

# CHANGES TO THE AUSTRALIAN CONTENT AND CHILDREN'S TELEVISION STANDARDS.



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## INTRODUCTION

The Australian Children's Television Foundation (ACTF) is a national children's media production and policy organisation that performs a wide range of functions in children's media: we act as a voice in policy matters; as a distributor of and investor in Australian children's content; as an instigator of new, innovative and entertaining children's media; and as a developer of valuable screen resources for the education sector.

The Australian Communications and Media Authority ("ACMA") has been tasked with drafting new Australian Content and Children's Television Standards (the "Standards"), following an announcement by the Minister for Communications, Cyber Safety and the Arts, the Hon Paul Fletcher MP, of reforms to the regulatory environment for commercial broadcasters.

We note that the Minister's formal Direction to the ACMA in relation to this drafting process is very detailed, and for this reason our comments must be restricted to the practical implications and drafting issues that arise.

### 1. DEFINITION OF COMMISSIONED

The draft Standards focus on the concept of 'commissioned programming' and this concept is the key to how the new Standards will work, and whether they will result in sufficient levels of new Australian content. 'Commissioned' content is defined as content where the commercial television broadcasting licensee makes a *material and meaningful financial contribution to the production of a program before production is completed*.

The draft Standards are therefore contemplating that for a program to qualify and count towards the quota, a broadcaster must have been there at the beginning of the project by participating in the financing of the program. This is fundamental. Furthermore, the contribution that they make must be "material and meaningful". Whilst it is impossible (and not advisable) to set a minimum level of contribution across such a broad spectrum of content, the ACTF would like to know how ACMA will determine what a material and meaningful contribution means in practice. It might be helpful to consider a percentage of budget range. The ACMA should consider public and transparent communication about what constitutes a material and meaningful contribution towards different types of content, collect data to evaluate how effective the new Standards are in terms of enabling the production of Australian screen content, and be prepared to adjust its expectations of what a "material and meaningful" contribution to a production budget looks like.

## 2. DEFINITION OF FIRST RELEASE

The draft Standards define 'first release' as a program that is first broadcast in a licence area (whether or not the program has already been streamed in the licence area by a subscription television broadcasting service) within 2 years of the completion of production of the program. The fact that a program is still considered first release, even when it may have been co-commissioned with a streaming or subscription service, means that this double use could potentially lead to fewer Australian programs being made.

Given the greater flexibility being enabled with the new Standards, the ACTF recommends the ACMA reconsider this definition of 'first release' in light of its potential to reduce levels of Australian content produced.

## 3. CO-PRODUCTIONS

### a. **International Co-Productions**

International co-productions are mostly regulated by arrangements between Australia and the governments of other countries through treaties or a Memorandum of Understanding. It is typically the case that each co-producer must bring a minimum percentage of the financial and creative contribution to the project, and further, these two elements need to be 'reasonably in proportion'.

Based on our reading of the draft Standards, an International Co-Production is given the same recognition as an Australian production, which means that a licensee commissioning an International Co-Production will be able to claim the same points as for an entirely Australian production. For example, programs that only have a small (but potentially important) contribution from a local broadcaster may be granted the same points as Australian content – even if the program features non-Australian actors with non-Australian accents and is filmed internationally.

The ACTF suggests that ACMA monitor what percentage of 'commissioned programming' consists of international co-productions and the proportion of 'commissioned programming' that is produced in Australia. The ACMA will need to insist that the contribution of an Australian broadcaster to a co-produced program is sufficiently material and meaningful so as not to disadvantage programs that are entirely locally produced.

## b. New Zealand Productions

We note that, under the current standards, licensees were able to acquire finished content from New Zealand and have it count as Australian content in Australia for the purposes of their license requirements. However under the draft Standards, with the exception of films which may be acquired, licensees will be required to commission content in order to fulfill their obligations.

This means that licensees who wish to have a New Zealand program count against their required points must support a production from the start by commissioning them, rather than merely acquiring them at the end when others took all the risks to make that program. As per the new concept of commissioned, there will need to be a 'material and meaningful contribution'.

It is important that the draft Standards set reasonable expectations (in the cases of Australian productions, international co-productions and New Zealand productions) for licensees as to what amounts to a meaningful and material contribution to the project budget.

It is the ACTF's view that the ACMA needs to ensure that content produced entirely by Australians in Australia for Australian audiences is on a level playing field with official co-productions and New Zealand content. The ACMA has a very important role to play here.

## 2. C AND P CLASSIFICATIONS

The ACTF anticipates that there will be less C and P content on the commercial broadcasters in future, given broadcasters are likely to choose to meet their obligations with Australian drama and documentary content for adults, rather than for children.

The draft Standards encourage, but do not require, broadcasters to classify a program as P or C, in cases where programs fit the definitions of a P or C program. It is not clear why a licensee would wish to classify a program as a C or a P program if it didn't have to, as these classifications introduce additional restrictions, costs and advertising limitations at seemingly no benefit to the licensee.

One potential benefit of classification of programs as C and P, is for the purpose of consumer information and letting families know that particular programs are suitable for the audience. We agree that this is an important rationale for program classification, but note the many submissions to the Review of Australian Classification calling for a uniform classification system that would apply across cinemas, public broadcasters, streaming and subscription services and the commercial broadcasters, rather than multiple classification systems. A streamlined system that is consistent across all platforms would be more useful to consumers. It is for that reason that an age based classification system would be helpful.

Those classifications should then be supported by appropriate advertising restrictions around children's programs, which should be supported through the Commercial Television Industry Code of Practice.

## CONCLUSION

The ACTF supports the general concept that in order for content to qualify to meet the new Standards, broadcasters should make a material and meaningful contribution into the program's production budget. The concept of "material and meaningful" is an extremely important one and the ACMA should ensure that this contribution covers a substantial percentage of the production budget.

The definition of first release content has the potential to limit the number of new Australian programs that are made.

The treatment of New Zealand content in this standard removes the opportunity to count completed New Zealand content (purchased for a low licence fee) to air in place of Australian content. The material and meaningful contribution towards New Zealand content and international co-productions should be carefully monitored, however, to ensure that programs that are entirely produced in Australia are not disadvantaged.

We support a uniform classification system across all platforms, which should very clearly indicate whether a program is suitable for children at different ages, and appropriate advertising restrictions around those programs.