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The Consultation on the National Cultural Policy
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The Australian Council on Children and the Media t/a Children and Media Australia (CMA) welcomes this opportunity to contribute to discussions leading to a new National Cultural Policy for Australia. This submission has been prepared by our President, Professor Elizabeth Handsley, in consultation with members of our Board.

CMA is a peak national NGO whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children. CMA membership includes the Alannah and Madeline Foundation, Collective Shout, Early Childhood Australia, the Australian Council of State Schools Organisations, the Australian Primary School Principals Association, the Association of Heads of Independent Schools Australia, the Australian Education Union, the Australian Children's Television Foundation, the Parenting Research Centre, the Council of Mothers' Union in Australia, and the South Australian Primary Principals Association.

CMA's core activities include the collection and review of research and information about the impact of media use on children's development, and advocacy for the needs and rights of children in relation to media use.

In its work, CMA is always guided by child development research and by the rights of the child. Research evidence can keep us mindful of important facts such as children's passage through different stages of development, with strengths and vulnerabilities evolving over time; and not coincidentally the *UN Convention on the Rights of the Child (UNCRC)*, too, recognises children's evolving capacities as an important principle (articles 5 and 14). The *UNCRC* is binding on the Commonwealth, and this consultation represents an opportunity to act in compliance with that obligation, so it should be seen as matter of children's rights – a 'must do', not a 'nice to do'.

For the purposes of this submission, as for the *UNCRC* itself, 'child' is taken to mean a person under the age of 18; though in context it will at times be clear that reference is being made to a particular subset of children.



Cultural policy and the rights of the child

In CMA's vision, children's safety, wellbeing and rights as users of digital and screen media are paramount. In practice, this should mean that the National Cultural Policy would prioritise these considerations. Such an approach would also be backed up by the UN Convention on the Rights of the Child (*UNCRC*), which states in article 3 that 'In all actions concerning children ... *the best interests of the child shall be a primary consideration.*' (emphasis added) As recently as 2021, the Committee on the Rights of the Child has confirmed that this applies to 'all actions regarding the provision, regulation, design, management and use of the digital environment'. ([General Comment No 25 \(2021\) on children's rights in relation to the digital environment](#), p 3) In our submission, the development of a National Cultural Policy comes under this statement, as the digital environment is key to the production and dissemination of cultural content in the modern world. Moreover, children are a key demographic as consumers of culture, as well as becoming more and more active as producers of the same.

Another key provision of the *UNCRC* for cultural policy is article 17:

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29 [see below];
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 29 relates to the matters to which children's education shall be directed, including:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

By virtue of article 17, all of this applies also to the kinds of content that the government must encourage the mass media to disseminate.

Article 13 relates to the child's freedom of expression, and 18 to the responsibilities of parents (including an obligation on States Parties to provide parents with assistance in the performance of those responsibilities). As the first is in tension with article 17's statement regarding protection of children, it appears that the reference to article 13 introduces a need for balancing of competing rights. It is otherwise with article 18; it seems to reinforce the need for governmental action, which can both protect children directly, and/or support parents in doing so.

Another highly significant provision for cultural policy is article 31, which provides:

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

It is apparent from the above that the National Cultural Policy has work to do in supporting and protecting children's rights as media users. Children have a right to certain kinds of media content, the kinds that will not be produced and disseminated spontaneously by an open market. It is incumbent on the Government to put in place policy and other settings to maximise children's chances of having access to the kinds of content described in the *UNCRC* (which for the sake of economy we will refer to as 'quality content' from now on).

CMA would also draw attention to the specific mention in article 18 of parents' right to support, incorporated by reference into article 17 in relation to children's media use. It is not enough for the National Cultural Policy to support the production of quality content for children, it must also assist parents in providing children with access to that content. Such assistance, in our submission, should include not just enhancing discoverability of the content (see further below), but providing parents with the skills and resources to maximise the beneficial impacts of such content.

