Australian Government
Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts

Australian screen content requirements for subscription video on demand services

Impact Analysis

November 2025

Table of Contents

Summary

In the National Cultural Policy, *Revive: a place for every story, a story for every place*, the Australian Government reiterated its 2022 election commitment to introduce requirements for Australian screen content on subscription video on demand (SVOD) services to ensure continued access to local stories and content.[1] The Prime Minister and Minister for the Arts further committed to this requirement during the 2025 election campaign.[2] The requirement will form part of the Government's broader media reforms.

The Government's goal in introducing these requirements is to ensure that Australians have access to Australian stories, wherever they choose to watch their screen content, now and into the future. Without Government intervention there is no guarantee that SVODs will produce and make Australian content available to Australian consumers. The Government is guided by the objectives and regulatory policy of the *Broadcasting Services Act 1992* (BSA) that include:[3]

- to promote the availability to audiences throughout Australia of a diverse range of services;
- to provide a regulatory environment that will facilitate the development of an industry that is efficient, competitive and responsive to audience needs;
- to promote the development of a sense of Australian identity, character and cultural diversity; and
- to promote the provision of high quality and innovative programming.

The Government has undertaken extensive consultation to inform development of this requirement. Initial consultation was conducted during the development of the National Cultural Policy, *Revive*, which sought views on a range of issues relevant to Australia's arts, culture and entertainment sectors, including local content requirements for SVODs. Following publication of *Revive* on 30 January 2023,[4] successive rounds of targeted consultation was undertaken with industry stakeholders directly impacted by the proposed requirement, including the screen production sector, free-to-air television broadcasters, other subscription television broadcasters and SVODs. The views of stakeholders and the analysis undertaken throughout the consultation process has informed the development of the final recommended model for Australian screen content requirements on SVODs.

The proposal is to introduce a requirement for SVODs to invest at least 10 per cent of their total program expenditure in Australia (excluding news and sport) on new Australian commissions. Total program expenditure includes programs available on a streaming platform operating in Australia that are globally commissioned or licensed or otherwise not subject to licensing payment for the Australian market (global content). The proposed requirement also:

- includes a voluntary revenue option for SVODs to acquit their requirements by calculating their content obligation based on 75 per cent of the expenditure requirement numerator (for example, 7.5 per cent of their Australian subscriber and advertising revenue rather than 10 per cent of Australian expenditure);
- applies to SVODs operating in Australia with at least 1 million Australian subscribers;
- does not require specific sub-quotas for children's or documentary content;
- uses the definition of Australian content set out in the *Broadcasting Services (Australian Content and Children's Television) Standards 2020* (ACCTS) (this definition is currently relevant to obligations that apply to commercial free-to-air as well as other subscription television broadcasters);
- has a three-year carry over period for the acquittal of expenditure; and

----

[1] Labor to deliver landmark cultural policy, Tony Burke MP, 16 May 2022, https://www.tonyburke.com.au/media-releases/2022/5/17/labor-to-deliver-landmark-cultural-policy

[2] Tony Burke video on the arts (6:40), https://www.saveourarts.com.au/labor

[3] Objects of this Act (Part 1:3), *Broadcasting Services Act 1992*, https://www.legislation.gov.au/C2004A04401/latest/text

[4] A new National Cultural Policy, https://www.arts.gov.au/what-we-do/new-national-cultural-policy

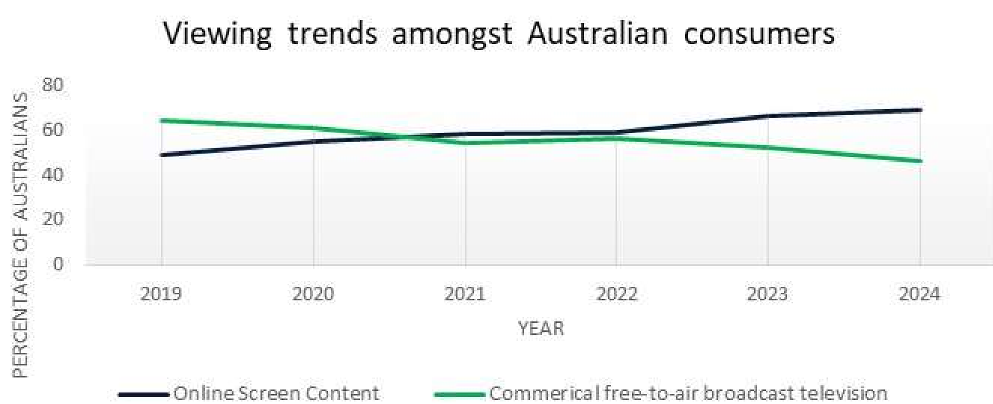
- requires a statutory review to be conducted four years after commencement to make sure the requirement is operating effectively.

Background

Australian content regulation in Australia

Media regulation is used to produce social, cultural and economic outcomes for Australian audiences, the general public and those who work in the media sector, including those who make content. Regulation helps make sure that Australian content is made available to Australian audiences across the platforms and media they access. It makes sure that Australian stories have a place to be told and be seen, and contributes to the building of a modern, distinct and confident Australian identity. Regulation also gives Australian screen producers and creatives certainty around current and future demand for Australian content. Otherwise, there is no guarantee that the media platforms that operate in Australia will produce and make Australian content available to Australian consumers.

SVODs are now a significant source of culture and entertainment for Australian audiences. In 2022, SVODs overtook free-to-air television as the most popular means of accessing screen content by Australian audiences.[5] The Australian Media and Communications Authority's (ACMA) *Trends and Developments in viewing and listening 2023-24* report stated that SVODs are the most popular way for Australians to consume online screen content and were used by 69 per cent of Australians in 2024.[6] This is demonstrated in the below graph which shows a steady increase in the popularity of online screen content since 2019.[7] [8] By comparison, viewing of commercial free-to-air broadcast television has been declining since 2019.[9] [10] [11] Other subscription television broadcasters using cable or satellite also saw a decline in viewership over the same period from 27 per cent in 2019 to 20 per cent in 2024.[12] [13]



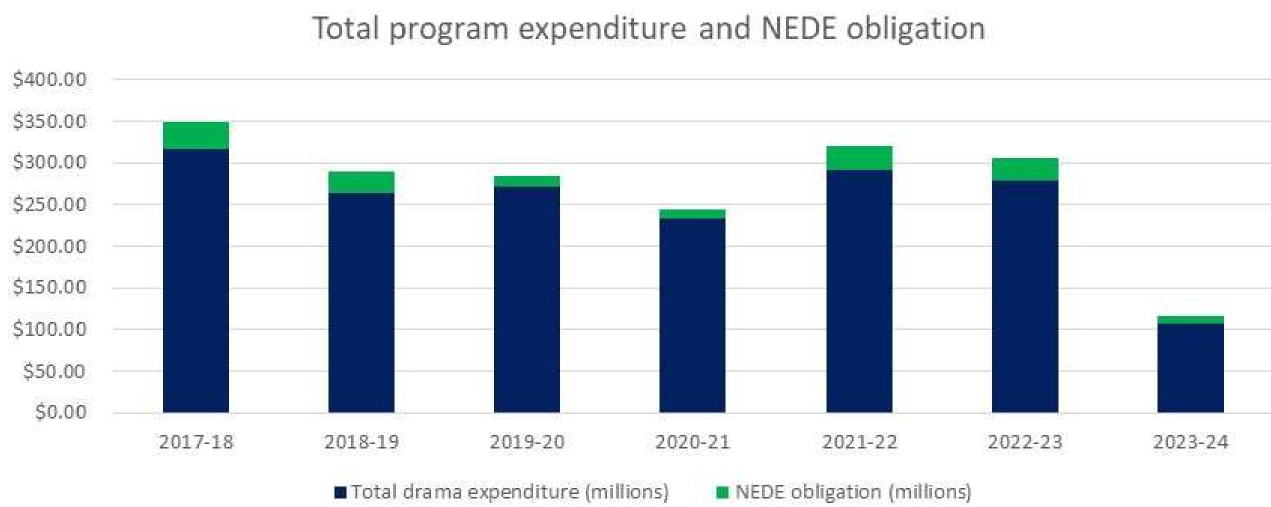
Under the BSA, both free-to-air commercial television broadcasters and other subscription television broadcasters are subject to Australian content requirements based on their 'degree of influence' in the Australian community. Free-to-air broadcasters are seen to have a high degree of influence as they provide free access to news and current affairs as well as programming of national relevance. The BSA imposes transmission quotas on commercial television broadcasters which requires that their main (primary)

