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I. EXECUTIVE SUMMARY

We commend the DCDT's responsiveness to stakeholder submissions and its publication of a revised draft paper that is improved in several respects. For example, we applaud the following policy proposals, amongst others:

- The recognition that it is not necessary to issue individual licenses to Streaming Video on Demand services (**SVOD**);
- The recognition that the business model of SVOD services does not lend itself to support catalogue quotas, and
- The removal of the arbitrary 2% turnover tax proposal, which would have had a punitive effect on crucial digital content services.

We welcome the policy aspirations of the Draft White Paper, including the objectives of creating an environment that is inviting to foreign direct investment (**FDI**), safeguarding consumers, and promoting South African culture. However, we respectfully submit that some of the proposals of the Draft White Paper run counter to the above-mentioned policy proposals as they are restrictive and no longer necessary in a digital environment characterised by an abundance of competing services and consumer control. These proposed policies risk truncating the investment momentum that South Africa has built up in recent times.

Local content spend in South Africa has been on an upward trajectory. For example, Netflix in 2022 pledged to invest over [ZAR 900 million](#) into content production in South Africa. We confirm that this commitment was not only met, but exceeded with [Netflix alone spending over ZAR 4 billion on content production in SA between 2021-2024, without being compelled by legislation to do so.](#)

This sustained growth calls into question the continued necessity for prescriptive regulatory intervention, which could actually discourage rather than compel investment. The National Association of Broadcasters (**NAB**) (a trade association comprising operators such as the MultiChoice Group, the South African Broadcasting Corporation and ETV), in its recent State of the Industry [Report](#), observed: **"Local content resonates with audiences and has led to significant investment, above and beyond regulatory requirements."** This report also found that investment in local content amounted to approximately R20.0 billion over the period 2019 to 2023. During the years 2022 to 2023, investment in local content amounted to R10.3 billion, almost double the R5.6 billion in the preceding two years (2020 and 2021).

Learnings from other jurisdictions have established the damaging consequences that forced investment schemes can have on local production ecosystems. The restrictive policy measures still contained in the current Draft White Paper (local content quota, registration regime, mandatory levy contributions, prominence/discoverability mandate and the creation of a new regulatory authority) introduce additional layers of administrative and compliance complexity that are likely



to have the effect of discouraging investors and creating inauspicious market conditions - as examples from France have shown.

The effectiveness of content quotas, levies and funds has yet to be proven. **The viability of the European Union (EU) AVMSD model, for instance, has been questioned**, with some [recent studies](#) finding that the EU quota approach has been ineffective at ensuring cultural diversity and encouraging the circulation of European Works.

South Africa's AV sector is at a stage in its evolution that requires sustained investment momentum to compete effectively in a rigorous global content market. **Research shows that production incentives and other enabling policies are more effective at stimulating local content investment and promoting cultural objectives** than applying legacy broadcasting regulation, such as content quotas and levies, to SVOD services.

While acknowledging that light-touch regulatory models are better suited for non-linear/on-demand content services, we enjoin DCDT to avoid duplication of existing administrative requirements that are already being met. For instance, **Netflix and other online content distributors are currently registered with the FPB, file various operational reports periodically, have their online content subjected to regulatory compliance assessments, and pay in excess of ZAR 2 million annually as administrative fees**. It is unclear what additional purpose the introduction of a notification/registration regime would serve.

The perceived lack of regulatory parity does not justify force-fitting legacy broadcasting regulations and financial obligations upon nascent SVOD services, when more effective mechanisms exist for stimulating local economic contributions and promoting cultural objectives. **Netflix proposes a verifiable and enforceable investment benchmark that incorporates all key aspects of South Africa's production value chains and can be applied to all players in the audiovisual sector**.

Netflix supports alleviating the regulatory burden currently borne by traditional broadcasting and linear services rather than pulling nascent SVOD services into outdated regulatory frameworks unfit for their operational models and out of sync with global best practice approaches. These frameworks might have worked for legacy content providers in the past, but they are misaligned with current realities.

The ability of SVOD services to carry on business in South Africa with ease directly promotes South African cultural identity and the proficiency of its creative sector on the global stage, in turn winning more business for the country. Policy measures should thus support ease of doing business for SVOD services rather than inadvertently eroding SA's soft power through cumbersome regulatory and operating environments.

The proposed creation of a new ombudsman for the regulation of SVOD services would amount to reinventing the wheel and could reverse the gains the industry has



made on co-regulation and self-regulation. Oversight measures should build on the solid foundation established by FPB and tried and tested initiatives that have proven to work for the advancement of the sector.

We believe close examination of and alignment with international best practices will help South Africa enact an up-to-date and fit-for-purpose framework that is not only pragmatic but will ensure that South Africa remains an attractive and competitive destination for FDI into its AV sector. Netflix is committed to supporting the DCDT's stated objectives by sharing in this paper the benefit of its experience covering 190 jurisdictions.



