



AUSTRALIA

Submission by Free TV Australia

National Cultural Policy

August 2022

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1. Executive Summary

- Free TV Australia appreciates the opportunity to provide a submission on the New National Cultural Policy (the **NCP**).
- The commercial TV industry is central to the Australian screen sector. Free TV members support 16,300 full-time equivalent jobs and invest \$1.5 billion annually in high-quality Australian content, more than any other platform.
- Our investment, reach and deep understanding of our audience puts us at the heart of the key pillars of the National Cultural Policy. We would welcome the opportunity to bring our perspective to bear as part of the Review Panels that will provide advice to the Minister.

Prominence of Australian free-to-air content

- Free TV members provide trusted local news, tell Australian stories, give Australians a voice and nurture local talent, all on a platform that provides a shared experience for all Australians regardless of their means or where they live.
- We submit that ensuring Australians can continue to find these services on connected TVs and related devices is the most effective policy action that could be undertaken to support investment in, and access to, Australian content.
- Free TV therefore warmly welcomes the Government's commitment to introducing a regulated prominence framework that will directly support the new NCP by ensuring that the Free TV services that Australians rely upon remain easily accessible.

Streaming Services

- Given the potential for unintended consequences, Free TV strongly recommends that an investment obligation not be introduced on SVOD services in Australia.
- In an already saturated Australian production sector, the introduction of an Australian content investment obligation or quota on SVODs would increase costs for production industry-wide. Local broadcasters would be unable to continue current production levels, compromising their sustainability, and putting at risk the engine room of the Australian production industry.
- Should an investment obligation on SVODs be introduced, the importance of co-commissions between Australian commercial broadcasters and SVODs must be recognised. These productions must continue to be shown on both platforms as 'first-run', and be counted towards the regulatory requirements of both.

Infrastructure and skills

- Investment in industry infrastructure, and training for cultural workers in the industry, will support the fourth and fifth pillars of the NCP on 'the centrality of the artist' and 'strong institutions'.
- Free TV recommends that the Government invest in skills training for screen production. In the medium- to long-term, this would relieve pressure on production, while continuing to grow the industry and provide employment opportunities.
- Our industry develops and mentors new professionals on and off the screen giving many not just their first break but a launching pad to global careers. This development and mentoring is also found in remote and regional Australia where many new graduates learn their trade.
- Our capacity to continue to employ Australians and invest in skills and innovation would also be assisted by reducing or abolishing the commercial broadcast spectrum tax that is currently far higher than the charges imposed on broadcasters in other comparable countries.

2. Introduction

2.1 The importance of commercial TV to the Australian Screen Industry

Free TV Australia is the peak industry body for Australia's commercial television broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial FTA television makes to Australia's culture and economy.



Australia's commercial broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent. A 2020 report by Deloitte Access Economics, *Everybody Gets It: The economic and social benefits of commercial television in Australia*, highlighted that in 2019, the commercial TV industry supported 16,300 full-time equivalent jobs and contributed a total of \$2.3 billion into the local economy. Further, advertising on commercial TV provided an additional \$4.4 billion worth of economic benefit.

The industry's unique contribution to Australia's shared culture and civic life cannot and should not be understated. Collectively, our members spend around \$1.5 billion every year on Australian content and broadcast more than 25,000 hours of local programming. More than 13 million Australians tune into Free TV every day to watch sports, local news and Australian content.

Free TV members are vital to telling Australian stories to Australians, across news, information and entertainment. Free to air television broadcasters understand and appreciate the cultural and social dividend that is delivered through the portrayal of the breadth and depth of Australian culture on television, and Australians prefer local stories. The 2020 Deloitte Access Economics report found that 95% of people think that losing commercial television would have an impact on society and 89% think commercial television is a valuable service. The report also found that during peak times, half of all television viewers watch together with family or friends.

The commercial television industry creates these benefits by delivering content across a wide range of genres, including news and current affairs, sport, entertainment, lifestyle and Australian drama. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

The Screen Australia Drama Report found that,

Expenditure on Australian general TV drama was up 7% on 2019/20's spend. In 2020/21, \$201 million was spent on 21 general TV drama titles that commenced production and generated 329 hours of content. These titles had total budgets of \$203 million.¹

Free TV broadcasters are battling a volatile advertising market and increasing costs of producing Australian content, while being required to continue to comply with a range of restrictive and costly regulatory obligations. This regulatory disparity was clearly articulated by the Australian Competition and Consumer Commission's Digital Platforms Inquiry Final Report.