----

[5] Social Research Centre (February 2023), *The 2022 Media Content Consumption Survey – Summary Report*, p.13.
[6] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2023–24.pdf*, p.5.
[7] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2022-23*, p.5.
[8] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2020-21*, p.6.
[9] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2023–24.pdf*, p.5.
[10] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2022-23*, p.5.
[11] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2020-21*, p.6.
[12] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2020-21*, p.6.
[13] Australian Communications and Media Authority, *Trends and developments in viewing and listening 2023–24.pdf*, p.5.

broadcast channels broadcast 55 per cent Australian content between 6am and midnight; and that their multi-channels broadcast, in total, 1,460 hours of Australian content between 6am and midnight per year. In addition, the ACCTS require commercial free-to-air television broadcasters to broadcast minimum amounts of first release Australian content across specific genres.[14]

For subscription television broadcasters licensed under the BSA, a different set of regulations apply. Known as the New Eligible Drama Expenditure (NEDE) Scheme, licensees are required to spend 10 per cent of expenditure on drama channels on new Australian drama. In 2023-24, subscription broadcasters reported a total drama expenditure of $106.31 million, requiring $10.06 million to be spent on new Australian drama this was down significantly from previous years.[15] Subscription television viewership has been declining in recent years as audiences move to SVODs, which host a library of on-demand content that does not follow a linear broadcast schedule. The below graph shows this trend.



- For 2019-20 and 2020-21, the target was effectively reduced from 10% to 5 % due to the impact of the COVID-19 pandemic on content production and supply chains.

Under the *Broadcasting Services ("Broadcasting Service" Definition – Exclusion) Determination 2022* and its predecessors, online television simulcasts, online radio stations, and live-streaming on social media platforms and other digital platforms are excluded from the BSA's definition of 'broadcasting service'. A service that makes programs available on demand on a point-to-point basis, such as an SVOD, is separately excluded from the definition of 'broadcasting service' under paragraph 6(1)(b) of the BSA.[16] This means SVODs do not fall under the existing broadcasting licensing regimes in the BSA and are not subject to any Australian content requirements.

1. What is the problem you are trying to solve?

The Australian Government has made a commitment to regulate SVODs

In the National Cultural Policy, *Revive: a place for every story, a story for every place*, released on 30 January 2023, the Australian Government committed to:

----

[14] ACMA, Australian content on commercial TV, https://www.acma.gov.au/australian-content-commercial-tv#first-release-australian-programs-quota
[15] ACMA, Spending on subscription TV drama, Spending on subscription TV drama | ACMA
[16] *Broadcasting Services ("Broadcasting Service" Definition – Exclusion) Determination 2022*, https://www.legislation.gov.au/F2022L01200/asmade/text.

> "*introduce requirements for Australian screen content on streaming platforms to ensure continued access to local stories and content in the third quarter of 2023 and to commence no later than 1 July 2024, with the Minister for the Arts and the Minister for Communications to undertake further consultation with industry in the first half of 2023 on the details of actions to be taken and implementation as part of the Commonwealth's broader reforms to media legislation.*"[17]

Introduction of the requirements has been delayed while the Government conducted extensive consultation on the best way to realise the policy. The Prime Minister and Minister for the Arts reiterated the commitment to the streaming requirement during the 2025 election campaign.[18]

Australian screen content is culturally important and a healthy screen production sector is vital to producing it

Revive is the Australian Government's plan to renew and revive Australia's arts, entertainment and cultural sector. Its aim is to allow Australia's creative workers, organisations and audiences to continue to thrive and grow, and position Australian arts, culture and heritage as central to Australia's future. Australian stories reflect contemporary culture, allowing Australians to participate in a collective cultural life built around shared values and interests. This is especially true in the scripted drama genre, which is a staple of SVODs' catalogues and part of their appeal to audiences.

Australian stories play an important role in shaping Australia's national identity, fostering social inclusion and encouraging cultural expression. As stated in *Revive*, "Australia's people and their stories are our greatest cultural asset."[19] Local stories help build a sense of community and collective well-being, a shared identity, and a means to understand ourselves. Australian stories reflect and define who we are as a nation and make us recognisable on the international stage.[20] These stories help make sense of our past, define ourselves in the present and promote our people, our creativity and our country to the world. These intangible benefits are integral to a nation's cultural life, but they are difficult to quantify. Screen Australia's *Screen Currency: Valuing our screen industry* report found Australian screen stories are valued for their diversity and their distinctiveness and though articulating and measuring the cultural and social value of Australian content can be challenging it is not impossible. Despite the vast amounts of imported programs on Australian screens (large and small), and their large production and marketing budgets, Australians expressed a preference for local content. Only 2 per cent said that they don't watch Australian content, 64% said that local content accounted for up to half of their media diet, and 22% reported that most or all of their viewing was Australian.[21] In the 2024 Telsyte *Australian Subscription Entertainment Study* it was found that 54 per cent of Australian SVOD users believed it was important to have Australian stories, voices and culture in the program offering of SVODs.[22]

Australian stories bring people together and enable the exchange of experiences, ideas and perspectives. All Australians benefit when they are represented by and can hear their voices in the stories brought to the big and small screen. Australian stories are shaped by histories, places, identities, languages, cultures, families and communities. Screen Australia's study *Seeing ourselves: Reflections on diversity in Australian TV drama* emphasised that television drama that is representative of Australian society is important because of its capacity to create emotional connections, insight and identity. It reflects our sense of who we are as a society

----

[17] *Revive: a place for every story, a story for every place,* https://www.arts.gov.au/publications/national-cultural-policy-revive-place-every-story-story-every-place, p.89.
[18] Tony Burke video on the arts (6:40), https://www.saveourarts.com.au/labor
[19] *Revive: a place for every story, a story for every place,* https://www.arts.gov.au/publications/national-cultural-policy-revive-place-every-story-story-every-place, p.38.

[20] *Supporting Australian stories on our screens -options paper*, https://www.infrastructure.gov.au/have-your-say/supporting-australian-stories-our-screens-options-paper p.6.

[21] Screen Australia, *Screen Currency: Valuing our screen industry,* https://www.screenaustralia.gov.au/getmedia/1b1312e5-89ad-4f02-abad-daeee601b739/ScreenCurrency-SA-Report.pdf, p.7.

[22] Telsyte, *Australian Subscription Entertainment Study 2024*, p.18.

and who we might be.[23] It is important that a range of stories are heard, respected and reflected in Australia's collective social and cultural life including on the SVODs which Australian's engage with. It is also vitally important that SVODs contribute to the making of Australian stories.

Revive, is underpinned by ten principles to guide the Australian Government's actions in the cultural and creative, one of which is '*Australian stories are seen and heard, regardless of platform*.' This is a commitment to ensure Australians can connect with and have access to, Australian creative work wherever they engage with content now and into the future.

A strong Australian screen sector delivers significant economic benefits and supports a number of industries, generating jobs, attracting international investment, and bolstering the sector's capabilities. Not only does Australia's local screen production sector benefit directly from secure and guaranteed investment in Australian content, so do post-production services, distributors and exhibitors. Other industries benefit indirectly from screen production, such as tourism, hospitality, building and construction. Screen production can also stimulate economic activity in urban and regional areas where production takes place. The global interest in Australian stories opens up export opportunities and enhances our cultural influence abroad.

Continued investment in Australian content by broadcasting services promotes a stable and sustainable production sector, providing long-term employment in the sector and investment in infrastructure. Research conducted by Deloitte Access Economics found that the Australian screen sector was worth approximately $847 million and employed the equivalent of around 7,650 full-time workers in 2014-15.[24] Without intervention, the screen production sector and the thousands of people employed in related businesses and industries across Australia will continue to operate in a volatile environment. The Screen Australia Drama Report 2023-24 noted that screen production in Australia continues to be impacted by economic conditions globally. Production trends tend to reflect disruptions to distribution platforms and business models, which are underpinned by changing audience behaviour and media consolidation.