CMA's award-winning movie review service, Know Before You Go (KBYG), provides a model for facilitating this kind of interaction, by providing not only age-based recommendations to guide families' choice of content but conversation-starters, so that parents can constructively discuss with children the content they have seen. Such discussions can serve to deepen children's engagement with the content, and to build their skills as critical, reflective viewers. Such an approach could usefully be extended to a range of other types of cultural output. In our experience, many parents deeply appreciate the support and guidance they receive from KBYG, because the world in which they are raising children is so different from the one in which they grew up.

Drafted in the 1980s and finalised in 1989, the *UNCRC* contains no explicit reference to modern technologies such as online services, smart phones or social media. However the Committee on the Rights of the Child in 2021 took steps to fill the gap, with the *General Comment 25 on children's rights in relation to the digital environment (GC25)*. In addition to the passage quoted above about the application of article 3, key statements in *GC25* include:

'The right to non-discrimination requires that States parties ensure that all children have equal and effective access to the digital environment in ways that are meaningful for them.' (p 2)

'The risks and opportunities associated with children's engagement in the digital environment change depending on their age and stage of development. [States parties] should be guided by those

considerations whenever they are designing measures to protect children in, or facilitate their access to, that environment.’ (p 4)

‘national policies should be aimed at providing children with the opportunity to benefit from engaging with the digital environment and ensuring their safe access to it.’ (p 5)

‘States parties should mobilize, allocate and utilize public resources to implement legislation, policies and programmes to fully realize children’s rights in the digital environment and to improve digital inclusion’ (p 5)

‘States parties ... should facilitate educational programmes for children, parents and caregivers, the general public and policymakers to enhance their knowledge of children’s rights in relation to the opportunities and risks associated with digital products and services. Such programmes should include information on how children can benefit from digital products and services’ (p 6)

‘Businesses should respect children’s rights and prevent and remedy abuse of their rights in relation to the digital environment. States parties have the obligation to ensure that businesses meet those responsibilities.’ (p 6)

‘States parties should support educational and cultural institutions, such as archives, libraries and museums, in enabling access for children to diverse digital and interactive learning resources, including indigenous resources, and resources in the languages that children understand. ... They should also support the creation and dissemination of diverse digital educational resources of good quality in the languages that children understand and ensure that existing inequalities are not exacerbated, such as those experienced by girls.’ (p 17)

‘Digital forms of culture, recreation and play should support and benefit children and reflect and promote children’s differing identities, in particular their cultural identities, languages and heritage. They can facilitate children’s social skills, learning, expression, creative activities, such as music and art, and sense of belonging and a shared culture. Participation in cultural life online contributes to creativity, identity, social cohesiveness and cultural diversity.’ (p 18)

In CMA’s submission, all of the references to ‘the digital environment’ in the above quotations can be extended to culture and content more generally; and in any case, so much culture is delivered by digital means in modern times, the two can be used virtually interchangeably.

We draw attention particularly to the second statement, regarding children’s stages of development. All of our suggestions in this submission should be read in light of this insight: it is not enough to provide for ‘children’ as an amorphous group, but rather there should be content and other cultural experiences appropriate to subgroups such as early childhood, middle childhood and early and late adolescence. For reasons explained later in this submission, provision for ‘children’ generally tends to end up catering to the highest age in the range specified. Therefore the younger the child, the greater the need for specific provision.

The following sections relate the above to the five pillars in the Consultation Paper.

Pillar 1: First Nations First

The needs and interests of Indigenous children are explicitly mentioned in the *UNCRC*, specifically article 17(d) and 29(d). CMA trusts that Indigenous organisations will provide strongly-informed input on these matters, and that such input will be given close consideration.

Pillar 2: A Place for Every Story

This pillar refers to ‘diverse forms of cultural expression and participation’ and ‘supporting inclusion’. In CMA’s submission, children should be recognised as a distinct group in any diversity matrix, along with (for example) people with disability, culturally and linguistically diverse people and First Nations people.

