
- The ACMA understands that the additional funds to the ACTF have been fully allocated, however some projects supported by the funding may still be in production. The ACMA is not aware of the allocation proportion of Screen Australia's additional funding.
- COVID-19 has also had some an impact on the production of Australian content, including the amount of content broadcast in 2020 and, arguably, 2021. That is, the production cycle of some programs spans several years and delays at particular points in that cycle can have a greater impact on when a program is available for broadcast:
  - in recognition of some of these impacts, in April 2020, the ACMA agreed to limited COVID-related forbearance for licensees' content obligations in 2020.

### ***Subscription TV – Australian content compliance results***

- Subscription television broadcasting licensees and channel providers must spend at least 10% of their total program expenditure for drama channels on new Australian drama programs in each financial year.
- The New Eligible Drama Expenditure (NEDE) requirement is focused solely on expenditure – there is no requirement for the drama to be broadcast. It works on an accrual basis with credits or debits from the 10% expenditure obligation in one year being carried forward to the next year.
- In the 2020–21 FY, the subscription TV industry spent \$8.75 million on Australian drama programs. The expenditure came from 5 subscription TV licensees and 5 channel providers.
- In the 2021–22 FY, the subscription TV industry spent \$18.72 million on Australian drama programs. The expenditure came from 4 subscription TV licensees and 4 channel providers.
- The ACMA received NEDE returns for the 2022–23 FY in August 2023. The ACMA is currently processing these returns with results to be published in November 2023.

### ***SVOD – Voluntary Australian content reporting***

- Amazon, Disney+, Netflix and Stan have voluntarily reported to the ACMA on their investment in Australian content since the 2019–20 FY. Paramount+ began reporting to the ACMA in the 2021–22 FY.
- On 21 November 2022, the ACMA published its third SVOD Australian content report.
- The report showed that, collectively, the SVODs spent \$335.1 million on 718 Australian programs in the 2021–22 FY. This is an increase from reported expenditure of \$178.9 million in the 2020–21 FY. Driving this increase was a combination of an additional reporting entity (Paramount +) and greater investment in the production of Australian adult dramas, documentaries, sports and light entertainment:

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- SVOD providers spent \$253.7 million or 76% of total expenditure on 55 commissioned or co-commissioned Australian programs. This is up from \$103.2 million or 58% of total expenditure in the 2020–21 FY
- SVODs spent \$333.4 million on acquiring, producing or investing in 16 ‘Australian related programs.’ This is down from \$449.8 million in the 2020–21 FY.
- Currently, SVOD providers voluntarily report information on titles, hours and expenditure. The ACMA publishes aggregated data in accordance with the confidentiality requests of the reporting entities.
- Screen Australia released its Drama Report for the 2021–22 FY in November 2022. That report indicates a combined \$445 million expenditure by subscription TV and SVODs on Australian drama programs. The ACMA’s data is distinct from information published by Screen Australia in its Drama Report for 2021–22. That report combines subscription TV and SVOD figures, attributes all expenditure for a program to the year production starts and defines ‘Australian Program’ differently. Screen Australia uses the Significant Australian Content (SAC) Test.
- The ACMA received SVOD Australian content returns for the 2022-23 FY in August and September 2023. The ACMA is currently processing these returns and is aiming for results to be published in November 2023.
- The ACMA will also continue to advise and work closely with the Department on any further measures regarding Australian content on SVOD services.

## **BACKGROUND**

### ***Commercial TV – Transmission quotas and points quotas results***

- In 2022:
  - all metropolitan licensees met the transmission quotas under the BSA to broadcast 55% Australian content on primary channels and 1,460 hours of Australian content on multi-channels
  - all metropolitan licensees reported compliance with the annual points quota under the ACCTS to broadcast at least 250 points worth of commissioned first release Australian programs and acquired Australian films
  - all 62 regional licensees complied, or were deemed to have complied, with the same BSA transmission quota requirements and the ACCTS points quota requirements.
- This was the second year that compliance reporting has been published for the obligations in the ACCTS, which was made in December 2020.
- The broadcast *hours* of first-release Australian content like drama has changed in 2021 and 2022 compared to previous years, with fewer hours being claimed by broadcasters.
- The ACCTS results for 2022 show metropolitan licensees:
  - broadcast fewer hours of Australian drama and films compared to previous years (248 in 2022 compared to 300 hours in 2021, 358 hours in 2020 and 444 hours in 2019)
  - broadcast more hours of Australian documentary compared to 2021 (151 hours in 2022 compared to 101 hours in 2021), however this is still a decrease in documentary hours broadcast in earlier years (169 hours in 2020 and 161 hours in 2019)

- broadcast a similar number of hours of first release Australian children’s drama and non-drama programs compared to 2021 (95 hours in 2022 compared to 93 hours in 2021), however this is still a decrease in children’s drama and non-drama hours broadcast in earlier years (214 hours in 2020 and 391 hours in 2019).
- Reporting for the 2023 calendar year is due to be submitted to the ACMA by 31 March 2024.