The regulation of Australian content across media platforms is inconsistent

Consistent with *Revive*, it is Government's policy that Australian audiences should be able to access high-quality Australian content no matter which service or platform they access. Contemporary audiences engage with screen content across multiple platforms, including free-to-air television, online, cable, satellite and SVODs. The 2024 Telsyte *Australian Subscription Entertainment Study* found that 80 per cent of people who watch SVODs do so on their television set (either through Smart TV applications (53 per cent) or via other devices connected to the TV, such as through set-top box (13 per cent), computers (12 per cent) or Chromecast (11 per cent).[25] SVODs are increasingly becoming the way people watch television. Australians' use of domestic and international SVODs has significantly increased since their arrival in the market, so much so that it is now the most popular way for Australians to consume screen content. The *Television & Media Survey 2023* found that the most common platforms that respondents used to watch screen content (over a seven day period) were online SVODs (65 per cent).[26]

Currently, commercial free-to-air and other subscription television broadcasters are subject to regulation that requires investment in the provision of Australian content on their platforms. It means that a viewer of a free-to-air commercial broadcaster will be likely to encounter Australian content when viewing these services because of the local content requirements placed on them. Similarly, subscription broadcasters using satellite and cable are required to dedicate 10 per cent of their drama expenditure to new Australian drama.

Unlike free-to-air commercial television and other subscription television broadcasting services, SVODs are not subject to Australian content requirements. As a result, access to and provision of Australian content is inconsistent. Some SVODs host a significant amount of Australian content, both new and old, in their catalogues. Other SVODs have little, or even no, recognisably Australian content.

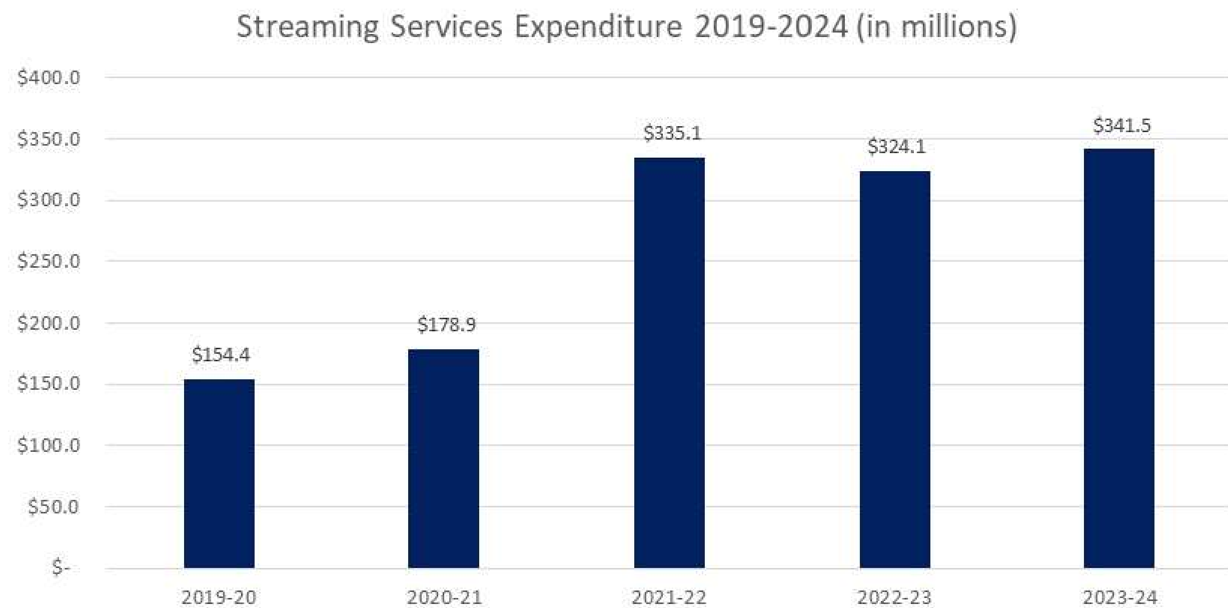
----

[23] Screen Australia, *Seeing ourselves: Reflections on diversity in Australian TV drama*, p.2.
[24] Deloitte Access Economics, *What are our stories worth? Measuring the economic and cultural value of Australia's screen sector*, 2016, p. 2.
[25] Telsyte, *Australian Subscription Entertainment Study 2024*, p.10.
[26] The 2023 Television & Media Survey – summary report, *The 2023 Television & Media Survey—summary report*, p. 20.

There is no guarantee that SVODs will produce and make Australian content available to Australian consumers

Several SVODs operating in the Australian market provide data about their investment in Australian content (in terms of spending and availability) voluntarily to the ACMA. Amazon Prime Video, Disney+, Netflix, and Stan have reported to the ACMA each financial year since 2019–20. Paramount+ commenced participation in reporting for the 2021–22 financial year. This data includes expenditure on both commissioned and acquired Australian, Australian-related, and New Zealand programs, as well as details about the amount (hours and titles) of Australian programs in their catalogues.[27]

According to data published by the ACMA, SVODs expenditure in Australia on commissioned and acquired Australian programs averaged $333.5 million a year between 2021 and 2024:[28] [29]



Some SVODs are currently investing in Australian content and see it as part of their business strategy, but globally SVODs are reducing costs (particularly on commissioning new content), increasing prices, and introducing cheaper subscription tiers that include advertising to secure profitability. Total expenditure on Australian programs has remained relatively stable in the last three years, but there is no guarantee that SVODs will produce and make Australian content available to Australian consumers without Government intervention.

Australia remains a relatively small English-language market but, unlike in some other jurisdictions, such as in Canada and the European Union, SVODs in Australia are under no obligation to contribute to the development of local stories. It is often easier and cheaper for streaming platforms operating in Australia to rely on content produced overseas, or acquire previously produced local content, rather than producing or commissioning new Australian productions. Some SVODs commission little or no Australian content. In 2023 market-leading data and analytics firm Ampere published data that showed SVODs had very little programming their catalogues that was Australian in origin:[30]

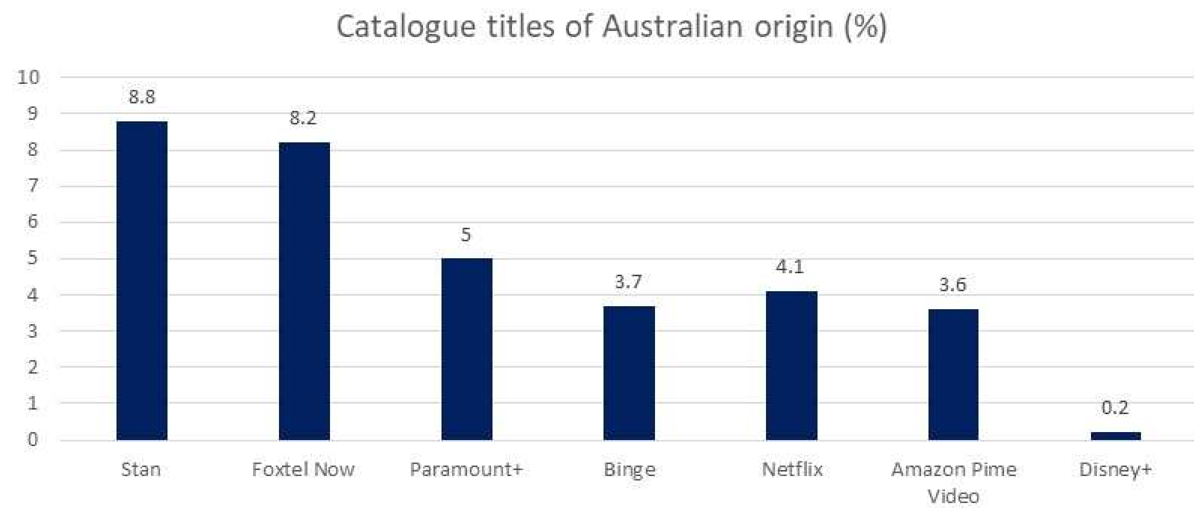
----

[27] ACMA, Spending by subscription video on demand providers, 13 December 2024, https://www.acma.gov.au/spending-subscription-video-demand-providers.

[28] As defined in section 10 of the *Broadcasting Services (Australian Content and Children's Television) Standards 2020*.

[29] The expenditure data includes an additional reporting entity from the 2021-22 financial year (Paramount+)

[30] Ampere, *How will Netflix and Disney+ fare with a content quota in Australia*, 1 February 2023, https://www.ampereanalysis.com/insight/how-will-netflix-and-disney-fare-with-a-content-quota-in-australia.



Australia is a mature market for SVODs. The growth in new subscribers has slowed, increasing by an average of 4 per cent in the year to June 2024.[31] Increased investment by SVODs in Australian content may not necessarily increase subscriber numbers. Although it appears recent market entrants are undertaking loss-leading strategies to establish themselves, there is a risk that their expenditure may drop back to levels more consistent with more established SVODs in the Australian market.