¹ Screen Australia, Drama Report 2021 <https://www.screenaustralia.gov.au/getmedia/3a8f3011-211c-4f93-bd41-3b4767585dec/SA-DramaReport.pdf>

A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

2.2 The centrality of commercial TV to Australian audiences and culture

The provision of a free, high-quality and ubiquitous television service has been a key component of Australia's social and cultural policies for over 65 years. The experience of watching television content connects people and communities. Indeed, these are enshrined in the *Broadcasting Services Act 1992*. Relevant to the drafting of the new NCP, the key objectives of the BSA are:

- to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information;
- to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs;
- to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity;
- to promote the availability to audiences throughout Australia of television and radio programs about matters of local significance;
- to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance; and
- to ensure the maintenance and, where possible, the development of diversity, including public, community and indigenous broadcasting, in the Australian broadcasting system in the transition to digital broadcasting.

Since the dawn of television, our content has played an important role in serving Australians with news, information, sport, drama and entertainment – no matter where they live. Importantly, Free TV services are premised on being generally available to all Australians. This requires us to continually innovate and adapt to changing audience patterns to engage the broadest possible audience and connect them with all the various formats through which Australian stories can be told.

We have never wavered from our contribution to Australia's sense of identity and culture through the provision of local content, Australian stories, and coverage of local sporting events. In fact, we have enhanced our offering to the audience in recent years through significant investments in new delivery platforms, like Broadcaster Video on Demand (BVOD) to ensure that we are meeting the needs of the modern audience.

It is this reach and deep understanding of the audience that we serve that uniquely places us to contribute to the drafting of the NCP. In this submission we highlight the proactive policy steps that the Government can take to support our sector as we continue to deliver for Australian audiences. We also highlight risks of pursuing well-intentioned policies in other areas that may have the unintended consequence of threatening the continued delivery of high-quality, free Australian content through the free-to-air platform.

In addition, given the importance of a vibrant and growing commercial TV sector for the achievement of the Government's cultural objectives, it would be appropriate for the sector to be represented on the [National Cultural Policy Review Panels](#) that will provide advice to the Minister.

3. Regulation of prominence

National Cultural Policy Pillar

- Reaching the audience: ensuring our stories reach the right people at home and abroad.

Connected TVs and other devices like set-top-boxes provide access to a range of video content, streaming, video games, and internet services, as well as Free TV services like free-to-air (FTA) terrestrial channels and BVOD apps. Prominence refers to how easy it is for consumers to find these services on their TVs and other devices.

The problem is that TV manufacturers and operating system developers currently control where and when these services are displayed, directing viewers to those services that can pay the highest price for preferred placement on the home screen. Other mechanisms to divert traffic come through pre-installing apps and putting streaming-specific buttons on remote controls.

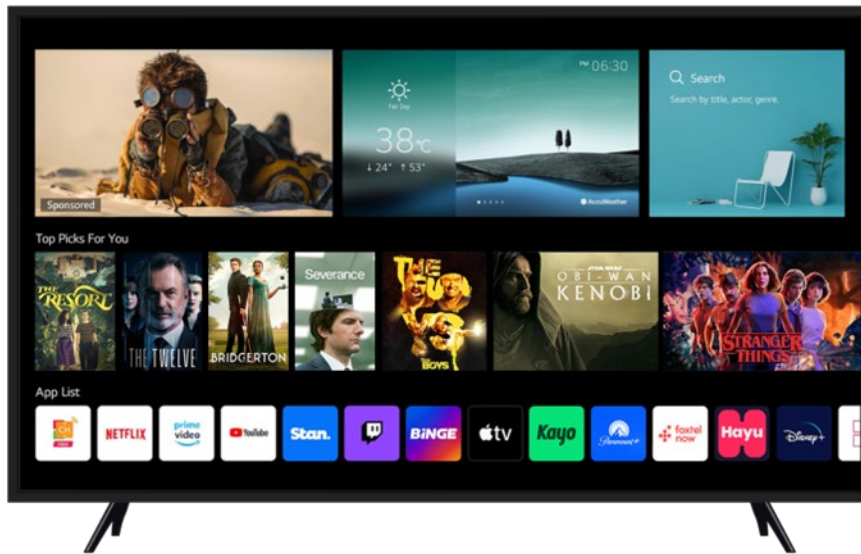
This means that locally relevant, licenced and regulated FTA services are becoming difficult for Australians to find as TV manufacturers sell prominent spots on user interfaces and reach lucrative deals with global streaming giants (see graphic on next page).