**Commercial TV – Program expenditure information**

- On 19 May 2023, the ACMA published program expenditure information for commercial television licensees for the 2021–22 FY. The information is voluntarily reported to the ACMA.
- Commercial TV licensees reported that the aggregated costs of program usage during 2021–22 FY was \$1.54 billion on Australian programs (an increase of \$16.6 million on 2020–21 FY). The ACMA’s report shows:

Category of Australian content	Expenditure		Change
	2020–21 FY	2021–22 FY	
Light entertainment - variety	\$740,769	\$3,102,219	+319%
Documentary	\$8,368,787	\$14,885,686	+78%
News and current affairs	\$315,448,008	\$360,833,626	+14%
Light entertainment - other	\$499,159,902	\$546,457,474	+9%
Children’s drama	\$1,989,138	\$2,027,426	+2%
Drama	\$69,735,138	\$65,005,945	-7%
Sport	\$623,071,290	\$544,996,545	-13%
Other programming	\$4,375,478	\$2,918,671	-33%
Children’s non-drama	\$1,639,859	\$883,445	-46%

- Submissions for the 2022-23 FY are due on 31 March 2024.

**National cultural policy**

- On 30 January 2023, the government released its National cultural policy, *Revive*, intending to set the course of Australia's arts, entertainment and cultural sector for the next five years.
- As part of *Revive*, the government has committed to introducing Australian screen content requirements for streaming platforms to commence by 1 July 2024.
- The Minister for the Arts, the Hon Tony Burke MP, and the Minister for Communications, the Hon Michelle Rowland MP, engaged in industry consultation in the first half of 2023. To this end, the Department and both Arts and Communications Ministers have conducted targeted consultation on indicative models for streaming services. These models were further discussed at roundtables in May. The ACMA provided the Department with feedback about the implementation of potential models and stands ready to assist the government with further implementation and the development of legislation as required.

- While the government is aware of calls from the production sector for an investment requirement that is 20% of an SVOD's Australian revenue, the government has not committed to a percentage. Such detail will be finalised once consultation is complete.
- The government has also committed to increasing support for the Australian music industry. Measures include:
  - increasing support for community broadcasting to provide a platform for diverse voices and Australian music
  - conducting a feasibility study to expand Double J's reach, which could in turn increase the discoverability of Australian artists on radio at all stages of their careers
  - establishing Music Australia, to support the Australian music industry to grow.

### ***Australian content and children's television standards***

- On 1 January 2021, the Australian content and children's television standards (ACCTS) came into effect.
- The ACCTS were developed in accordance with a detailed Direction from the then Minister of Communications, Urban Infrastructure, Cities and the Arts, the Hon. Paul Fletcher MP. Compared to previous regulation of Australian content, the ACCTS have streamlined quotas intended to give broadcasters greater flexibility in how to meet their obligations to deliver Australian drama, children's and documentary programs.
- The ACCTS:
  - establish a modified annual 250 points content quota obligation on commercial television broadcasting licensees. The quota allows any mix of first-release Australian commissioned drama, documentary and children's programs and first-release acquired Australian films to be broadcast to meet the Australian content obligations (the ACCTS genre point allocation table is provided below)
  - incentivise the commissioning of Australian programs with higher production budgets by awarding higher points for commissioned drama programs on a scale which changes based on budgets per hour
  - require reporting on licence fees and production budgets per hour for each program broadcast in compliance with the quota for that calendar year
  - deem Australian official co-productions, New Zealand programs and Australian/New Zealand programs to be '**Australian programs**', consistent with Australia's international obligations (and consistent with the previous standards).
- The ACCTS quota complements the Australian content transmission quotas established under the BSA, which have not changed. The transmission quotas continue to require the broadcast of at least 55% Australian programs between 6am and midnight on primary channels, and 1,460 hours of Australian programs across multi-channels annually.
- Schedule 1 of the ACCTS provides for points allocation for 4 different program genres.
- Section 15 of the ACCTS also specifies a formula for calculating increases for the production budget and licence fee figures for 2022 and later years. The formula is based on movements in CPI, resulting in the following table of applicable CPI-adjusted production budget figures and genre point allocation for 2022.