Australian content can, and does, travel well. The Australian animated series *Bluey* was the most streamed show in the United States in 2024, watched for 55.62 Billion minutes on Disney+.[32] Australian 'coming of age' television series, *Boy Swallows Universe*, hit the Netflix Weekly Top 10 in 52 countries on release, including the number one spot in Australia, the fourth spot in the UK and sixth spot in the United States.[33] However, Australian stories are at a distinct disadvantage in that they have to compete with other larger English-language markets that have a long history of cultural export. The Government has found that, global SVODs are spending far more on local content than in other non-English speaking jurisdictions or in emerging markets. As an example, Netflix has committed to commissioning €1 billion (AUD$1.7 billion) in new content in Spain between 2025 and 2028[34], and USD$2.5 billion (AUD$3.812 billion) in Korea between 2023 and 2027[35]. That equates to more expenditure over four years in each of these jurisdictions by a single SVOD than the entire reported expenditure on the commissioning and acquisition of Australian content by all SVODs in Australia since 2019.[36]

Expenditure data shows that non-regulatory, voluntary reporting has not resulted in a substantive increase in production, nor has it guaranteed consistent levels of investment in Australian content overall. A non-regulatory, voluntary approach does not have the power to shape or change outcomes and fails to guarantee ongoing investment in Australian content production. Comparable jurisdictions around the world are acting to guarantee SVODs invest in high-quality local content. Moreover, as more jurisdictions around the world implement local content requirements on major SVODs, it is possible that these services may direct their investment in new content away from Australia to comply with regulation elsewhere. This may lead to SVODs reducing investment in Australian production, causing job losses and instability in the sector, and less new Australian content being made available to Australian audiences.

----

[31] Telsyte, *Australian Subscription Entertainment Study 2024*, p.23.

[32] The Guardian, Bluey: Australian cartoon tops US streaming charts for 2024, https://www.theguardian.com/tv-and-radio/2025/jan/28/bluey-australian-cartoon-most-streamed-tv-show-us-2024-nielsen-charts

[33] ABC, Boy Swallows Universe sweeps Logies as streaming TV becomes more popular than free-to-air, https://www.abc.net.au/news/2024-08-19/logies-2024-boy-swallows-universe-streaming-free-to-air-emdur/104241962

[34] Netflix Commits to Invest Over $1.2 Billion in Spain Over 2025-28

[35] Netflix Commits to $2.5 Billion Korean Production Spend

[36] It should be noted that, while Korea and Spain have higher populations than Australia (51.7 million, 48.3 million and 26.6 million respectively), subscriber numbers are proportionally higher in Australia (8.35 million, 8.7million and 6.2 million)

2. Why is Government action needed?

Government intervention is required to make sure that SVODs will produce and make Australian content available to Australian consumers.

Regulation has historically proven to be an important mechanism to guarantee ongoing investment in Australian stories and content across media platforms. For regulated entities, it provides certainty in terms of their required investment in Australian content. For Australian production businesses and Australian screen workers, a guaranteed investment provides continuity of production, certainty of demand, with positive flow-on effects for training and employment and investment in infrastructure that supports Australia's screen industry.[37] For Australian audiences and the general public, regulation ensures that SVODS will produce and make Australian content available to Australian consumers.

Australia has world-class screen talent, however, Australia is a relatively small market for screen content, and there has been a history of government intervention to support the production of, and access to, quality Australian content for the benefit of Australians. Australian content may be seen as a higher risk commercial investment as the production costs generally have to be recouped against a small domestic market. Multinational distributors will often seek out content that will attract audiences in multiple markets.

A regulatory imbalance currently exists between content providers regulated under the BSA and those that are not, such as SVODs. Stakeholders have consistently raised the problem and petitioned the Government to act, citing an unfair burden of regulation that applies only to commercial free-to-air and subscription television broadcasting licensees. Current regulatory frameworks have not kept pace with the increasing popularity of SVODs, and public policy still relies heavily on broadcasters to produce Australian stories and make them available. Given that SVODs have become the most popular way Australians consume screen entertainment, it is reasonable that they be subject to regulation guaranteeing the provision of Australian content in line with other media platforms.

The Government is guided by the objectives and regulatory approach of the BSA in the development of regulation for SVODs. The objectives of the BSA include:

- to promote the availability to audiences throughout Australia of a diverse range of services;
- to provide a regulatory environment that will facilitate the development of an industry that is efficient, competitive and responsive to audience needs;
- to promote the development of a sense of Australian identity, character and cultural diversity; and
- to promote the provision of high quality and innovative programming.

Successive Australian governments have maintained a regulatory framework to support the production and availability of Australian content. This has traditionally focused on the provision of key genres of programming by commercial free-to-air and subscription television broadcasters. It has been complemented by direct funding measures and tax subsidies that maintain a vibrant production sector with the capacity to deliver quality drama, documentary and children's content for the benefit of the Australian public and for audiences around the world.

The BSA establishes Australian content requirements for commercial free-to-air television broadcasters and subscription television broadcasters using cable and satellite (see Table 1):

- Free-to-air commercial television broadcasters have requirements for overall levels of Australian content, along with specific requirements for the provision of culturally significant genres through the ACCTS.

----

[37] Data from the 2021 Census of Population and Housing. Employment listed under "Film and video production and post-production services". Screen Australia, Number of people working in audiovisual industries, https://www.screenaustralia.gov.au/fact-finders/people-and-businesses/employment-trends/summary

- Licensed subscription television broadcasters and subscription television broadcaster channel providers must comply with the NEDE. The NEDE scheme requires that licensees must invest at least 10 per cent of their total drama program expenditure on new Australian drama.
- The national broadcasters (ABC and SBS) are governed by their respective charters.

Additionally, the *Broadcasting Services (Australian Content in Advertising) Standard 2018* requires commercial television broadcasting licensees to ensure at least 80 per cent of total advertising time broadcast in a year between 6am and midnight is dedicated to Australian produced advertisements.

Table 1 Australian content regulation across media platforms

Platform	Australian content requirement	Details
Commercial free-to-air television broadcasters	*Broadcasting Services Act 1992* *Broadcasting Services (Australian Content and Children's Television) Standards 2020*	**BSA requirements:** *55 per cent Australian content between 6 am and midnight on primary channels;* *1,460 hours of Australian content between 6 am and midnight on non-primary channels*. **ACCTS requirements:** *Each calendar year, broadcast a sufficient number of hours of first release Australian programs in relevant genres to accrue at least 250 points. (250 points = (duration of the program in hours) x (relevant points per hour broadcast))*.
Subscription television licensees	*Broadcasting Services Act 1992* New Eligible Drama Expenditure scheme	**BSA requirements:** *10 per cent of expenditure on drama channels must be on new local drama*. Expenditure on new content can include script development, acquisitions, investment and pre-production or production.
National broadcasters	Content requirements are governed by Charter.	The **ABC Charter** includes the requirement for the ABC to broadcast programs that contribute to Australia's sense of national identity, inform and entertain, and reflect the cultural diversity of the Australian community, as well as broadcast programs of an educational nature and provide digital media services. The **SBS Charter** states that the SBS's principal function is to provide multilingual and multicultural broadcasting and digital media services that inform, educate and entertain all Australians, and in doing so, reflect Australia's multicultural society. The SBS is required to

Platform	Australian content requirement	Details
		contribute to meeting the communications needs of Australia's multicultural society, including ethnic, Aboriginal and Torres Strait Islander communities.
SVODs	No Australian content requirements	No Australian content requirements. Currently, five SVODs voluntarily report data to the ACMA each year. These are Netflix, Stan, Amazon Prime Video, Disney+ and Paramount+.

Decades of media policy and regulation have ensured that that major media platforms have commissioned Australian content for Australian audiences that may not be otherwise made. Market forces, including supply, demand, and cost considerations shape outcomes that may not be in keeping with the Government's cultural policy objectives. While production of Australian content by SVODs is currently stable, conditions may change such that Australian content production declines. Successive governments have considered media regulation necessary to guarantee a level of investment across a range of content genres available on commercial free-to-air and licensed subscription television broadcasting services. Without Government intervention, SVODs are unlikely to maintain a sufficient minimum level of investment in Australian content.

Objectives

The Government's key objectives are to ensure that Australians have access to Australian stories, wherever they choose to watch their screen content, now and into the future.