II. SPECIFIC COMMENTS ON SELECT ASPECTS OF THE DRAFT WHITE PAPER

These submissions do not respond to every aspect of the Draft White Paper, but address the proposals directly relevant to Netflix, as follows:

A. Local Content Quotas

Content quotas are a restrictive (rather than enabling) policy measure that often generate unintended harmful consequences: While we strongly support the creation of an enabling environment, we caution against imposing local content quotas¹ as these have been shown to result in unintended consequences. Some of these include:

- **Quantity over quality:** Quotas may force providers to license a larger volume of lower-cost local titles to meet requirements. This risks diluting the availability of high-quality South African productions. Such an outcome would undermine the objectives of the Electronic Communications Act, 36 of 2005 (the “ECA”), and could harm the global reputation of South African content as sub-par, reducing international demand.
- **Quotas do not guarantee additional content investment: Local content quotas may push service providers to limit the size of their catalogues rather than acquire more content.** To meet a percentage target, providers could reduce the number of international titles so that their existing local titles fulfil the quota. This would reduce choice and diversity, leaving South African consumers with a more limited experience compared to audiences elsewhere.
- **Ecosystem capacity constraints:** The South African market cannot realistically supply sufficient quality local content to meet a 30% quota across multiple service providers, each with tens of thousands of titles. Such a mandate would place severe strain on the industry’s capacity and lower standards overall.
- **Cost inflation:** Experience from markets such as [France](#) shows that sharp increases in content obligations can inflate production costs. As reported by [Les Echos](#), the sector is experiencing an “unprecedented investment shock,” with the hourly cost of fiction production rising by 18.1% between 2019 and 2023. Inordinate demand for local content pushes up prices artificially, making production unsustainable and potentially drying up the sector altogether.
- **Unjustified regulatory intervention:** Quotas are unnecessary for discretionary SVOD services like Netflix. Our business model depends on keeping subscribers satisfied; if the balance of local and international content is misaligned, viewers will unsubscribe. Therefore, content offerings, including proportions of local content, should be determined by consumer preferences and market demand, not unsuitable regulatory obligations.

¹ We appreciate that the DCDT has noted that not all business models are able to comply with a catalog quota.

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The proposed quotas are infeasible for the South African ecosystem: The content quota proposed in the Draft White Paper is modeled upon the EU's AVMSD framework. However, there are key differences between the EU and South Africa which make a content quota especially unsuitable for the latter:

- **The AVMSD's addressable market is more than 8 times bigger than that of South Africa:** The AVMSD scope covers a population of approximately 500 million people, including, among others, the United Kingdom (UK), Turkey and Switzerland², which is much larger than the South African population size of approximately 68 million. Based on the population of South Africa, replicating the EU approach without due consideration for local nuances cannot be justified.
- **South Africa's content supply pipeline is incomparable with the EU's: Content from 40 countries counts toward the AVMSD quota compared to South Africa, where there would be only 1 country struggling to fulfill the quota.** The AVMSD mandates that a minimum of 30% of a service provider's catalog operating in the EU be made up of European content ("**European Works**"). It is crucial to note that European Works are not limited to works from the 27 EU Member States, but also include works from countries which have ratified the European Convention on Transfrontier Television (ECTT countries), **bringing the total number of countries whose works are eligible to 40**. This broader scope of eligible content reduces the capacity constraints for producing the required volume of titles. South Africa would be severely constrained to supply 30% local content for the very same catalogue for which it takes 40 countries working together to achieve 30% in the case of the EU.
- **The effectiveness of the EU AVMSD content quota in achieving the intended outcomes is yet to be proven:** There are questions on the viability of the AVMSD quota model. [Recent studies](#) have found that the European quota approach has proven to be ineffective at ensuring cultural diversity and encouraging the circulation of European Works.

B. Local Content Levies

On the Draft White Paper's proposal to impose a levy in lieu on content services whose operational model does not support the implementation of a catalogue quota, Netflix submits that this proposal is unsuitable for the South African market at this point in its evolution. Recent international developments suggest that leading production jurisdictions are moving away from such regulatory obligations. For example:

- **United Kingdom (UK):** In April 2025, the UK Parliament's Culture, Media and Sport Committee [recommended](#) a 5% levy on streamers. However, Creative

² Countries' whose works count towards the definition of European Works include: Albania, Austria, Bosnia and Herzegovina, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Switzerland, North Macedonia, The Netherlands, Turkey, Ukraine and the United Kingdom.