Accordingly, the most effective way of ensuring that quality Australian content is available to Australian audiences, and thereby support the cultural objectives established in section 2 above, is the regulation of prominence. Free TV warmly welcomed the incoming Labor Government's commitment on 7 May 2022 to legislate a prominence regime to ensure Australian TV services can easily be found on connected TV platforms.

Free TV proposes a prominence framework that would ensure free of charge priority placement for the FTA channels and BVOD apps of both commercial and national TV broadcasters, built on three Prominence Principles:

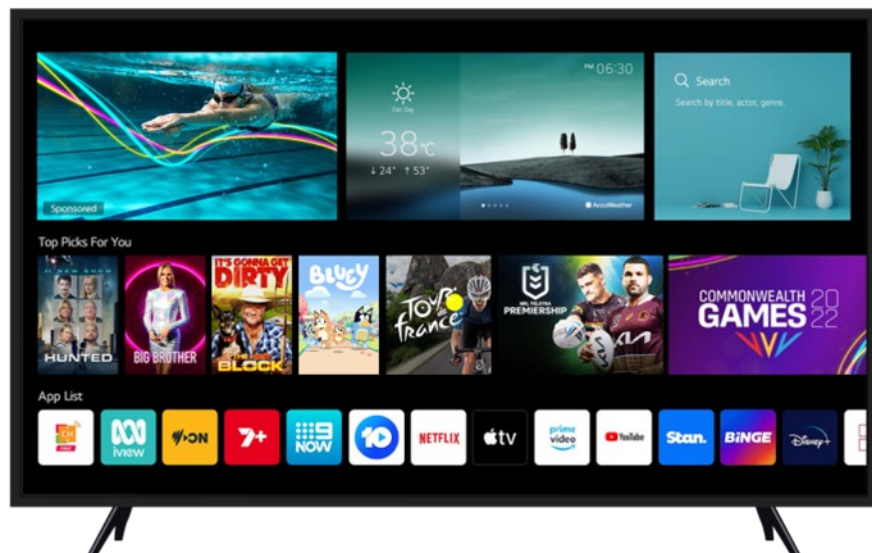
- Australians must have free, easy and universal access to terrestrial broadcast TV and BVOD services provided by FTA broadcasters
- Australians must be informed of the FTA content (both terrestrial and streamed) that is available to them on connected TVs and related devices when making a purchase decision
- As new technologies emerge, such as enhanced search and content discovery tools, Australians should maintain the same free, easy and universal access to FTA services.

Regulating a prominence framework – making it easy for Australians to find their local services



Before:
Local TV services
hard to find

After:
Local TV services
prominent on
the home screen



4. Australian content quota on streaming services

National Cultural Policy Pillar

- First Nations: recognising and respecting the crucial place of these stories at the centre of our arts and culture.
- A place for every story: reflecting the diversity of our stories and the contribution of all Australians as the creators of culture.

4.1 Current investment of streaming services

Streaming services have been reporting to the ACMA, on a voluntary basis, for the last two financial years. While this does not yet provide sufficient information on which to base policy proposals it does show that the streaming services operating in Australia already make a significant investment in Australian content. The ACMA reports that,

Collectively, the SVOD providers spent \$178.9 million on Australian programs in 2020–21, up from \$153 million the previous year. These are programs that meet minimum requirements for key creative roles, including producers, directors, writers and cast being Australian...At 30 June 2021, 2,030 Australian program titles were available to Australian audiences across these services, representing 6,019 hours of content.²

These figures give a clear indication of strong investment by SVODs in Australian content. Together with commercial and public broadcasters, more Australian content is being made than ever before³.

While public data is not available on Australian revenue for SVODs, it appears that there is no market failure and that no further regulation is required at this stage. This could be revisited in future years should trends emerge that investment levels have measurably declined. To assist in the collection of comprehensive data on the industry Free TV supports compulsory reporting of Australian content investment by streaming services with an entrenched presence and audience in the local market.