Australian stories – guarantee the production of new Australian programs on SVODs operating in Australia

An objective is for new Australian programs to be commissioned, produced and made available to Australian audiences on the SVODs to which they subscribe. The intention is to guarantee sustainable investment by SVODs in new Australian programming.

Media harmonisation– regulate like services consistently for citizens, consumers and industry

An objective is for Australians to be able to watch Australian programs, regardless of which media platform they are using; to level the regulatory playing field in recognition of the uptake of SVODs in the Australian community; and, to provide certainty to industry, citizens and consumers. This includes bringing SVODs into the Australian content regulatory framework.

Creative economy – support the production of Australian content and grow the capacity of Australia's creative industries

An objective is to grow and support the economic contribution of Australia's creative industries, particularly in the screen production sector. The intention is to encourage investment in Australian content for the benefit of the culture, society and economy, including sustainable growth in Australian jobs and skills.

Regulatory impact

Immediate impact

The introduction of an Australian screen content requirement on SVODs will have an immediate impact on Australia's screen sector. Initially, SVODs will be required to report eligibility data, and then compliance data to the ACMA every year. They may need to establish robust data collection and reporting systems to support this requirement. While the assessed impact of the additional regulatory burden is low, given most of the SVODs subject to the new regulation have been voluntarily reporting data to the ACMA since 2019-20, some may need to adjust how they compile, report, and apportion expenditure data.

Eligible SVODs will need to meet the Australian streaming requirement, which is designed to be not unreasonably burdensome. Based on 2022-23 and 2023-24 data, it is expected that most SVODs would meet the proposed minimum expenditure requirements if expenditure continued at the same level, this is because the proposed option is the minimum necessary. It is expected the requirements will be factored into production and programming decisions over the medium and long term.

Intermediate impact

Over the medium-term, and once the market adjusts to the new regulatory landscape, the requirements will shape SVODs' production and programming decisions, along with audience data. It is expected that the requirements will support the local screen production industry sector by providing a sustainable level of demand for Australian content that provides certainty for investment, training and employment decisions.

The regulator, the ACMA, will report compliance data annually to Government and the Australian public, and work with the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (the department) to monitor and report to Government on the effectiveness of the scheme. A full review of the effectiveness of the scheme, including recommendations on ways it can be improved, will be undertaken by the department after four years of its operation.

Long-term impact

In the longer term, the regulation will guarantee the provision of Australian content to domestic audiences in a variety of genres, allowing new and diverse stories to be made and shown. This will meet the Government's goals of guaranteeing the production of new Australian programs, making it easier to find Australian content on SVODs, regulating like services consistently, and fostering sustainable growth in Australia's creative industries. As more and more Australians move to watching their screen content through SVODs, this policy will ensure SVODs will produce and make Australian content available to Australian consumers over the long term.

3. What policy options are you considering?

3.1 Option 1 – Status quo

Currently, SVODs are not required to invest in the production of Australian content. As noted above, five large SVODs voluntarily report to the ACMA on the availability of and investment in Australian programming on their respective services. Amazon Prime Video, Disney+, Netflix and Stan have voluntarily reported to the ACMA on these matters each financial year since 2019-20. As a newer entrant to the market, Paramount+ commenced participation in the voluntary reporting for the 2021-22 financial year.

Under Option 1, the existing arrangements would remain in place. The existing regulatory framework for commercial and subscription broadcasters would be retained in its current form, with its sole focus on traditional media platforms, while SVODs would have no local content requirements. SVODs would continue to report voluntarily on their Australian content investment and catalogue composition, but would not be required to commission or acquire any Australian content. It would continue to be permissible for any major SVODs to remove all Australian content from their Australian service at any time and rely solely on content sourced from overseas. The ACMA would continue to monitor market developments and report on SVODs' investment in Australian and Australian-related programs, as well as the availability of Australian content in their catalogues.

As a voluntary commitment, SVODs would not have an obligation to remain within the reporting regime and could, if they chose to, withdraw from it. Similarly, other SVODs currently operating in the Australian market such as HBO Max, Binge and Apple TV+ that do not currently report data to the ACMA would not be compelled to join the reporting regime. They could, if they chose, voluntarily report their data to the ACMA.

3.2 Option 2 – introduce a percentage of expenditure model

Option 2 is a legislative requirement for SVODs to invest at least 10 per cent of their **total program expenditure** (excluding news and sport) on new Australian commissions. Total program expenditure includes programs available on a streaming platform operating in Australia that are globally commissioned or licensed or otherwise not subject to licensing payment for the Australian market (global content). This includes a voluntary revenue option for SVODs to acquit their requirements by calculating their content obligation based on 75 per cent of the expenditure requirement numerator (for example, 7.5 per cent of revenue rather than 10 per cent of expenditure), providing them with further flexibility. The requirement is designed to maintain meaningful investment in Australian content by SVODs into the future and is consistent with Australia's trade and investment law obligations.

'Global content' has been included in the requirement because it has become clear, through the targeted consultation process, that any requirement based solely on Australian drama expenditure for a streaming platform's Australian service would not guarantee Australian content is commissioned by SVODs in Australia.

Most, but not all, Australian SVODs host three types of content on their platforms. These are:

- programs that are commissioned or acquired specifically for the Australian market. These are usually made in Australia either by the streaming platform or acquired from a broadcaster or production supplier. Examples include *Heartbreak High*, *The Narrow Road to the Deep North* and *Boy Swallows Universe*;
- programs that are licensed by a streaming platform for use on its Australian service. Examples include the US series *Yellowstone* licensed by Stan for its Australian service from Paramount+; and
- programs available on a streaming platform operating in Australia that are globally commissioned or licensed or otherwise not subject to licensing payment for the Australian market. Examples include *The Mandalorian* on Disney+ and *The Crown* on Netflix. These programs are known a 'global content'.

Global content can represent a large portion of SVODs' catalogues and every SVOD in Australia must ascribe a proportionate value (or, 'transfer price') to these programs should they host such content. Under Australian tax law, this prevents multinational companies from attempting to shift their profits to low-tax jurisdictions by setting unrealistic prices for their actual commercial or financial dealings with a related party.[38]

4. What is the likely net benefit of each option?

The Australian Government is committed to the use of cost–benefit analysis (CBA) to assess policy proposals in order to encourage better decision making. A CBA involves a systematic evaluation of the impacts of a proposal, accounting for all the effects on the community and economy, not just the immediate or direct

----

[38] ATO, Transfer pricing, https://www.ato.gov.au/businesses-and-organisations/international-tax-for-business/transfer-pricing

effects, financial effects or effects on one group. It emphasises, to the extent possible, valuing the gains and losses from a proposal in monetary terms, even when full quantification of impacts is not possible, CBA can still be useful in providing a clear decision-making framework.

For this Impact Analysis a CBA was used for each of the proposed options. This is consistent with the Impact Analysis framework in which cost benefit analysis is the default method of measuring the net benefit of policy. A CBA was undertaken with a comparison of the base case (Option 1) with the reform option (Option 2). It includes analysis of the net benefits and costs of each option, the status quo of not introducing a streaming requirement (Option 1) and introducing a streaming requirement (Option 2). This is then measured against the quantitative benefits and costs of each option, including modelling of the streaming requirement and analysis of the administrative and regulatory costs of introducing the regulation.

4.1 Option 1 – Status quo

Maintaining the status quo of voluntary reporting only, would allow SVODs to operate in the Australian market without any obligation to provide or invest in Australian content now or into the future. Services could, if they choose to, continue to report expenditure and programming data voluntarily to the ACMA. Under this option, investment and programming decisions would be decided by the market and individual SVODs. Under the status quo, it is likely that Australian content expenditure would plateau or decrease over time. It is also possible that an SVOD could stop commissioning or acquiring any Australian content.

Benefits

Maintaining the status quo would mean relevant SVODs would not be subject to any future regulatory costs. It would also give SVODs the flexibility to set their level of investment in Australian content. If services chose to continue voluntary reporting, it would provide publicly available data on the reported investment in Australian content in terms of titles, genres, expenditure and program availability. Other providers that are not currently reporting annually to the ACMA could join the reporting regime and contribute their data, allowing for a more complete data set. According to expenditure data collected and published by the ACMA, recent investment in Australian programs by most SVODs has been stable, but as outlined previously, this is not guaranteed.

Costs

Maintaining the status quo would mean that entities that are currently regulated, commercial free-to-air broadcasters and other subscription broadcasters using satellite and cable, would continue to incur the cost of regulation, while SVODs would not. Costs to the screen production industry and the Australian community are difficult to quantify. For instance, a non-regulatory option such as voluntary reporting would not provide the Australian screen production industry with a guaranteed level of investment or ensure Australian subscribers have access to a minimum amount of Australian content over time.