<b>Genre</b>	<b>Points per hour broadcast</b>
Commissioned first release Australian documentary program (capped at a maximum 50 points per calendar year)	1
Commissioned first release Australian children's program (non-drama)	1.5
Commissioned first release Australian drama program (less than or equal to \$464,000 production budget per hour)	1.5
Commissioned first release Australian drama program (more than \$464,000 up to \$721,000 production budget per hour)	4
Commissioned first release Australian drama program (more than \$721,000 up to \$1,030,000 production budget per hour)	5
Commissioned first release Australian drama program (more than \$1,030,000 up to \$1,442,000 production budget per hour)	6
Commissioned first release Australian drama program (more than \$1,442,000 production budget per hour)	7
Acquired first release Australian film (licence fee per film less than \$52,000)	1
Acquired first release Australian film (licence fee per film equal to or more than \$52,000)	2

- 'Commissioned' in relation to a program is defined in section 8 of the ACCTS to mean that a licensee or its program supplier has made a material and meaningful financial contribution to a program (before completion). Commissioned programs may include in-house productions or domestic co-productions with national broadcasters, streaming services or subscription broadcast channels.
- The Explanatory Statement to the ACCTS states that for a financial contribution to be considered 'material and meaningful', it should be a contribution that is both significant and enables the program to be made. If the contribution of the licensee is not considered material and meaningful, quota points cannot be claimed for the program.
- A financial contribution is assessed by looking at the licensee contribution as a proportion of the overall production budget for the commissioned program. The ACMA's approach to the 2022 points quota was:
  - for all fully funded programs, licensees were considered to have made a significant financial contribution and such contributions enabled the programs to be made. Therefore, a licensee's contribution was material and meaningful as a result
  - for programs where a medium to high proportion of the total production budget was supplied by the licensee, this was considered to be a significant financial contribution that enabled the program to be made. Therefore, a licensee's contribution was material and meaningful as a result
  - for programs where a lower proportion of the total production budget was supplied by the licensee, the ACMA queried licensees on matters beyond direct funding, such as broadcasting and streaming rights/entitlements, the creative control the licensee had, the type of program being produced and the arrangements for co-commissioning or multiparty productions, as well as the overall budget of the program. Following assessment of this further evidence, the ACMA assessed whether licensee contributions for particular programs met the 'material and meaningful' test.

**Deemed compliance for regional commercial television licensees**

- Deeming provisions in section 121H of the BSA and section 16 of the ACCTS were introduced in 2020 to protect regional and remote licensees, who may have limited control over programming retransmitted under an affiliate agreement.
- Section 121H of the BSA was introduced to permit a regional commercial television broadcasting licensee to be deemed to have complied with the multi-channel Australian content quota if the amount of Australian content broadcast on the multi-channel(s) carried was not less than the amount broadcast on the equivalent metropolitan multi-channel during the same year.
- Section 16 of the ACCTS has similar provision for a regional licensee to be deemed compliant with the annual points quota under the Standards. Deemed compliance can apply if the duration of first release Australian programs the regional licensee broadcasts is the same as, or more than, the amount broadcast by its metropolitan affiliate on the latter's equivalent channel/s during the same year.
- In 2022:
  - 3 licensees (including 2 Viewer Access Satellite Television (VAST) licensees) requested deemed compliance for the multi-channel transmission quota under s121H BSA. All 3 licensees broadcast the same hours transmitted by metropolitan licensees on equivalent multi-channels, therefore meeting the test for deemed compliance under s121H BSA
  - 8 licensees (including 2 VAST licensees) requested deemed compliance under s16 ACCTS for the 250 quota points. All 8 licensees broadcast the same hours of commissioned Australian content transmitted by metro licensees, therefore meeting the test for deemed compliance under s16 ACCTS.
- All licensees that requested deemed compliance in 2022 were regional licensees and did so because they provided 2 multi-channels where their metropolitan affiliates provided 3 multi-channels.

**ATTACHMENTS**

**Attachment A** SPA media release Call for urgent review August 2023

**Attachment B** Australian content program expenditure comparison CTV, STV and SVOD 2018–19 to 2021–22

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Date 3/10/2023

## SPA CALLS FOR URGENT REVIEW OF CHILDREN'S TV CONTENT

Screen Producers Australia (SPA) CEO **Matthew Deaner** today joined **Senator Perin Davey** for an 'In Conversation' session at the Australian Children's Content Summit (**ACCS**), where he detailed his concerns about the lack of Australian children's content on commercial free-to-air channels and urged the government to conduct an immediate review of the Australian Content and Children's Television Standards (ACCTS).

SPA CEO **Matthew Deaner** stated, "With two years of data showing a clear downward trend, the Australian Government needs to step in and conduct an urgent review of the Australian Content and Children's Television Standards (ACCTS) and do something about the failure to ensure Australian children can freely and easily access stories that reflect their own culture and lives.

"It's abundantly clear that commercial broadcasters have all but abandoned investing in new programs for Australian children. There are compelling social equity reasons for Australian families and children to have access to content that reflects shared experiences and life in Australia.