4.2 Proposed regulation would not achieve policy objectives

Minister Burke was reported in if.com.au as making the following statements on potential Australian content expenditure requirements for streaming platforms,

Speaking to IF, Burke said he was “very interested” in expanding the quota system to the streaming services and aimed to make a decision before the end of the year as part of the National Cultural Policy rollout, arguing that it came down to a “principal relationship” between the Australian viewer and the screen.”⁴

Free TV has identified some challenges with the introduction of a quota or investment obligation of this type. The Oliver & Ohlbaum Associates Ltd report, *Supporting Local Content Investment: International Policy Approaches to VOD services*, which was produced in early 2021, found that this type of policy measure would be unlikely to meet its objectives,

² <https://www.acma.gov.au/articles/2021-12/acma-publishes-subscription-video-demand-australian-content-data-2020-21>

³ For example, the Screen Australia Drama Report 2020-21 identified total Australian expenditure of \$1.914 billion, ‘...a new record spend, and nearly double last year’s, driven by Australian and foreign features’. <https://www.screenaustralia.gov.au/getmedia/3a8f3011-211c-4f93-bd41-3b4767585dec/SA-DramaReport.pdf> page 6

⁴ <https://if.com.au/i-cant-pretend-the-last-nine-years-didnt-happen-tony-burke-on-policy-progress/>

it is not clear that [a direct investment] measure would result in a significant proportion of new investment in high-quality and culturally specific Australian content. The total global audience potential will always be more important. Unless there were subrequirements or incentives on global SVOD/AVOD providers to co-produce with Australian national or commercial FTA broadcasters (given their specialism in culturally relevant content) and commission from Australian producers, this would also fail to increase access to IP in Australia, which is essential for the future growth and sustainability of the sector. Again, such an obligation (or its level) could exacerbate existing market weaknesses with cost inflation and limited production resources⁵

The public policy issue being considered is focussed on scripted content – drama, documentary, and to some extent, entertainment, but with no evidence to support why any of these particular genres require specific support from SVODs via regulation, nor any evidence that audiences are under-supplied local content via existing Free TV services.

Investment obligations or content quotas are likely to have serious unintended consequences on the Australian production industry, and on Free TV broadcasters. Those consequences are considered below.

4.3 Impact on production costs and infrastructure

Over the last twelve to eighteen months, since Free TV first set out the potential impacts of an SVOD quota, the overall increase to production costs and ongoing challenges for access to infrastructure have only intensified. Where local broadcasters have been forced to use temporary production facilities, such as conference centres, these facilities need to be modified to meet production requirements, again increasing costs for local broadcasters. These facilities are also unlikely to be available for production as the conference and events industry returns to normal.

There is no indication or evidence that the demand for Australian production crews and studios is slowing, especially as we are seeing ongoing and increasing demand for more content for streaming platforms.

In the May 2021 submission to the then-Government’s Green Paper, Free TV noted the impacts on cost and infrastructure,

- ***Significantly increased pressure on already scarce production facilities as well as other production resources such as cast and crew.*** *This issue is already causing significant difficulties, particularly due to a greater number of international projects coming to Australia because of our relative success in managing the impacts of COVID-19. For example, a number of productions have had to make use of temporary studio spaces such as convention centres and converted warehouses. This issue would be further exacerbated with the introduction of SVOD obligations. As highlighted in a report by Oliver & Ohlbaum, commissioned by Free TV together with the ABC and attached to this submission, this would risk damaging broadcasters’ ability to compete for production facilities and could put at risk important locally tailored content. Scarce facilities and resources mean that those with the deepest pockets can gain preferential access to facilities and resources. If broadcasters do not have sufficient access to facilities and resources it will significantly impact their ability to tell Australian stories, to meet existing content quota obligations, and in turn, to generate advertising revenue to support further content creation. In this way, the flow on effects of this issue could have a significant detrimental impact on broadcasters’ sustainability and the creation of local Australian stories.*

⁵ O&O, ‘Supporting Local Content Investment: International Policy Approaches to VOD Services’, page 57

- **Significant production cost inflation as a result.** *Following on from the point above, scarcity of resources and facilities will necessarily lead to increased costs. For example, a recent survey conducted by Screen Producers Australia of its members found that 95% of respondents reported production cost increases in the last year (with increased international production coming to Australia). The average increase was 24% with some costs increasing as much as 75%.*

With a proposed investment obligation or quota exacerbating an existing serious situation within the industry, opportunities for policy intervention and investment in skills and infrastructure, are explored in section 5 of this submission.

