



AUSTRALIAN SCREEN COMPOSERS GUILD (AGSC)

And

AUSTRALIAN PERFORMING RIGHTS ASSOCIATION
AUSTRALASIAN MECHANICAL COPYRIGHT OWNERS
ASSOCIATION (APRA AMCOS)

JOINT SUBMISISON
TO
BROADCASTING LEGISLATION AMENDMENT
(2021 MEASURES) BILL NO.1 2021

28 MAY 2021

APRA AMCOS
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ULTIMO NSW 2007

AGSC
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28 May 2021

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ec.sen@aph.gov.au

Dear Secretary

Re: Broadcasting Legislation Amendment (2021 Measures) Bill No.1 2021

We refer to the proposed amendment to the legislation above and present comment from the AGSC and APRA AMCOS to the Committee's inquiry into the Bill. Our comment relates to Schedule 1 of the Bill, and the New Eligible Drama Expenditure (NEDE) Scheme for subscription television.

Who We Are

AUSTRALIAN GUILD OF SCREEN COMPOSERS (AGSC)

The Australian Guild of Screen Composers (AGSC) is an industry organisation that represents Australian screen composers in film, television, gaming and related industries. The AGSC has been established since 1981 and membership over the past 4 decades has included composers of such iconic and uniquely Australian films that include: *Crocodile Dundee*, *Muriel's Wedding*, *Strictly Ballroom*, *Shine*, *Animal Kingdom*, *Australia*, *Red Dog*, *Phar Lap*, *2040* and *The Australian Dream*; and television shows such as *McLeod's Daughters*, *Picnic at Hanging Rock*, *Rake*, *The Secret Life of Us*, *Offspring*, *The Code*, *Bluey*, *Doctor Doctor*, *Wentworth*, *The Gloaming*, *Bloom*, *Underbelly*, *Miss Fisher's Murder Mysteries*, *Stateless*, *Home and Away* and so many more.

The AGSC has partnered with key organisations such as APRA AMCOS, as well as advocated, lobbied and acted to increase opportunities for screen composers. We work alongside our screen compatriots in directing, producing, editing, design, casting, post-production areas such as digital and visual effects etc, to ensure there is a viable and sustainable screen industry for us all to exist in.

APRA AMCOS

APRA AMCOS has been representing Australian songwriters, composers and publishers since 1926. With over 108,000 members across Australasia, our membership includes the very best and brightest of established and emerging musical talent at home and around the globe. We administer rights on their behalf, supporting screen composers, songwriters and publishers in an industry that is a flagship of Australian culture and creativity, generating billions of dollars each year for the Australian economy.

We are affiliated with similar collective management organisations around the world. So when Australian and New Zealand songs and compositions are played overseas, Australian and New Zealand composers and writers get paid. We also help music customers in Australia and New Zealand access music from the rest of the world. We work in partnership with government to support the development and career paths within Australian music through the cornerstones of live music, digital distribution, local venues, education and the global stage. APRA AMCOS has successfully initiated and led industry and government co-investment strategies, developing highly regarded capacity building programs, most notably: National Aboriginal and Torres Strait Islander Music Office, SongMakers, Live Music Office, SongHubs and Sounds Australia.

The AGSC and APRA AMCOS do **not** support Schedule 1 of the Bill and the halving of the pay television requirement to invest in Australian drama. We believe that the current subscription broadcasting licensees requirement to invest 10% of their drama budget on local content should be preserved at the current level and not reduced or removed.

Despite changing market conditions, it remains important for pay TV customers to have access to Australian stories and Australian voices. The proposed cut will not only damage cultural outcomes but force the local production industry to contract, and have an adverse impact on local jobs.

The NEDE scheme has created a wealth of high-quality cultural product for Australian audiences, including such notable and award-winning titles as *Top of the Lake*, *Lion*, *Love My Way*, *Wentworth*, *Devil's Playground*, *Deadline Gallipoli*, *Fight Season*, *Mr Inbetween*, *Picnic at Hanging Rock*, *Secret City* and *Tangle*.