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Industries Minister Sir Chris Bryant [stated](#), “We haven’t got any plans to follow other European countries in introducing a so-called streamer levy.” Culture Secretary Lisa Nandy [echoed](#) this view, emphasising the government’s intent to make the UK the most attractive investment destination in the world. In July 2025, the [government](#) formally rejected the proposed levy, [noting the economic benefits](#) streaming services such as Netflix bring to the UK production industry. The government highlighted major Netflix productions like “*Bridgerton*” which generated **£275 million (\$375.5 million)** over five years while supporting 5,000 local businesses.

- **Ireland:** Despite having legislative authority under the EU AVMSD, Ireland [opted not](#) to implement a levy on streaming services. The relevant Minister legislated a levy rate of zero, citing consumer harm, trade tensions with the United States of America (**USA**), and the limited rationale for taxing companies already producing Irish cultural content for global audiences.

We caution that regulatory mandates requiring SVOD services to contribute to film funds through levies are rare globally. Of the 190 countries where Netflix operates, only a small number, primarily in Europe, have introduced such measures. For example, among the 30 member states of the European Union and European Economic Area, only 9 have adopted levy contributions. Outside of Europe, such obligations are exceptionally uncommon.

Like content quotas, levies may also give rise to unintended consequences, as recently recognised by the government of New Zealand. Although the New Zealand Government’s media reform discussion [document](#) raises the possibility of levies on streaming services, it also highlights the associated risks, including the following:

- Triggering unintended consequences, to the detriment of the local screen industry ecosystem and consumers, **such as inflating production** costs for all participants, and
- Resulting in content providers electing to leave the market or new providers choosing not to enter the market.

In considering the necessity for levies, DCDT should avoid introducing an obligation that has the effect of a punitive tax upon entities that are already investing significantly in local content, guided by consumer demand and market forces. Accordingly:

- To the extent that a levy amount is to be calculated as a percentage, it **should be calculated as a percentage of the operator's local content acquisition budget, rather than as a percentage of its gross revenue**. Gross revenues are not reflective of content production costs and other inputs, and are as such irrelevant and inappropriate as a metric. This is currently the approach in South Africa, Australia and Namibia.³

³ In South Africa, subscription television broadcasters' local content quotas are currently calculated as a percentage of their total channel acquisition budget. (Reg. 6(1) and (2) of the ICASA Regulations on Local content, 2016). In Namibia,, subscription broadcasters are

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- Where entities are compelled to pay a levy, they must not thereafter be debarred from accessing the fund or the content produced from such levies. With production budgets increasingly constrained, artificial or administrative barriers should not prevent levy contributors from accessing the outputs supported by their investments.
- The levy percentage should be at levels that do not disincentivise participation in the South African film sector. For example, countries such as the Czech Republic and Poland impose levies of 1%. However, countries such as the UK and Ireland referenced above have declined to implement levies at all, recognizing their counterproductive impact on the objective of attracting investors into the local ecosystem.

C. Film Funds

Film funds often introduce unnecessary barriers to access, as against direct investment in productions: If the proposed content levy is intended to capitalise a film fund, it is important to recognise the risks this may create for local filmmakers. These include unnecessary barriers to participation, along with administrative and compliance burdens associated with applying for and accessing the levy funds. Other than being ill-conceived, Netflix is also concerned that the envisaged film fund may be marred by similar administrative and other challenges that have burdened the [film incentive package](#) (the **Incentive**) administered by the Department of Trade, Industry and Competition (the **DTIC**). The dysfunctional incentive scheme illustrates how film funds can be inefficiently allocated and bureaucratically organized, with processes for project selection and channeling money that can be slow and complex.

D. Recommended Alternative Policy Measures instead of the Mandatory Content Quota

To continue attracting investment from Netflix and other stakeholders (local and international), South Africa must sustain an enabling environment. With the right framework in place, the country can position itself alongside leading production hubs such as the **United Kingdom (UK)** and **South Korea**, markets that have introduced targeted policy measures to stimulate organic growth and consistently draw inward investment⁴. The South Korean approach is worth highlighting in more detail:

- **Direct government support:** While private investment has been central to South Korea's success, direct government support has also played a key role in

required to spend a percentage of their annual channel and content acquisition cost in their most recent financial year on the acquisition or development of local content, which expenditure may include expenditure in the Republic of Namibia on local content training, skills development and business development. (Reg. 27(2)(d) of the Namibia Broadcasting Code for Broadcasting Licensees, 2018.

⁴[This report](#) found that in 2021, the wider South Korea content industry accounted for \$12.4bn (KRW 16.0trn) in exports, of which over \$760m (KRW 981bn) was from movies and broadcasting.

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attracting inward investment. Since 2007, public funding has complemented private investment, with the Korean government channeling resources through the Korea Creative Content Agency ([KCCA](#)) to strengthen the broader cultural sector. KCCA operates with a budget of approximately \$470 million, part of which is used to subsidize eligible productions by up to \$2 million each. In 2023 alone, 27 productions received such support.

