

## Submission to the Federal Government inquiry into the competitive neutrality of the national broadcasters

12 June 2018

### Introduction

- / The Victorian Government has three agencies dedicated to supporting and developing Victoria's screen industry. Film Victoria provides strategic leadership and assistance to Victorian creators of film, television and digital media by investing in projects, businesses and people, and promoting Victoria as a world-class production destination nationally and internationally. Docklands Studios Melbourne (DSM) is Victoria's premier film and television production studio facility and the Australian Centre for the Moving Image (ACMI) is the national museum of film, television, digital games, digital culture and art.
- / The Victorian Government recently made submissions to the:
  - House of Representatives Standing Committee on Communication and the Arts inquiry into *Factors contributing to the growth and sustainability of the Australian film and television industry*;
  - Commonwealth Government's *Australian and Children's Content Review*; and
  - Senate inquiry into *Australian content on broadcast, radio and streaming services*.
- / The Victorian Government welcomes another opportunity to highlight issues facing the Australian television industry, and independent production in particular. The comments in this submission are concerned with factors impacting the production of drama, documentary, narrative comedy and children's content commissioned by the free-to-air (FTA) broadcasters.
- / Below are key points in relation to the inquiry on a general basis. Appendix 1 provides responses to the questions posed in the Issues Paper.

### Key points

- / Film Victoria is typically a minority investor in television productions that already have market attachment i.e. productions that have been commissioned by the FTA broadcasters or other service providers.
- / The term "television" is used for convenience in this submission. It includes mini-series, series/serials, telemovies and online content (e.g. webisodes) for national and commercial broadcasters and streaming services.
- / Film Victoria supports projects commissioned by both the national (ABC and SBS) and commercial (Seven, Nine and Ten) FTA broadcasters. The overall health of all FTA broadcasters, especially the national broadcasters, and the opportunities and challenges they face are important considerations to Film Victoria.

- / Film Victoria usually works directly with producers and has an indirect relationship with broadcasters. However, Film Victoria partners directly with broadcasters for specific initiatives such as:
  - The Victorian Content Initiative with the ABC, which aims to create a pipeline of production in Victoria and professional development opportunities; and
  - Treaty Docs with NITV, which provides an opportunity for Indigenous Victorian filmmakers looking to make an impact in the documentary space.
- / Film Victoria would welcome similar strategic partnerships with any broadcaster or streaming service provider and has been in discussions with providers other than the ABC and SBS in this regard.
- / The ABC and SBS charters align well with Film Victoria's broader cultural and social objectives for supporting Victorian screen production. As a result, the majority of television projects supported by Film Victoria have been commissioned by the ABC or SBS.
- / The national broadcasters, and especially the ABC, have made a significant and valuable contribution to the Victorian screen production industry over several decades. The importance of the national broadcasters to the local industry will continue to increase due to the continued decline of audience numbers and revenue of the commercial FTA broadcasters.
- / Screen agencies and the national broadcasters address an important market failure where the cultural and social benefits of high quality adult and children's drama and documentaries are not reflected in the market. Without government intervention, such types of screen content are unlikely to be produced to the detriment of Australian audiences and the Australian screen production industry.
- / The ABC and SBS have successfully developed an online audience and are commissioning online content to serve younger and/or niche audiences such as *Housemates* and *Homecoming Queens*. It is essential that the national broadcasters have a strong traditional and digital media presence in order to serve all Australians, which are increasingly online.
- / Film Victoria, DSM and ACMI are all public entities and the Victorian Government acknowledges that their independence to make strategic and operational decisions is key to supporting the Victorian screen industry.
- / The independence of our public broadcasters must be maintained and supported through Federal legislation, policy and funding settings to help protect Australian stories in a rapidly changing global media landscape.
- / Competition in the media landscape faced by the FTA broadcasters is primarily due to global not domestic trends. Government support at both Federal and State levels for all FTA broadcasters should assist the Australian independent television production sector to develop and produce content that serves local audiences and is able to compete globally.

## Appendix A: Responses to questions in Issues Paper

**Question 8: Considering the commercial activities of the national broadcasters (e.g. where they are selling or purchasing goods and services), is there evidence that they have taken undue advantage of their government ownership, to the detriment of competitive outcomes?**

- / In our dealings with the FTA broadcasters, Film Victoria has not observed any evidence of undue advantage being taken by the ABC or SBS due to their government ownership.

**Question 9: What is the differential impact of regulation on commercial and national broadcasters, and is there evidence of consequent adverse impacts on competition and outcomes?**

- / The content quota obligations imposed on the commercial FTA broadcasters by the Australian Content Standard are the main difference between the regulation of the commercial and national broadcasters from a screen production perspective. The Standard is the core government intervention that ensures Australian content is produced by and screened on the commercial FTA broadcast services.
- / The Standard requires all commercial FTA television licensees to broadcast an annual minimum transmission quota of 55% Australian programming between 6am and midnight. In addition, there are specific minimum annual sub-quotas for first-run Australian adult drama, documentary and children's programs.
- / The requirement for commercial FTA broadcasters to broadcast local content has helped develop a strong reality television and light entertainment sector which has become the core of their prime time programming because such content attracts strong audiences and advertisers.
- / The 55% Australian quota has supported healthy competition in reality television and light entertainment with commercial FTA broadcasters creating signature programs such as *Masterchef*, *My Kitchen Rules*, *The Block*, *The Voice* and *The Project*.
- / The sub-quotas have been successful in ensuring the production of original Australian drama, comedy, documentary and children's television content that is accessible to all Australians. Dramas such as *Offspring* could command strong audiences and advertisers, and featured strongly in prime time programming, prior to the introduction of Netflix and other streaming providers in the market.
- / The fragmentation of audiences across screens due to the "Netflix effect" is primarily a global competition impact not a local competition impact.
- / Any changes to the Australian Content Standard must be carefully considered and presented to the industry for further consultation.

**Question 10: Is the reporting and accountability by the national broadcasters on their best endeavours to observe competitive neutrality adequate?**

- / No view.

**Question 11: Are you aware of any specific instances where the ABC or SBS may have received any other competitive advantage, due to their public ownership, to the detriment of a private competitor?**

- / No.

**Question 12: The SBS Charter requires it to take into account the activities of the ABC and community television on radio and television. In the context of the competitive neutrality principles how in your view, is the SBS complying with this requirement? From your perspective does it adequately cover the activities of the SBS?**

- / From a screen production perspective and in the context of projects supported by Film Victoria, SBS is commissioning high quality, unique content that is strongly aligned to its charter. Victorian produced examples include *Sunshine*, *Struggle Street*, *Little J and Big Cuz*, *Date My Race* and *First Contact*. This type of content is not available on the ABC or community television.

**Question 13: From your perspective do the national broadcasters seek a balance between competing in the market and complementing the market? Is that balance the same for traditional broadcasting and for new digital platforms?**

- / From a screen production perspective and in the context of projects supported by Film Victoria, the national broadcasters compete in the market in relation to drama and children's content but complement the market in relation to scripted comedy and documentary, which are under served market segments by the commercial FTA broadcasters.
- / The national broadcasters use a mix of traditional and digital platforms to best reach their audience for different types of content. The type of content dictates whether the national broadcasters compete in or complement the market, not the platform.

**Question 14: Do you have comment on these guiding principles?**

- / No.