Without demand, the sector may lack the certainty required to produce quality Australian content and long-term benefits such as productivity and innovation may be lost. Australians will not experience the cultural, social and educational benefits of the Australian content that would be produced if requirements were in place.

As noted above, the ACMA data on SVODs' expenditure on Australian and Australian-related programs shows expenditure has increased year on year from 2019-20 to 2021-22. In 2022-23, some levels of expenditure declined, including overall expenditure on Australian programs, in 2023-24 overall expenditure increased marginally but there was still declines in some genres. Additionally, when some providers first enter a market, they may invest heavily in content production to build up a bigger subscription base. This suggests that, as the market matures, expenditure is likely to decrease and plateau. Subject to market forces and production cycles, expenditure on Australian content may rise or fall between years, but there is no guarantee that investment levels will be consistent or indeed increase over the longer term. Without regulation, SVODs' expenditure is driven solely by commercial interests, and is not necessarily in line with the Government's cultural objectives or its cultural policy.

4.2 Option 2 – Percentage of total expenditure model

This option is to introduce an Australian content requirement that:

- requires SVODs to invest at least 10 per cent of their **total program expenditure** in Australia (excluding news and sport) on new Australian commissions.
- includes a voluntary revenue option for SVODs to acquit their requirements by calculating their content obligation based on 75 per cent of the expenditure requirement numerator (for example, 7.5 per cent of their Australian subscriber and advertising revenue rather than 10 per cent of Australian expenditure).
- applies to SVODs operating in Australia with over 1 million Australian subscribers;
- uses the definition of Australian content set out in the ACCTS that currently applies to free-to-air and other subscription broadcasters; and
- has a three-year carry over period for expenditure.

Benefits

Broadly, this model and mechanism has the following benefits:

- Ensures the Government delivers on the commitment in Revive to introduce requirements for Australian screen content on streaming platforms to ensure continued access to local stories and content.
- Guarantees expenditure on new Australian drama programs and therefore access to Australian stories and content.
- Australians will benefit from the cultural, social and educational benefits of the Australian content that would be produced.
- Works towards achieving media harmonisation objectives and ensuring consistency with Australia’s trade and investment law obligations.
- Accommodates SVODs’ different business models, in terms of revenue sources, subscriber growth strategies, and content offering (i.e. does not have a disproportionate impact on a SVOD with a variety of content, including sporting content, or new entrants) and is not unnecessarily burdensome. The lack of genre specific sub-quotas gives SVODs flexibility in commissioning content.
- Avoids dual regulation of related entities. Where two or more companies are in the same corporate group, the higher obligation will apply across all related companies to avoid double regulation.
- SVODs will not be subject to the obligation until they are established in the market with 1 million subscribers or more. This allows smaller SVODs and new entrants to the Australian market to build their catalogues and subscriber base before any local content requirement would come into effect.
- Additionally, new services may opt to acquit their content requirement through the revenue option while they are expanding their catalogues and may still have lower revenue.
- A statutory review four years after the reforms have been implemented will provide an opportunity for Government to evaluate the effectiveness of the program.

The obligation makes sure that streaming platforms invest in high-quality Australian programming, and that the Australian screen production sector has access to the budgets, audience reach and standards available on SVODs.

Costs

Under Option 2 SVODs will be required to invest at least 10 per cent of their total program expenditure (excluding news and sport) on new Australian commissions. By including global content in the denominator, all streaming businesses offering a service in Australia must invest in new Australian content. This means that the cost to the SVOD will be the requirement to invest 10 per cent of their total program expenditure in Australia on new Australian commissions.

A mandatory reporting scheme will require SVODs to provide accurate and robust data to the ACMA. The ACMA will need to be resourced to implement robust data reporting systems, to verify this data and provide advice to Government on compliance. Regulated services may need to employ additional staff or dedicate additional work hours to the compilation, verification and reporting of data.

4.3 Quantitative benefits of Option 1

Option 1 cannot be fully assessed for its quantitative impact or benefit to expenditure on Australian programs. As noted above, expenditure by SVODs is buoyant but there is no guarantee that they will maintain or increase their investment in Australian programs. There is currently no requirement for them to maintain any level of investment and there is nothing preventing any major SVODs from removing all Australian content from their Australian service at any time and rely solely on content sourced from overseas.

Regulatory burden of Option 1

As Option 1 is the status quo and does not introduce a streaming requirement or any new regulatory costs on SVODs, the regulatory burden on individuals, and community groups, and other businesses is therefore zero. The ACMA currently absorbs analysis of voluntary reporting from the SVODs into its functions making Option 1 cost neutral.

Administrative costs of Option 1

The SVODs could continue to voluntarily report their investment on Australian content and new entrants may be invited by the ACMA to voluntarily report. Administrative costs to voluntarily report expenditure data would then continue to be accumulated (see ‘Administrative Costs’ section and Table 3). As SVODs report to the ACMA on a voluntary basis they could also stop doing so under Option 1 and have no administrative costs.

4.4 Quantitative benefits of Option 2

Quantitative benefits can be approximated for Option 2 which applies a 10 per cent of total program expenditure obligation to eligible SVODs.

SVODs receive revenue from a variety of sources, primarily subscriptions and advertising. This budget is used to operate the business and populate its content library with either original commissions or acquisitions of licensed content. As SVODs’ business models in Australia vary and are often ancillary to a larger business, or part of a larger media or entertainment group, it is difficult to account for all of the various models of revenue generation and content expenditure.

As a result of the complexity of SVODs’ business models, the confidential nature of SVODs’ data and the variability of year-to-year expenditure, this section approximates a generalised total program expenditure obligation for each of the services likely to be regulated. The calculations assume that:

- each subscriber represents approximately $150 of annual income;
- each SVOD dedicates approximately 40 per cent of its income to content provision or programming.[39]

For example, under this model, a SVOD with 1 million subscribers would receive $150 million per year, of which approximately $60 million is spent on programming. The remaining 60 per cent of the company’s budget might cover operating expenses such as technology, marketing, overheads and labour as well as providing a profit. This will vary from company to company, and depend on the scale of operation, ownership structure, programming strategies, and so on.

----

[39] This draws on the work of analysts such as Doug Shapiro, industry publications *The Hollywood Reporter* and *Variety*, and company reports.

Using these assumptions, the expenditure requirement is estimated to require all SVODs in Australia to spend a total of between $175 million to $200 million each year on new Australian content (approximately 48 to 53 hours of content). The hours-of-content calculation is based on data from Screen Australia; the average per-hour cost of a drama series is calculated as $3.6 million, which is the average cost for Australian general subscription TV and SVOD drama in 2023-24.[40]

According to expenditure data collected by the ACMA, five SVODs operating in the Australian market spent the following amount on commissioned and co-commissioned Australian programs.

Table 2 SVODs Expenditure on Australian programs, by financial year (Source: the ACMA)

Financial year	Commissioned/ co-commissioned Expenditure	Number of programs
2023-24	$225,192,838	55
2022-23	$219,179,791	67
2021-22	$253,730,420	55
2020-21	$125,359,020	27
2019-20	$129,729,693	30

This expenditure is within the anticipated outcomes modelled under Option 2. It should be noted that expenditure may fluctuate due to variation across the market between small, medium and large SVODs. As the streaming obligation is met by expenditure on new and first-release Australian programs, this will make sure that SVODs have to invest in new Australian content to meet the obligation rather than fulfilling their obligation with acquisitions or back-catalogue Australian content. For the required expenditure to increase without further intervention, services would need to spend more on their programming for the Australian market, thereby increasing the proportion they need to spend on new Australian content.

Regulatory burden of Option 2

A regulatory costing is provided for Option 2 which seeks to introduce an expenditure requirement on large SVODs operating in the Australian market. In line with the Regulatory Burden Measurement Framework, these costs include administrative costs, compliance costs and delay costs. There are no anticipated delay costs associated with this regulation.

Costs impacting businesses or individuals outside the immediate regulatory scope, namely SVODs, cannot be assessed. A content requirement aims to provide benefits to the Australian public by making more Australian content available and to the screen production industry through additional and ongoing investment. In consultation, some stakeholders contend that an Australian content requirement may place additional pressure on the limited supply of labour and infrastructure in the Australian screen production sector and lead to inflationary pressures. However, production costs in Australia are historically increasing due to general inflationary pressures across the economy. The department does not anticipate any increase in subscription costs due to this regulation. The regulatory burden on individuals, and community groups, and other businesses is therefore negligible.