- **Strengthened copyright enforcement:** Key to the success of South Korean content domestically and abroad is the strong support that the Korean government has shown to combatting piracy. For instance, the government provides significant funding to organisations such as the [Copyright Overseas Promotion Association](#), who work with foreign governments to protect K-Content abroad. Piracy erodes returns on film investments; thus, sealing off such leakage preserves value in the sector and attracts greater investments.
- **Investment in talent development:** Infrastructure and skills are essential to the long-term growth of the film industry, which is why the South Korean government has made strategic investments in these areas. By strengthening talent pipelines and production facilities, South Korea has built industry-wide capacity and created positive “spillover” effects as highly skilled professionals move between projects and share expertise. This approach has helped transform the country into a highly competitive global production hub. Several examples illustrate this commitment: in 2017, the Ministry of Culture, Sports and Tourism, together with the Korea Creative Content Agency, established [Studio Cube](#) in Daejeon to support the broadcasting and video content industries. Similarly, investment in talent development has been bolstered through partnerships such as Netflix’s [sponsorship](#) of a Korean Academy of Film Arts (KAFA) program, in collaboration with the Korean Film Council ([KOFIC](#)), which funds training initiatives and creative grants for emerging content creators.

South Korea's approach aligns closely with the findings of this recent [expert report](#). This report outlines the **best practice principles for a sustainable screen industry, including production incentives, workforce capacity, infrastructure, film-friendly production environments, diversity, equity, and inclusion, sustainability, and partner engagement**.

In the circumstances, we encourage the South African government to focus on enabling policies as outlined above, including [strengthening](#) the Incentive administered by the DTIC. The Incentive has played a vital role in attracting large-budget productions and post-production work to South Africa. This has led to increased employment, enhanced the country’s profile as a global production hub, and contributed to the development of creative and technical skills. The benefits of a robust incentive scheme are well established. For example, a recent Frontier Economics study [found](#) that even a modest incentive covering less than 20% of eligible costs could increase investment in local content by 6.5%. More generous programmes yield even greater returns.



To ensure South Africa remains a competitive destination for high-value productions, it is essential to address the current challenges that have marred the administration of the DTIC Incentive. These include the following:

- Improving **transparency and predictability**, particularly in application processes; and
- Enhancing **responsiveness and communication** with stakeholders, including clarification on delays and administrative bottlenecks.

Other jurisdictions are also improving their incentive regimes to remain competitive. For example, [Denmark](#) recently announced a new production rebate scheme set to launch in 2026, with an annual budget of **€17 million**. Similarly, the UK and Ireland have also recently announced improvements to their respective incentive programmes. See announcements [here](#) and [here](#). These incentives play a key role in businesses' decisions to invest in a market.

E. An Enforceable Policy Solution to Stimulate Local Investment

If the DCDT considers market forces insufficient to stimulate investment in local content without regulatory intervention, Netflix recommends that instead of rigid quotas or levies with limited proven benefits, the DCDT should adopt a verifiable, broad-based investment benchmark that it would set in consultation with stakeholders. The benchmark could be expressed either as a fixed minimum annual investment amount or a multi-year investment target spend.

Qualifying investments could be defined to cover key aspects of the creative value chain, prioritizing areas where the most injection of capital is required. Based on our experience, some areas that support tangible and verifiable economic contributions include:

- Investment in story development, scripting, and pre-production (which can take years);
- Commissioning, co-production, and licensing of South African content;
- Procurement of South African production services for inbound international productions filmed in South Africa;
- Direct employment of South African creative, technical, and support staff;
- Investment in skills development and training programs;
- Engagement of South African SMMEs ; and
- Investment in equipment, infrastructure and physical production capacity.



F. Verification Process:

To ensure enforceability across all players in the ecosystem, a regulatory framework could be instituted to require:

- Targets should be expressed across the seven qualifying areas without mandating rigid percentages per category. Prescriptive allocations risk discouraging innovation and could unintentionally skew investment strategies away from where they are most impactful. A flexible framework, by contrast, ensures compliance while empowering services to respond dynamically to sector needs. These plans should align with sector development objectives and national priorities.
- Flexibility must be maintained in how commitments are met across qualifying areas. For example, in one year a service may focus heavily on commissioning local content, while in another the emphasis may shift to training and pipeline development. What matters is the overall fulfilment of the investment commitment, not a rigid annual balance across categories. This flexibility ensures operational autonomy while still delivering ecosystem growth.
- At year-end of the multi-year assessment period, service providers submit a **Verification Report** detailing actual investments and outcomes. Reports should be audited where appropriate, modelled on the DTIC SA Investment Conference pledge monitoring framework, used by the DTIC to track, verify, and report on investment commitments made by companies at the Investment Conference.
- The relevant oversight body would review compliance to examine the framework's efficacy and publish aggregated sector-wide data for transparency. Where mandates overlap, joint validation may be conducted. This would allow regulators to identify underperformers without penalising compliant investors.