4.3.1 Potential need for regulatory relief

The Australian screen industry is already a highly-regulated environment. Commercial broadcasters are required to meet transmission quotas⁶, and first-release Australian program quotas under the *Australian Content and Children’s Television Standards 2020*.

As outlined above, the introduction of an investment obligation on SVODs will result in cost increases, and commercial broadcasters may be forced to invest in fewer productions. In turn, this may require Australian broadcasters to seek regulatory relief from Government from their own quota requirements.

It is also worth noting that all content created by SVOD services is placed behind a paywall, with Australian audiences being forced to pay to access the content, and only accessible with a high data, high speed, internet connection. With cost of living pressures front of mind for all Australians, it is imperative that the policy settings should aim to support the local Australian media industry as a priority, and preserve high quality Australian content on Free TV services.

These regulatory and cost pressures are further exacerbated by the costs imposed by the \$40 million annual commercial broadcasting spectrum tax. This tax was initially imposed in 2017 and was meant to be a 5-year interim arrangement until a review of the level of the tax could be undertaken. Despite the fact that Australian commercial broadcasters are now paying far more than in comparable countries (up to 52 times higher than in the USA), the level of the tax is yet to be reviewed. This review is now well overdue and should lead to a substantial reduction or abolition of the tax.

4.4 Impact on co-productions between SVODs and broadcasters

The opportunity for co-commissions between SVODs and commercial broadcasters is a vital element in the Australian production industry. Co-commissions reach a wide audience through the two platforms and distribution avenues. These co-commissions are included in commercial broadcasters’ Australian content hours, to meet regulatory requirements, particularly our 250 points per annum.

Australian broadcasters welcome opportunities to partner with SVOD services on co-commissions. This content is able to ‘travel’ – appealing to audiences in the Australian and international market, and having multiple distribution streams with local broadcasters responsible for Australian rights, and SVODs responsible for international rights.

An investment obligation on SVODs risks disincentivising these productions, as SVODs focus on meeting their own quota requirements. Should Government remain minded to introduce an

⁶ 55% Australian content between 6 am and midnight on primary channels; and 1,460 hours of Australian content between 6 am and midnight on non-primary channels.

investment scheme, it must recognise the unique and valuable nature of co-productions, and provide for co-commissioned production to continue to be included in the first-run Australian content hours for both the commercial broadcaster and the SVOD.

4.5 Exception needed for BVOD services

The Government's *Media Reform Green Paper*, of November 2020, stated that, in relation to proposed regulation on streaming services, that '[i]t is proposed that the obligation would not apply to an individual SVOD or BVOD owned by the holder of a broadcast licence or a subscription television licence.⁷⁷ It is vital that broadcast licence holders are not regulated twice. Commercial broadcasters, which also provide BVOD services, are already regulated across a range of areas of their operation, including local content.

The imposition of an additional reporting and/or local content investment obligation on these services would be unreasonable and unmanageable, and would not contribute towards meeting the Government's policy objectives.

⁷⁷ Media Reform Green Paper, page 32

5. Need for infrastructure and skills training

National Cultural Policy Pillars

- the centrality of the artist: supporting the artist as worker and celebrating their role as the creators of culture;
- strong institutions: providing support across the spectrum of institutions which sustain our arts and culture.

The previous NCP, *Creative Australia*, defined the importance of the cultural industries, and career pathways, in the following terms,

Whether it is through live, interactive or recorded media or whether it is through drama, documentaries, comedy, music, dance, design, visual art, writing or traditional cultural practices, society benefits when it is empowered to share stories. There is a need to nurture the most gifted and talented while providing for those who want to be involved in and take pleasure from arts and culture. For creative expression to thrive, three building blocks need to be in place:

- *career pathways to attract the best;*
- *government funding and support, which creates opportunities for visionary and ground-breaking creative works; and*
- *a strong and growing creative economy in both commercial and non-profit sectors.⁸*

As outlined in the first section, cultural workers are vital to Australia's economy and the creative industries. Free TV recommends that all levels of Government invest in skills training for film and television production. The significant increase in production, as outlined above, creates employment opportunities, for which skilled employees across the industry are required. In the medium- to long-term, this would relieve pressure on a strained local industry, while continuing to grow the industry and provide opportunities.