----

[40] Screen Australia, Australian General Subscription TV and SVOD Drama Activity Summary. https://www.screenaustralia.gov.au/fact-finders/production-trends/australian-tv-vod/australian-general-subscription-tv-and-svod

Administrative costs of Option 2

The Australian Government Guide to Policy Impact Analysis discusses the importance of avoiding imposing unnecessary regulatory burden on businesses, individuals and community organisations. This Impact Analysis includes an estimation of Administrative costs for Option 2. Administrative costs are costs incurred by entities primarily to demonstrate compliance with the policy (usually record keeping and reporting costs). Administrative costs include the time taken to demonstrate compliance with the policy as well as any associated travel costs. Administrative costs have been estimated by using the Office of Impact Analysis' Regulatory Burden Measurement Framework.[41]

Key assumptions

The estimated costs given in the table below assume that the following administrative tasks would be required to demonstrate compliance:

- Assessing content and determining whether it meets the requirements of the obligation;
- Recording eligible spending against annual expenditure requirements under the obligation;
- Preparing reporting material and providing required compliance information to the ACMA; and
- Training costs associated with reporting.

It is assumed that the workload outlined above could be performed by one full-time employee in each company. In accordance with advice provided in the Regulatory Burden Measurement Framework, the annual salary of an employee is calculated based on an estimated hourly rate of $85.17. Assuming a standard 37.5-hour work week and including on-costs, the annual salary for the employee would be $166,082.

At least seven SVODs are expected to be subject to the Australian content requirements. Of these seven, five currently report to the ACMA on a voluntary basis. As much of the information required to demonstrate compliance under the scheme is already being supplied by these five services voluntarily, it is assumed that their administrative compliance costs will be similar to that incurred by the two remaining services that do not voluntarily report data to the ACMA.

Total start-up costs are estimated to be 10 per cent of annual ongoing administrative costs for one year. These start-up costs are averaged over years 1–4 in Table 3 below. A 10-year average is calculated by averaging 'Years 1–4' for the initial four years of the regulation, and ongoing annual costs for years 5–10. Total sector administrative costs are provided in the table below as sum totals of the per annum administrative costs for the seven SVODs that are anticipated to fall within the scope of the regulation.

Table 3 Estimated regulatory costs for all SVODs in Australia

	Years 1 – 4 (p.a.)	Ongoing costs (p.a.)	10-year average costs (p.a.)
SVODs that voluntarily report:	$170,234	$166,082	$167,742
SVODs that do not voluntarily report:	$170,234	$166,082	$167,742
Total sector administrative costs:	$1,191,638	$1,162,574	$1,174,199

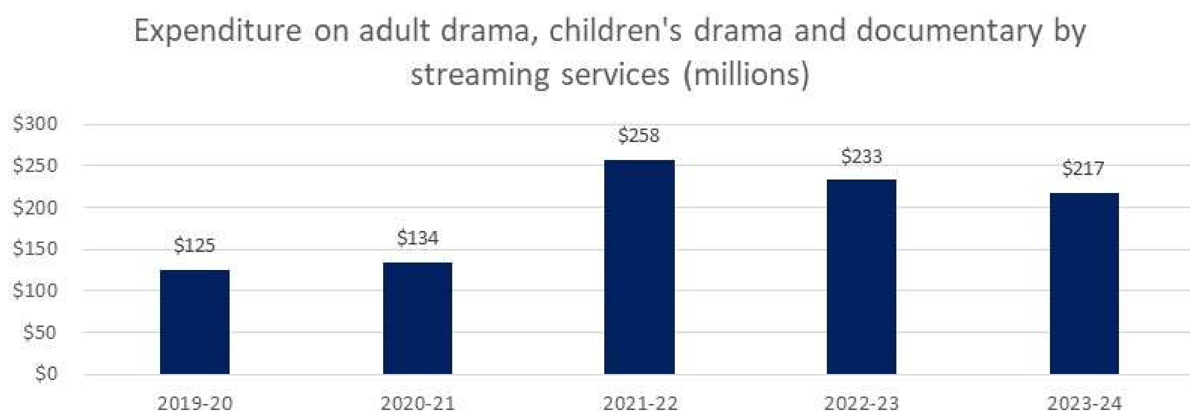
----

[41] The Office of Impact Analysis, Regulatory Burden Measurement Framework. https://oia.pmc.gov.au/sites/default/files/2024-02/regulatory-burden-measurement-framework.pdf

In the first four years of the regulation leading up to the statutory review, the estimated administrative costs to the seven affected SVODs is $1,191,638. Following the review, the ongoing administrative cost burden is calculated as $1,162,574 per year. The average over ten years is $1,174,199 per year.

Compliance costs

The primary compliance costs of this regulation relate to the expenditure required by large SVODs in the Australian market. According to expenditure data collected by the ACMA, five SVODs operating in the Australian market spent the below on Australian adult and children's drama and documentary.



The required expenditure modelled earlier, estimates the expenditure requirement to be a spend of between $175 million to $200 million each year on new Australian content (approximately 48 to 53 hours of content) this would be consistent with the current expenditure for Australian adult drama, children's and documentary programs by SVODs, which is an average of $193.4 million, accounting for the lumpy nature of production cycles. This would confirm ongoing investment for future years.

This model is expected to have a modest budgetary impact on the ACMA as the regulator. ACMA would be required to oversee and administer the framework to give effect to the regulatory streaming requirement. To ensure SVODs within scope comply with these requirements, the ACMA would need to increase its monitoring functions and initiate a new IT build for data collection and analysis. There may also be a need for additional reporting requirements which the ACMA would have to enforce. As the number of eligible SVODs could rise under this model, with new entries into the market or services that move over the 1 million subscriber threshold, so too could the number of potential compliance issues and activities. This could increase the time the ACMA spends on its enforcement functions. The ACMA would require increased resources to fulfil this function.

Risk management

The department has identified a variety of risks during consultation and the design of the streaming requirement. Through consultation some SVODs have reported expenditure on Australian content at rates that are loosely equivalent to, or exceed, the investment level that would be imposed by a 10 per cent expenditure obligation (including the Australian portion of a service's global content). There is a risk that this level of expenditure becomes a ceiling for the investment targets of SVODs subject to the obligation, rather than the minimum. Data provided to the ACMA will indicate whether this is occurring, and there will be an opportunity for the Government to assess options for mitigation during the statutory review four years after the introduction of the streaming requirement.

There is also a risk that SVODs reduce their overall total program expenditure and service offering to Australian viewers so their 10 per cent obligation for new Australian programming is lower, however, this risk is negligible. SVODs have a strong commercial incentive to ensure a diverse and high-quality program offering on their platforms to drive and sustain Australian subscribers, and this is expected to continue into the future.

The regulator and the department will also need to monitor any potential attempts by SVODs to subvert the obligation via deliberate adjustments to their business models. This risk has been increasingly underscored during targeted consultations, especially as competition between SVODs grows and the trend for Australian viewers to reduce the number of online SVODs to which they subscribe, principally due to cost of living pressures. For example, the department and the ACMA will develop measures counteracting attempts to reduce subscriber numbers through the diversification of services in the same corporate group.

5. Who did you consult and how did you incorporate their feedback?

Consultation

The department undertook a genuine, targeted, consultation process to ensure it has considered the real-world impact of the streaming requirement considered for this Impact Analysis. This included meeting with affected businesses, and organisations as well as with other Australian Government agencies to avoid creating cumulative or overlapping impacts with the proposed reform. The department recognises that consultation was particularly important as it helped to understand potential distributional impacts of the proposed streaming requirement across the sector. The department also notes effort that was required from affected businesses and organisations to participate in consultation for the streaming requirement.

Initial public feedback on Australian screen content requirements for SVODs was provided in submissions to the National Cultural Policy.[42] *Revive* required that further consultation be undertaken in the first half of 2023 on the details of actions to be taken by the Government to introduce the requirements.

Consultation specific to the streaming requirement was undertaken in 2023 with a first phase of targeted consultation in March to May 2023, and a second phase in November to December 2023. Those stakeholders considered to be directly affected by the introduction of Australian content requirements for SVODs were consulted, including the screen production sector, SVODs, free-to-air television broadcasters and subscription television broadcasters. In both consultations, a consultation paper was issued outlining options for consideration. The design of the questions within the consultation papers were informed by the department's Bureau of Communications, Arts and Regional Research and the Office of Impact Analysis. Roundtables were also held to further explore stakeholder views and positions. Following this, the Government has continued to consult extensively with industry and Government stakeholders throughout 2024 and 2025.