International alignment and legislative foresight: Where investments involve multiple countries, the framework would ensure alignment with international treaties and best practices, supporting cross-border investment while remaining consistent with national objectives. While the framework can be operationalised immediately, formal compliance may ultimately require legislative amendments; for example, clarifying institutional mandates, strengthening enforcement powers, or embedding verification procedures in statute.

Instituting this broad-based investment commitment would ensure measurable contributions to South Africa's creative economy, channel resources across the full value chain, avoid quota-driven "box-ticking," and provide a clear, verifiable measure of sector contribution while maintaining flexibility for service providers to invest where they generate the greatest value.



G. Proposed Registration Requirements

Registration requirement for SVOD is rare globally: In the vast majority of the 190 countries where Netflix operates, SVOD services delivered over the Internet are not subject to prior authorisation or licensing requirements by any regulatory authority. We strongly recommend that South Africa retain this approach to ensure continued alignment with global norms and to safeguard its competitiveness as a destination for AV investment, more so as there appears to be no existing ill that a registration regime would cure. Netflix and other online content distributors are currently registered with the FPB, file various operational reports periodically, have their online content subjected to regulatory compliance assessments, and pay in excess of ZAR 2 million annually as administrative fees.

Regulatory compliance is not predicated upon the existence of a registration regime: The Draft White Paper references several international frameworks, including the UK, the EU AVMSD, and Australia, as part of its benchmarking. However, while these frameworks do impose certain regulatory requirements on SVOD services (such as content standards and advertising rules), they **do not** require any form of prior authorisation for SVOD services. The existing oversight regime for online media administered by the FPB in South Africa in itself demonstrates there is no further necessity for an ex-ante registration regime. Regulatory oversight and compliance are possible without the added complexity of pre-registration for SVOD.

Leading production jurisdictions have retained low-friction regulatory approaches for online content services: Across these jurisdictions, the regulatory approach is deliberately “*light touch*,” focusing on key areas such as the regulation of harmful content, advertising standards, and the promotion of quality content, rather than imposing operational barriers to entry. For instance, in the UK, the Office of Communications (**Ofcom**) merely requires SVOD providers to notify the regulator prior to launching their service and to report any significant changes thereafter. Similarly, in the USA, SVOD services are not subject to any form of authorisation at either the federal or state level. This approach is recommended to preserve South Africa’s momentum as a global production destination.

Registration and licensing are ill-suited for SVOD and internet-based content services: This global stance is best summarised by the United Nations Special Rapporteur on Freedom of Expression⁵, who has stated: “*Unlike the broadcasting sector, for which registration or licensing has been necessary to allow States to distribute limited frequencies, such requirements cannot be justified in the case of the Internet, as it can accommodate an unlimited number of points of entry and an essentially unlimited number of users.*” In line with this prevailing international perspective, we submit that South Africa should avoid authorisation or registration

⁵ [Report of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression.](#)



requirements for SVOD. Such measures risk creating unnecessary regulatory burdens that deter innovation and investment.

Deemed compliance for existing players under FPB oversight: Should the DCDT ultimately determine that some form of oversight is required, we would not oppose a simple notification or registration regime, as proposed in the Draft White Paper. This would be in keeping with practices in countries such as the UK and the Netherlands, where providers must only [notify](#) the relevant regulator before offering services.

Similarly, in Singapore, the Infocomm Media Development Authority (**IMDA**) uses a “class licence” framework, under which SVOD services are automatically authorised to operate, provided they comply with the applicable Code of Conduct for Over-the-Top and niche services. Likewise, in Malaysia, while online video services fall under the oversight of the Malaysian Communications and Multimedia Commission (**MCMC**), they are expressly exempt from licensing obligations, rate regulation, local content quotas, and “Made in Malaysia” content requirements.

H. Perceived Regulatory Disparity

The Draft White Paper notes that stakeholders have raised the following concerns:

- Other market players and regulators are often concerned that OTTs are not providing any revenue to the fiscus if they provide services from outside the collecting country⁶; and
- There is a perceived lack of parity between the treatment of licensees, specifically broadcasting licensees, and the treatment of OTTs.