Children have a well-recognised disadvantage as an audience for culture, for a range of reasons. First, it is of the nature of childhood that it is a transient state – so nobody remains a member of that group for long enough to develop the kinds of self-advocacy skills that other groups benefit from. Of course, there are individuals and organisations who aim to provide a voice for children (ourselves included), and there have been strong moves towards incorporating children’s voices in debates and decision-making. However this is not quite the same as having individuals in the group dedicating decades to their own cause.

Second, children, especially younger children, are not at a developmental stage where they have the capacity even to identify their own interests accurately, let alone advocate for them. This is well-recognised in law and policy, including the *UNCRC* itself (see the statement in the Preamble that ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection’ and references to the ‘evolving capacities’ of the child in articles 5 and 14).

And third, much media content is delivered on a commercial basis, where the provider either seeks advertising revenue or monetises audience members’ data. In the former case, children are unlikely ever to be treated as a priority audience, considering they command limited financial resources and are therefore of little interest to advertisers. Some advertising seeks to establish ‘brand loyalty’ – the child is not expected to buy the product now, rather familiarity is expected to work in the brand’s favour in future years – but this is a troubling approach that fails to respect the principle of open childhood. That is, attempts to indoctrinate children on such matters are ethically questionable.

In the latter case, there is widespread – and well-founded – public concern about children’s data privacy that will culminate soon in the introduction of a Children’s Online Privacy Code. CMA welcomes this development, but the Code will not change the fact of children’s basic marginalisation and vulnerability as an audience, or the desirability of protecting their interests in all policies, including this one. Such platforms should not be seen as a major vehicle for advancing children’s rights in relation to culture.

All of this is to say that the rights and needs of the child audience should be expressly acknowledged in the National Cultural Policy, and there should be dedicated attention paid to protecting those rights and meeting those needs. The *UNCRC*, discussed above, would be the obvious place to start in determining what that should look like. Articles 17, 29 and 31 are well-drafted to facilitate transformation into policy statements, and laws where necessary (noting that the Commonwealth has the power, under s 51(xxix) of the Constitution, to implement its international obligations domestically with legislation). And once again, any such policies or laws, by virtue of article 18, should take into account parents’ needs, for example for ways of limiting their children’s exposure to advertising (especially for unhealthy products).

A third model, that of paid subscriptions to a content-delivery service, has some potential to sidestep the issues outlined above in relation to advertising- and data monetisation-based models. However, that potential is already being undermined, with cut-price advertising-supported versions available on some services. This serves, among other things, to remind us that subscriptions

themselves can be a strain on some household budgets. Therefore, as a matter of equity, they are not a complete solution. Moreover, the simple existence of an advertising-free service, where the viewer is also the customer, is not sufficient to protect the rights of children. First, quality children's content might not be provided at all, and second, even if it is, it is not necessarily easy to find. In fact, services are known to group content as 'children's' or 'family' viewing when it does not meet any of the criteria in article 29, and/or it has been judged unsuitable for children according to our classification system. Such practices not only let families down, they actively mislead parents as to child-appropriateness. The National Cultural Policy has an opportunity to alleviate this problem, by (1) stimulating production and dissemination of quality content, and (2) mandating that subscription services label such content clearly and enhance its discoverability. Such measures should go some way towards evening out the power imbalance between the large multinationals controlling the subscription services and individual families.

The fourth and final model is the one that a National Cultural Policy should be most concerned to support and protect, that is, the provision of quality content on platforms controlled by publicly-funded national broadcasters. Here there should be no issues with advertising, data collection or equity. The measures mentioned above (stimulus for production and dissemination, and enhancement of discoverability) can be employed here as well, probably to even greater effect, as a means of supporting the inclusion of children as a diversity group.

We note, as an aside, that the above suggestions would be greatly assisted by a National Classification Scheme that could identify quality content for children of different ages, across all platforms. Unfortunately we do not have such a Scheme and, given the current proposals being considered elsewhere in the Government, we are unlikely to get one any time soon. We note further, and with regret, the lost possibilities for building on the broadcast quotas under the Children's Television Standards, which were abolished under the previous government. These represented at least a start towards recognising and attending to the distinct needs of the child audience. Any steps to reintroduce such measures would be warmly welcomed by CMA (especially if they came with discoverability requirements).