The value that the local screen sector contributes to the Australian economy is significant. Figures from the last report commissioned by Screen Australia indicated a value of \$3 billion dollars and more than 25,000 full-time jobs.¹ The value that Screen Composers contribute to the economy is equally significant, with screen music and composition returning \$100 million to the economy through the APRA AMCOS royalty distribution process in 2019/2020.

On the basis that Foxtel is arguing for complete deregulation and removal of the current investment requirements, we are concerned that any reduction in the level of obligation will result in a redirection of investment away from Australian drama. The fact that recent levels of investment are at or about the minimum required amount, suggests that regulation is the determining factor in that content being created. Without significant investment into screen content by major broadcasters, Australian stories are again at risk of not being told, Australian exports of screen programs are at risk of not occurring and the contribution to our economy and cultural assets base is also at risk.

We bring to the Committee's attention the Government's current consideration of regulation to ensure popular streaming services are contributing to Australian content in the recent Media Reform Green Paper. This is an essential regulatory setting that will help ensure the future of Australian content and stories. The AGSC and APRA AMCOS strongly believe there should be no change to the pre-existing local content obligations on either the subscription broadcasters or the commercial free-to-air broadcasters until regulation has been implemented on the streaming-video-on-demand (SVOD) and advertising-video-on-demand (AVOD) platforms. The regulation framework must be holistic and involve all players and create a level playing field that does not advantage some over others. It must allow for the continued creation of Australian content at properly funded levels. Furthermore it must allow for the creation and retention of our intellectual property, generated through the talent and work of our film and content makers, including Screen Composers and musicians.

The screen content production and broadcast industry is a highly organised and creative one that is constantly evolving to meet the demands of technological change and content-hungry audiences. If we are to meet these demands, the system must be regulated to ensure that this happens, with quotas maintained and regulation of pay TV, SVOD and AVOD platforms that will promote the growth and sustainability of the Australian screen industry and stimulate the production of internationally competitive and commercially successful content that includes and supports drama, documentary and children's programs as well as non-scripted content.

¹ Screen Currency: Valuing our Screen Industry, Screen Australia Report 2016

We believe that the government should not be looking to dismantle the current system and reduce the already modest obligations of the commercial free-to-air and subscription broadcasters and any regulation should commence as soon as possible with a target date of 1 January 2022 in order to manage any potential production lag. Our industry has already been dealt a crippling blow with Covid-19 in 2020 halting production for many months across almost every genre and platform.

Quotas must be maintained as well, to ensure the industry remains viable. Both Nine Network and Network 10 failed to meet their annual quota of first release Australian drama last year, while the Seven Network failed to produce the minimum amount of children's programs. Network 10 and Seven Network both failed to meet the quota for Australian preschool programs. Due to the pandemic, ACMA accepted the non-compliance by commercial broadcasters.² The estimated loss of \$225 million of Australian content from April 2020 will be compounded if the regulation process is delayed past 1 January 2022.

We believe that the NEDE scheme should be thoroughly reviewed, with consideration given to whether it should be extended to cover other genres of Australian programming beyond drama, which are vulnerable to market failure, particularly in light of other reforms the government is proposing relating to offset legislation.

We are also concerned that the Bill proposes to cancel the existing requirement to make-up any shortfall in expenditure that occurred before 1 July 2021. Given the generous deregulation included in the Bill, this seems excessive and all previous regulatory obligations should be required to be honoured.

The AGSC and APRA AMCOS are pleased for the opportunity to make this submission and provide insight from the creators' perspective of the need for regulation that is fair, supporting a sustainable and strong screen industry

Yours sincerely,



Antony Partos
President
AGSC



Annie Parnell
Executive Director
AGSC



Nicholas Pickard
Executive Director, Public Affairs
APRA AMCOS

² Sophie Elsworth, 'TV networks forgiven for content shortfalls', [The Australian](#), 10 May 2021.