A survey undertaken by Screen Producers Australia (SPA), published in April 2021, found that '[o]f the 41 respondents, 80 per cent reported crewing difficulties, with two-thirds also reporting this was the most significant challenge facing their business in the short-term...[t]he roles with the highest reported shortages include 1st Ads, line producers, production accountants, art directors, camera operators, gaffers, grips, DOPs and VFX artists'⁹. SPA is reported as suggesting that '...the results highlight an opportunity for both government and screen agencies to assist in expanding training and skills development capabilities, including on-set training'¹⁰.

The skills shortage is also evident in international markets. In February this year, The Guardian reported that '...[b]ehind the scenes of the British production boom a crisis is looming: sources suggest that a shortage of as many as 40,000 workers will have arisen by 2025 – with shooting schedules already affected.'¹¹ The British Film Institute *BFI Skills Review 2022* noted similar challenges in skills and training, and made the following recommendations,

⁸ Creative Australia, page 14

⁹ <https://if.com.au/spa-survey-suggests-production-boom-is-leading-to-skill-shortages/>

¹⁰ <https://if.com.au/spa-survey-suggests-production-boom-is-leading-to-skill-shortages/>

¹¹ <https://www.theguardian.com/media/2022/feb/19/acute-skills-shortage-threatens-british-film-studios-production-boom>

- *An industry-led and localised approach to investment in training*
- *A more formalised approach to hiring, workplace management and professional development*
- *Stronger bridges into industry from education and other sectors*
- *More comprehensive careers information, profiles and pathways*
- *Better data to support policy and action.*

The City of Toronto, Canada, published the *Toronto Screen Industry Workforce Study* in March 2021. This study found that ‘...Largely as a result of the global content trends, Toronto has fielded extraordinary demand for service production, straining the city’s supply of production infrastructure and talent.’¹² While this research is city-based, so has some localised characteristics, the issues raised by the research reflect what the Australian screen industry is facing: shortage of junior workers; fewer opportunities for emerging workers to gain experience on low budget productions; shortage of experienced workers to fill supervisory/mentorship roles and over-specialization (pigeonholing) in certain genres and formats of production. The proposed initiatives to respond to these issues include: programs at a high school or college level; pathways for emerging talent to gain initial experience; incentives for producers to train emerging talent; interjurisdictional skill sharing; labour force and soundstage information sharing.

The Australian Government’s National Skills Commission publishes an annual *Skills Priority List* – the most recent version of which was published in June 2021. The *Skills Priority List*, ‘...provides a detailed view of shortages as well as the future demand for occupations across Australia...[and]...will be a key input to a range of Australian Government policy initiatives, including targeting of skilled migration, apprenticeship incentives and training funding’¹³. While screen industry roles are not yet listed here as being in shortage, they are recognised as having a ‘moderate’ level of future demand, which should prioritise them for Government initiatives. The Government may wish to consider the potential applicability to the Australian market of the initiatives outlined by the British Film Institute and the City of Toronto, amongst others.

Australian broadcasters can provide valuable opportunities for skilled emerging employees and creatives. Commercial free-to-air broadcasters employ more than 16,000 people directly and indirectly providing diverse and fulfilling careers for some of Australia’s most talented and experienced professionals in the content production process: producers, actors, presenters, writers, directors, editors, designers and production crew. Our industry has and continues to develop and mentor new professionals on and off the screen giving many not just their first break but a launching pad to global careers. This development and mentoring is also found in remote and regional Australia where many new graduates learn their trade.

Free TV also recommends that Governments identify key geographical areas for investment in infrastructure, such as studios and production facilities, to meet the growing demand. As with investment in training, this would support the ongoing sustainability of the Australian screen sector, and would provide opportunities for local Australian broadcasters, as well as international streamers and other platforms, to create additional local Australian content.

¹² <https://www.toronto.ca/wp-content/uploads/2021/06/8fca-Toronto-screen-industry-workforce-study-2021.pdf>

¹³ National Skills Commission, Skills Priority List, June 2021 <https://www.nationalskillscommission.gov.au/sites/default/files/2022-03/Skills%20Priority%20List%20Occupation%20List.pdf>