We address each of these concerns in turn below:

- **Contributions to fiscus:** As a point of departure, we caution against the use of licence or registration fees as a tool to extract contributions to the fiscus. It is a well-established policy principle that licence fees should serve solely to defray the costs of regulation incurred by the relevant authority. We also reiterate that Netflix already contributes extensively to the South African economy. Without detracting from our submissions on the proper purpose of licence fees, we remind the DCDT that SVOD services, including Netflix, support the work of the FPB through full compliance with existing regulatory obligations. In particular, Netflix pays the FPB the prescribed annual registration fee of **R2,297,823.79**, as stipulated under the ODA.
- **Regulatory parity:** Netflix is not aware of any evidence suggesting that the growth of SVOD services has come at the expense of other service categories, such as traditional pay-TV or free-to-air broadcasters. However, should the DCDT conclude that the current legal framework results in regulatory disparity between SVOD services and other operators, we submit that this should prompt a **holistic** review of the broader regulatory landscape. Such an analysis

⁶ See paragraph 5.5.5

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- would provide an opportunity to assess which obligations imposed on traditional operators may have become outdated or disproportionate in the context of today's digital and on-demand environment. The aim **should not** be to extend legacy rules to new services, but rather to consider where regulatory alleviation may be appropriate to ensure fairness, competitiveness, and relevance. We support the NAB's [submission](#), which recommends prioritising the deregulation of existing licensed broadcasters to achieve regulatory parity, noting that current regulations no longer reflect changes in content distribution and audience viewing habits.⁷
- As the DCDT considers the most appropriate policy framework, it is important to reflect on why it is unsuitable to regulate SVOD services in a similar fashion to traditional operators. The following conditions are worth mentioning:
 - **No reliance on spectrum:** SVOD services are delivered over the Internet and do not use radio frequency spectrum, a finite public resource whose management was a key driver of past regulation.
 - **Low switching costs and high user control:** Consumers typically do not require dedicated receiving apparatus (such as set-top boxes) to access SVOD services like Netflix. They can easily switch between platforms, meaning there are no significant barriers to entry or exit. This creates a highly dynamic and competitive market.
 - **On-demand and consumer-initiated viewing:** Subscription-based SVOD services are non-linear and accessed at the viewer's discretion. The consumer determines what, when, and how to watch, which contrasts fundamentally with traditional broadcast models where content is passively received.
 - **Multi-homing behaviour:** South African consumers increasingly engage in multi-homing, subscribing to multiple AV services simultaneously. A single household may access Netflix, Disney+, and YouTube, alongside free-to-air and pay-TV offerings. This widespread behaviour undercuts the idea that any one service has undue influence or reach, a key criterion for regulation in the past.
 - In view of the above, we support the following Draft White Paper policy positions:
 - The recognition that the regulatory approach should be risk-based, proportionate, dependent on the service category, and responsive to technological developments; and
 - That the necessary level of regulation should be based on whether the content provided is linear or on-demand⁸.
 - On this issue, we find the remarks made by the International Telecommunication Union ("ITU") in its [report](#)⁹ (the "ITU Report") relevant and

⁷ See paragraph 12.5 of the NAB submission.

⁸ See paragraph 2.9.7 of the Draft White Paper.

⁹ At paragraph 9.2 of the ITU, the ITU stated the following: "*regulation could be enacted when problematic behavior or proof of harm is found, not as a general blanket rule. In fact, regulators should not overregulate new markets "just in case". Regulation should be based on evidence. For example, there are clear calls from many stakeholder groups to "control" or regulate OTTs, yet typically some proponents neither point to*

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*persuasive: “[n]ew disruptive models of service delivery should not be regulated merely because they threaten an existing model, since such innovation and competition serve consumer interest. Regulators must also be cautious about the impact of their actions on innovation and competition. While important public policy considerations need to be addressed, regulation of OTTs driven solely by the motivation of “**leveling the playing field**” between traditional and digital modes of service delivery would be detrimental to consumer interests.”*

I. The creation of a new ombudsman for the regulation of online media

Paragraph 4.13 of the Draft White Paper acknowledges that, in response to earlier versions of the document, several stakeholders raised concerns about the proposal to establish a new regulatory body. These concerns are related primarily to the potential for increased costs, administrative complexity, and unnecessary bureaucratic duplication. While noting stakeholder comments, the Draft White Paper nevertheless proposes the creation of an ombudsman for the regulation of online media, while not accounting for how the concerns raised by stakeholders will be addressed.

Unnecessary duplication: Netflix submits that the proposed mandate of the contemplated ombudsman **overlaps** significantly with the existing mandate of the FPB. For example, the Draft White Paper indicates that the ombudsman would be responsible for handling complaints related to content that is unsuitable for children, incites violence, or contains racist or otherwise harmful material.

However, the FPA already provides for this mandate. Its objects include:

- Providing consumer advice to help adults make informed choices for themselves and their children;
- Protecting children from exposure to harmful or age-inappropriate material; and
- Criminalising the use of children in, or exposure of children to, pornographic content.