In July, the Australian Communications and Media Authority (**ACMA**) released its annual report on the [2022 compliance results for Australian content](#) on both metropolitan and regional commercial television licensees (the **ACCTS**). This report highlighted an alarming decline in Australian-made children's titles and hours across Australian commercial free-to-air channels.

ACCTS figures show that in 2022, Australian commercial channels broadcast a total of just **95 hours** of Australian children's programs, being just one Australian non-drama series of **85 hours** on Network Nine and one **10-hour** children's drama on Network Ten. There were **no** first-release children's programs reported for Network Seven.

In 2019, before the introduction of the much-weakened ACCTS framework, this total figure was **391 hours**. The results released in July highlighted a decline of over **290 fewer** hours of new release Australian children's programs on Australian commercial networks.

"Thankfully, the ABC continues to commission new children's programs, but many families do not habitually watch national broadcaster channels. With commercial broadcasters relying heavily on overseas programs for child audiences, the current situation leaves them with a strong diet of overseas programs to watch and the remaining Australian content on commercial television channels is on high repeat. We owe it to young people to provide quality, relatable, and uniquely Australian content.

"The inaugural ACCS conference is providing a necessary opportunity for over 250 children's content producers and supporters to discuss the much-needed intervention that has to happen if we are to safeguard a vital genre that sadly has been neglected for too long," said **Mr. Deaner**.

"Despite the budget pressures faced by the ABC, without its important role in commissioning new Australian stories for children, there wouldn't be much of a local children's production industry remaining.

To highlight the serious decline in Australian children's programs on commercial broadcasters, SPA is today launching a new Children's Content Fact Sheet that outlines the case for government review and action.

[dated 30 August 2023]

### Australia content program expenditure comparison Commercial TV (CTV), Subscription TV (STV) and Subscription Video on Demand (SVOD) 2018–19 to 2021–22 (\$million)

Table 1: Expenditure on Australian content by platform and genre, 2018-19 to 2021-22

Financial year	Platform	Aus children's drama	Aus children's non-drama	Aus documentary	Aus drama	Aus light entertainment	Aus news and current affairs	Aus other programming	Aus sport	Not specified	Total
2018-19	CTV	\$11,659,436	\$13,209,991	\$9,612,059	\$95,706,338	\$534,277,837	\$362,420,373	\$12,767,942	\$526,866,730	\$0	\$1,566,520,706
	STV				\$24,670,000						\$24,670,000
2019-20	CTV	\$5,288,035	\$5,288,361	\$7,060,018	\$79,084,379	\$530,428,832	\$342,412,660	\$4,852,420	\$504,828,397		\$1,479,243,102
	STV				\$13,740,000						\$13,740,000
	SVOD	\$33,003,401	\$7,467,317	\$18,006,768	\$73,752,024	\$10,844,000	\$0	\$10,316,011	\$0	\$1,000	\$153,390,521
2020-21	CTV	\$1,989,138	\$1,639,859	\$8,368,787	\$69,735,138	\$499,900,671	\$315,448,008	\$4,375,478	\$623,071,290	\$0	\$1,524,528,369
	STV				\$8,751,594						\$8,751,594
	SVOD	\$22,285,218	\$650,202	\$17,170,783	\$94,810,585	\$11,805,346	\$0		\$32,143,049	\$0	\$178,865,183
2021-22	CTV	\$2,027,426	\$883,445	\$14,885,686	\$65,005,945	\$549,559,693	\$360,833,626	\$2,918,670	\$544,996,545		\$1,541,111,036
	STV				\$18,729,644						\$18,729,644
	SVOD	\$6,638,290	\$761,993	\$37,347,785	\$199,901,311	\$30,405,457	\$0	\$4,793,649	\$55,253,871	\$0	\$335,102,356

Note the following in relation to Table 1:

- > The table is provided as a guide as to the level of expenditure by each sector, however a direct comparison is not possible across the sectors as different metrics and definitions are used. For example, SVOD's report their spend on commissioned and acquired programs, while STV only report expenditure on 'new' drama programs. Commercial FTA TV report on the cost of the programs broadcast during the period.
- > Under the NEDE rules, subscription television broadcasters are eligible to report Australian children's drama' as 'Australian drama'.
- > From the 2020-21 FY expenditure reported for CTV Australian light entertainment is the sum of figures reported by CTV licensees for 'Australian light entertainment – variety' and 'Australian light entertainment – other'.
- > SVOD reporting for the 2019-20 and 2020-21 FYs was for 4 SVODs only. From 2021-22 FY SVOD reporting is for 5 entities as Paramount+ commenced voluntary reporting to the ACMA that year.
- > In 2020-21 FY, SVOD expenditure reporting for 'Aus other programming' is reported under 'Aus sports' for confidentiality reasons.