Pillar 3: Centrality of the Artist

CMA was pleased to see this pillar's reference to 'the role of arts education, creative skills and lifelong learning' in the cultural life of this country. This points up the potential for the overall cultural landscape in which children grow up to foster their development not just as culturally-aware citizens, but as cultural producers. Put simply, if we want the adults of the future to be brilliant artists, writers, performers, designers and directors, we should be maximising the exposure of today's children to quality examples of those crafts – not just some children, whose parents can afford to provide special experiences, but all Australian children.

It is worth pointing out that education doesn't go on only in the classroom, it goes on every time a child accesses a screen. That is, children learn from every experience they have – good, bad or indifferent. It is the business of the National Cultural Policy to enrich the cultural life of every child, not just in order to support the rights and wellbeing of every child (which would be reason enough), but in the expectation that exposure to quality content now will yield cultural dividends in the future.

On this basis we submit that under Pillar 3 the National Cultural Policy should contain measures to enhance children's access not just to formal arts education – though that would be a welcome thing – but to quality cultural output in a variety of contexts, including and especially on screens.

Pillar 4: Strong Cultural Infrastructure

This pillar asks for input on ‘how Australia’s cultural infrastructure can remain resilient, adaptable and fit-for-purpose’. For reasons explained above, the infrastructure that is of most importance to the child audience is the national broadcasters, especially the ad-free ABC. It is crucial that the national broadcasters be given resources and a clear mandate to produce quality children’s content and disseminate it on a variety of platforms. In CMA’s view, this requires a provision in the national broadcasters’ charter about their significant obligations in relation to children’s content, as to both quantity and quality, as well as a commitment to dedicated funding support for the production and acquisition of such content.

Pillar 5: Engaging the Audience

CMA submits that ‘cultural policy can respond to changing audience behaviours, discovery pathways and modes of engagement’ by taking strong steps in relation to discoverability. Gone are the days when parents could consult a TV guide and know the times and places where all child-appropriate content will be available. The amount and diversity of content available by modern means, such as streaming platforms and the internet, are bewildering, and a new paradigm is needed.

As suggested earlier, the National Cultural Policy should be set to pave the way for enforceable requirements on content providers, not just that they make quality children’s content available, but that they put systems in place to make such content easy to find. (We pause here to acknowledge that there is also a need to help families to avoid age-inappropriate content, but in our view these things are two sides of the same coin: children have a right to use technology in ways that enhance their rights and experience, so avoiding inappropriate content is only part of the story. In fact, the more appropriate content is provided, the easier it is to avoid inappropriate, as the provision of alternatives is a key tool for parents to avoid all sorts of negative experiences in their children’s lives.)

We would not presume to indicate, at this stage, what such systems should look like; presumably that would be a matter for further consultation and reflection. However we could also suggest that obligations be placed on the manufacturers of smart TVs, as we believe they are the owners of the algorithms determining which programmes are promoted on the device’s landing screen.

Cultural policy and Australian content

The definition of ‘quality content’ taken from the *UNCRC* and *GC25* does not necessarily require it to be Australian, but we take it that such content will be largely locally produced. As noted previously, one of the matters referred to in article 29, to which education (and beneficial media content) should be directed, is ‘The development of respect for the child’s ... cultural identity, language and values [and] for the national values of the country in which the child is living’; this is sufficient to show that locally-produced content is key. Moreover, the Consultation Paper itself points to relevant considerations, which CMA would endorse particularly from a children’s perspective: the role arts and culture play in our sense of belonging; the importance of growing our own arts workers; and the role of cultural policy in helping Australians to see ourselves more clearly.

For all of these reasons, Australian content must be front and centre of the National Cultural Policy.

Conclusion

CMA would welcome to opportunity to participate further in this discussion. For further details you are welcome to contact [REDACTED]

*****END OF SUBMISSION*****