From our perspective, **the functions envisaged for the ombudsman are already adequately covered by the FPA and fall within the current regulatory scope of the FPB.** As such, the creation of a new body without justification risks unnecessary duplication, regulatory fragmentation, and an additional administrative or compliance burden. This would also be contrary to the pronouncements of President Ramaphosa during the 2023 State of the Nation in which he stated that National Treasury estimated that the government could achieve a [potential](#) saving of **R27 billion** in the

any market failure nor to any evidence of consumers and citizens being unhappy with their OTT services. A claim like MNOs lose revenues – whether accurate or not – would not count as a good reason to regulate against significant consumer and citizen benefits of OTT services when tested against the above key purposes of regulation. The lesson from history is that abstract or ideologically motivated approaches are rarely a good basis for policy.”



medium term if it deals with **overlapping mandates**, closes ineffective programmes and consolidates SOEs where appropriate.

Introduction of a new regulatory body jeopardizes advancements made on co- and self-regulation: We commend the Draft White Paper for recognising the value of **co-regulation and industry bodies**. On this, we note that governments and regulators are increasingly open to self-regulatory and co-regulatory systems which put the responsibility on players to fund and implement compliance systems. South Africa has promoted such self-regulation / co-regulation in the advertising and broadcasting environment for many years with great success, for example through the robust systems administered by the FPB, Broadcasting Complaints Commission South Africa (**BCCSA**) and the Advertising Regulatory Board (the **ARB**). These systems are codified in law and were forged through cross-functional stakeholder collaboration, including regulators, operators and civil society. These systems are also leaner, more impactful, more cost effective and have quicker turn-around times than traditional regulatory options. These gains could be eroded by going back to the drawing board with the introduction of an ombudsman as envisaged in the Draft White Paper.

Netflix's recommendation: To the extent that the DCDT has identified gaps in the existing regulatory framework, **such gaps are more appropriately addressed through targeted amendments to the FPA, rather than through the creation of a new regulatory authority.**

J. Discoverability/Findability

Netflix disputes the claim that ensuring the findability or discoverability of public interest content is a necessary progression from "must-carry rules" to guarantee easy access to "valuable societal programs and services" on all platforms. Firstly, we note that the DCDT's precise definition of "public interest content" in this context remains unclear. Furthermore, discoverability regulations are particularly unwarranted for user-centric SVOD services like Netflix, where consumers have total control over their viewing selections.

Additionally, we caution that mandating findability/discovery requirements for certain content could have several adverse effects, including the following:

- **Diminished User Experience:** Our global recommendation algorithm is optimized through continuous improvements. A separate, South Africa-specific system might compromise these enhancements, reducing the quality and accuracy of recommendations, particularly for members in South Africa.
- **Reduced Engagement with artificially promoted content:** If content is forced into prominence regardless of viewer preference, it could result in lower user satisfaction with the artificially promoted content (e.g., thumbs down, abandoned viewings), which would in turn diminish the appeal of these titles, for example to audiences outside of South Africa.



- **Negative Economic Impacts:** Should regulatory local interventions lead to a decrease in user satisfaction and an increase in subscriber churn (cancellation), it would negatively affect our revenue, potentially curtailing future investments.

K. Copyright

We commend the DCDT for recognising the threats posed by piracy. We are also encouraged by the proposal of establishing an inter-ministerial committee as part of a joint effort to mitigate piracy. In succeeding phases of this process, we look forward to learning precisely what steps the DCDT intends to take to circumvent the scourge of piracy.

We encourage the DCDT to implement a site-blocking mechanism in South Africa as part of its policy response to online piracy. Such a measure would strengthen the overall investment environment, as investors are reluctant to commit resources in markets where piracy undermines fair competition and erodes potential returns. It would also protect and nurture the local creative environment, where piracy directly impairs the development of local content production, job creation, and opportunities for local talent.

Notably, this [report](#) partly attributes the success of South Korea's AV industry to the strong position the South Korean government has taken on enforcing copyright protections. The introduction of the Copyright Act in 1986 was an important first step in bringing Korea's content protection laws in line with other industrialised nations. Further strengthening of the copyright laws in the late 2000s coincided with a **five-fold increase** in Korean cultural exports between 2003 and 2010. The South Korean government has demonstrated a commitment to supporting the protection of content from illegal streaming. The Korea Communication Standards Commission (KCSC) was established around 2009, and amongst other functions included an administrative site blocking system for copyright-infringing websites. More recently, the Ministry of Culture, Science and Tourism (MCST) worked closely with a coalition of rights-holders to secure the arrest of those responsible for the streaming service, Noonoo TV.



III. CONCLUSION

Netflix commends the DCDT for taking meaningful steps to modernise South Africa's regulatory framework in line with rapid technological change. We particularly welcome the stated intention to align with international best practices, an approach that is pragmatic and essential to maintaining South Africa's attractiveness as a destination for FDI in the AV sector.

We recognise the complexity of this policy undertaking and appreciate the Draft White Paper's efforts to balance regulatory oversight with the need to encourage innovation. At the same time, we respectfully caution against introducing overly prescriptive or restrictive measures, which risk undermining investor confidence and stifling the growth of South Africa's creative economy, particularly in the current challenging economic climate.