As agencies responsible for providing policy advice to the Government should also consult the relevant regulators and government bodies to ensure that policies can be administered in a manner that is consistent with the Government's intent, the department has consulted regularly with Screen Australia and the ACMA on models for the streaming requirement and the potential impacts of the new regulation.

Stakeholder views during and following consultation have remained largely entrenched and polarised. The screen production sector remains committed to a percentage of revenue-based model with sub-quotas for drama, documentary and children's programs. These stakeholders also advocate a narrow definition of Australian content, based on Australian creative control. SVOD providers have continually advocated for a regulatory model based on the NEDE scheme, requiring them to invest at least 10 per cent of their Australian drama expenditure on new Australian content with no sub-quotas for specific genres. Free-to-air broadcasters are most concerned about the potential inflationary impacts of the obligation on costs across the screen production sector and the resulting impact on their ability to provide Australian content to their audiences.

----

[42] Submissions, https://www.arts.gov.au/have-your-say/revive-place-every-story-story-every-place

They support a model based on the NEDE scheme using the existing Australian content definition that applies to free-to-air broadcasters and subscription television broadcasters. While a number of alternative models have been developed and proposed over the course of the two-phase consultation process, no proposed model was endorsed by all stakeholder groups.

It has become clear through the targeted consultation process that any requirement based solely on total drama expenditure for a streaming platform's Australian service and does not include 'global content' in its denominator would not guarantee Australian content is commissioned by SVODs in Australia. This, and the views of stakeholders and the analysis undertaken through the review process, informed the development of the recommended model for Australian screen content requirements on SVODs: to introduce a requirement for SVODs to invest at least 10 per cent of their total program expenditure for Australia (excluding news and sport) in new Australian screen content (Option 2).

6. What is the best option from those you have considered?

Considerations

The proposed regulation seeks to balance a variety of important considerations in achieving the Government's objectives.

Australian stories reflect a sense of Australian identity, character and cultural diversity for local audiences. There is public value in Australian screen content that speaks directly to audiences through its depiction of Australian themes, language and social values that enhance our understanding and experience of our culture. It is vital to ensure the sustained and ongoing investment in Australian stories into the future. Option 2 guarantees the continued production of new Australian programs on SVODs operating in Australia, this is beneficial to Australian society, as it helps to foster a shared sense of Australian identity and national cohesion.

Option 2 achieves a level of consistent media harmonisation across like platforms who have Australian content requirements under the BSA. Option 2 does this while balancing the need to ensure equitable treatment of SVODs with different business models, and is consistent with Australia's trade and investment law obligations. The introduction of the streaming requirement outlined in Option 2 will have a long-term benefit for Australia's creative economy particularly the screen production sector, growing capacity, stimulating investment in jobs, infrastructure, new technologies, skills and training.

If the Government does not safeguard Australian content with a legislated minimum level of expenditure as outlined in Option 2, there is a risk that it will be sidelined in favour of international content, disadvantaging our local production sector and Australian audiences. Our regulatory approach to Australian screen content needs to keep pace with the audience shift to SVODs as dominant viewing platforms, fostering a sustainable media sector by securing healthy levels of Australian content on our screens. Option 2 achieves this.

As the ACMA data indicates, SVODs are currently investing in and providing access to Australian programs. The goal of the regulation is to ensure SVODs will produce and make Australian content available to Australian consumers. This will give SVODs flexibility in their programming decisions, while guaranteeing that a proportion of their expenditure is on Australian scripted drama, children's and/or documentary content.

The proposed obligation does not deny Australian audiences' access to international content, nor does it mandate unsustainable levels of expenditure on Australian content. Rather, it ensures SVODs will produce and make Australian content available to Australian consumers in the genres central to their business models and ensures reasonable future availability of Australian content to Australian audiences.

This Australian content requirement will result in significant benefits for all stakeholders: attraction and retention of SVOD subscribers; export of Australian culture around the world; increased opportunities for the screen production industry sector and more home-grown content for Australian to watch now and into the future.

Recommended option

A regulatory model requiring SVODs to invest at least 10 per cent of their **total program expenditure** in Australia (excluding news and sport) on new Australian commissions (Option 2) is considered to be the optimal model as it:

- is consistent with the objectives of *Revive* to ensure continued access to local stories;
- ensures SVODs are contributing to the development of a sense of Australian identity, character and cultural diversity;
- guarantees an ongoing level of expenditure on Australian programs over time;
- provides certainty to the screen production sector and enables companies to invest in production facilities;
- ensures that Australian stories are produced in line with the definition of 'Australian program' under the ACCTS, harmonising with other 'like' media services;
- is consistent with Australia's trade and investment law obligations;
- satisfies the media harmonisation objective; and
- accommodates a variety of SVODs' business models.

7. How will you implement and evaluate your chosen option?

Commencement

Australian content requirements for SVODs will commence once the legislative changes to the BSA have been enacted. An implementation timeline will be developed by the department in conjunction with the introduction of legislative amendments. Officials from the department will work closely with the ACMA before and after the commencement date to implement the measure.

On commencement of the obligation, the ACMA will establish a list of SVODs operating in Australia, develop and publish guidelines to support implementation, work with eligible SVODs to inform them of their Australian content obligations and develop reporting forms. The ACMA will also develop a framework for internal reporting and reporting to Government on compliance with the obligation. To facilitate this work, the ACMA will build an IT system capable of collecting SVODs' data, allowing them to assess and record compliance and extract data and produce reports.

Compliance, reporting and enforcement

It is intended that compliance with the obligations will be enforced through:

a. Formal warnings;
b. Infringement notices;
c. Enforceable undertakings;
d. Remedial directions;
e. Injunctions; and
f. Civil penalties;

The ACMA will be empowered and resourced to collect data, monitor the effectiveness of, and enforce the measure. The ACMA will report compliance data annually to Government and the public, and work with the department to monitor and report to Government on the effectiveness of the scheme. Legislation will provide for a range of enforcement measures which the regulator will be empowered to impose if necessary, following compliance review. Data collection and reporting will provide the Australian public, policy makers and the media industry with a detailed understanding of SVODs' contribution to the Australian screen production industry and Australian cultural life.

Implementation Risks

The potential risks associated with implementation of the streaming requirement include opposition from some sectors of the industry and the complexity of implementing effective regulations in a rapidly evolving technological and business landscape. The potential for industry opposition exists, given concerns about market pressures, regulatory burdens and operational flexibility. The consequences may include resistance to compliance, affecting the success of the streaming requirement. To mitigate industry concerns, the department and the ACMA has, and will, ensure a collaborative approach, engaging in regular and transparent communication with affected businesses and organisations to address concerns constructively. The ACMA will monitor and evaluate the implementation of the streaming requirement to ensure it aligns with the objectives and gauge its effectiveness. This evaluation will be an integral part of the ACMA's monitoring and compliance activities for the streaming requirement. The proposed legislative reform includes a review that will be undertaken four years after the legislation's commencement. All compliance data collected by the ACMA before this review will be considered by the Government as part of review process. The review presents the opportunity for the Government to assess options for addressing compliance challenges or any lingering implementation issues.

Review

A full review of the effectiveness of the scheme, including recommendations on ways it can be improved, will be undertaken by the department and the ACMA after four years of the scheme's operation. The review would enable the impacts and outcomes of the reforms to be thoroughly assessed and to consider the need for any changes to scheme. This review would be informed by information gathered by the ACMA in its oversight of the scheme, as well as broad-based stakeholder and public engagement. This ability will enable the department and the ACMA to fine tune the streaming requirement and ensure the regulation is well targeted, effective and not overly burdensome.

Specifically, the review would assess the extent to which it has supported the overall objective, to ensure that Australian's have access to Australian stories, wherever they choose to watch their screen content, now and into the future.

The success of the proposal's objectives to increase investment in the production and availability of Australian content will be measured predominantly by the collection of a qualifying service's data on expenditure of new and first release Australian programs and its analysis by the regulator.

SVODs will be compelled by the streaming requirement to report their total program expenditure in Australia and other data to the ACMA. The ACMA will report this data back to the department who will also validate this against other available data sources. This will enable a greater understanding of the operation and effectiveness of the Australia content obligation.