Instead, we encourage the government to adopt a flexible, proportionate, and enabling policy framework, one that supports local talent, fosters inclusive growth, and strengthens South Africa's global competitiveness. The recent exit or downsizing of several international players, including the [BBC](#), [Acorn TV](#), [Amazon](#) Prime Video, and [Paramount](#), underscores the importance of ensuring a stable, investment-friendly environment to prevent further market contraction.

We are grateful for the opportunity to participate in this process and remain committed to sharing our global perspective, drawn from operating in over 190 countries. We stand ready to continue engaging constructively with the DCDT and all stakeholders to help build a sustainable, dynamic, and globally competitive South African AV sector.

We look forward to continued engagement with the DCDT and other stakeholders as this process unfolds.

IV. SUMMARY OF KEY RECOMMENDATIONS

Issue	DWP proposal	Netflix recommendation	Comments
Local content quotas	To consider the imposition of a maximum 30% local content quota on OTTs as they do not have any South African content obligations.	DCDT should set an annual or multi-year investment target which covers broader areas of the production value-chain rather than catalog ratios only. Service providers' performance against these benchmarks can be reviewed periodically to determine if further regulatory intervention is required	Quotas are restrictive, uncommon and unnecessary, likely to result in unintended consequences like inflation, reduced global catalogs and poor quality local content.
Mandatory levy contributions	Where it is not possible to meet the South African content quota due to nature of service, a service provider will have the option to pay a specified sum of money or minimum percentage of gross revenue into a fund which supports the creation local content	DCDT should refrain from a prescriptive levy and allow consumer demand and market forces to continue driving operators' investment in South African content (which evidence shows is on an upward trajectory). Where levies are considered, they should be construed in relation to content acquisition budgets and not gross revenues. They must also be set at a level that does not repel investor participation in the local ecosystem	Content levies introduce undue costs and administrative complexities that raise the barriers to participation in local AV sectors. Consequently, levies are being rejected by leading jurisdictions such the UK and Ireland, in recognition of the unintended effect they can have as a punitive tax especially upon committed investors.
Notification/Registration	To achieve a more level playing field, registration and notification obligations will be imposed on categories of AAVMS other than broadcasting, with an intention to use the	New registration or notification obligations should not be introduced as they are unnecessary and would only create burdensome compliance and administrative complexities. Online content services are already registered with FPB and pay	Registration/authorisation requirements for SVOD are uncommon in the majority of jurisdictions globally. In any event, such regimes are intended as light-touch oversight mechanisms and shouldn't be used to correct perceived gaps in OTTs' contributions to the fiscus

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	applicable fee regime to address the perceived gap in fiscal contributions by OTTs	millions of Rand in annual regulatory fees, so no additional purpose would be served by a novel registration regime	
New ombudsman	To establish an ombudsman for online safety and media regulation, which would also take on board some functions currently under the ambit of the FPB	The proposal to introduce a new regulatory body should be jettisoned as it conflicts with the current administration's goal to streamline SOEs and reduce overlapping mandates. It also risks disrupting the progress that the sector has made with co and self-regulation as it would essentially go back to the drawing board.	The proposed mandate of the ombudsman overlaps with the mandate of the FPB. No clear purpose has been established for the new regulatory body and indeed its intervention risks creating imbalances rather than adding benefits
Discoverability/findability	Extending findability rules to SVOD services.	DCDT should refrain from imposing a forced discoverability/findability obligation merely as a successor to must-carry rules which have served their purpose. Such obligations should only be considered when a clear need has been established	Where unnecessary, discoverability/findability obligations could distort and diminish the consumer experience with artificially promoted content. They're also unsuitable for SVOD operational models where consumer preferences control what content is viewed
Copyright	The establishment of an inter-ministerial committee or similar forum as part of the collaborative effort to combat piracy	The interministerial forum should be set up speedily, as piracy remains an urgent issue in SA. Furthermore, DCDT should in addition implement a site-blocking mechanism, to plug the ROI leakages eroding value in the sector for investors and filmmakers alike	Concrete, concerted, timely and collaborative effort is required on the part of DCDT to circumvent piracy, including through site-blocking.



V. ANNEXURES

We have annexed our previous submissions, which were responses to previous iterations of the Draft White Paper, to this submission. These submissions are marked as Annexures A and B.

We have also attached a document, marked as [Annexure C](#), that provides a detailed account of how Netflix has maintained steady economic contributions into the local creative ecosystem. This has been achieved through our substantial investments in local productions and ongoing efforts to further support the capacity of local creative professionals. Our investments clearly demonstrate our commitment to advancing government socio-economic goals and the policy objectives outlined in the Draft White Paper, which include economic growth and the promotion of South African culture.