Prominence framework for connected TV devices Consultation.

Submission by the Australian Communications Consumer Action Network to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA)

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Online Safety, Media and Platforms Division

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
Canberra ACT 2601

Via email: media.reform@communications.gov.au

About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards communications services that are trusted, inclusive and available for all.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

Contact

PO Box A1158,
Sydney South NSW, 1235
Email: info@accan.org.au
Phone: (02) 9288 4000
Contact us through the National Relay Service

Introduction

The Australian Communications Action Network (ACCAN) thanks the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) for the opportunity to provide comment on the Prominence framework for connected TV devices Proposals Paper.[1]

As a member of the Government's Future of Broadcasting working group, ACCAN has a keen interest in ensuring that the voices and interests of Australian consumers are heard and considered in any changes to our television and broadcasting landscape. In consultation with our members along with the consumer feedback obtained from our independent Omnibus research, it is clear that for many Australians local television services continue to play an important role in providing news, information and entertainment; all contributing to our sense of national identity and cultural life. [2]

As we have noted in previous consultations and submissions ACCAN is aware that the current-day legislative and regulatory instruments are struggling to keep abreast of the changing media environment.[3] As such, ACCAN is supportive of the Government's commitment to ensure local TV services are easy for Australian audiences to find and utilise on connected TV devices.

Additionally, ACCAN has previously raised its concern that any changes to Australia's broadcast landscape must include mandated requirements for the inclusion of disability access features for television services, irrespective of delivery platform.[4] This includes captioning, audio description and Auslan interpretation.

Without these accessibility features the Government's policy intent of ensuring that all Australians can benefit from Australian television and Australian content will not be achieved.

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[1] Australian Government, 2022*, Prominence Framework for Connected Television Devices Proposals Paper,* https://www.infrastructure.gov.au/have-your-say/prominence-framework-connected-television-devices-proposals-paper

[2] ACCAN, 2022, *Consumer Check-in: Expectations in 2022,* https://accan.org.au/accans work/research/2003-consumer-expectations-2022; ACCAN, 2021, *Media Reform Green Paper – Modernising Television Regulation in Australia,* https://accan.org.au/media-centre/hot-issues-blog/1849-media-reform-green-paper-modernising-television-regulation-in-australia

[3] ACCAN, 2021, *Media Reform Green Paper submission*, https://accan.org.au/our-work/submissions/1854-media-reform-green-paper

[4] ACCAN, 2020, *Supporting Australian stories on our screens*, https://accan.org.au/accans-work/submissions/1767-supporting-australian-stories-on-our-screens

Response

In this submission ACCAN will provide comment on those proposal questions which directly relate to ensuring that local television services are prominently displayed and usable to all Australian households with connected televisions.

Framework Scope – local TV services

Proposal 5.2: linear FTA broadcasts and BVOD applications.

Under this proposal, the framework would apply prominence requirements in relation to the linear TV broadcasts of FTA broadcasters (as per proposal 5.1) and the BVOD applications of FTA broadcasters.

ACCAN supports Proposal 5.2: linear FTA broadcasts and BVOD applications.

ACCAN is of the view that this proposal to mandate both local television linear services and related broadcast video on demand services to be prominently displayed on connected television devices will provide Australian television viewers with the easiest way to find and enjoy local television. There are multiple recent research reports indicating that the majority of Australians frequently access linear free-to-air and BVOD services.[5] As such, by adopting this proposal in a legislated Prominence Framework, both consumer expectations and public policy objectives will be met.

Framework scope – regulated TV devices

Proposal 6.2: A primary use approach

Under this proposal, the prominence framework would apply to 'TV devices' (as defined in proposal 6.1), but would overlay this with a 'primary use' criterion: the primary use of the device must be to facilitate television viewing by Australian audiences. The overlay would be intended to avoid capturing within the framework devices where television viewing is not a primary feature of the way the device is used by Australian consumers (internet-enabled washing machines, cars, home security systems, among others), or is ancillary or secondary to the use of the device.

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[5] ACCAN, 2022, *Consumer Check-in: Expectations in 2022*, https://accan.org.au/accans-work/research/2003-consumer-expectations-2022; ACMA, 2022, *Communications and media in Australia: How we watch and listen to content*, https://www.acma.gov.au/publications/2023-02/report/communications-and-media-australia-how-we-watch-and-listen-content; Lobato, R., Scarlata, A. and Schivinski, B., 2023, *Smart TVs and local content prominence,* submission to the Prominence Framework for Connected TV Devices Proposals Paper, RMIT University/ADM+S;

ACCAN supports Proposal 6.2 as the most appropriate delegation of which devices should be regulated in a legislated Prominence Framework. However, ACCAN recommends that in addition to the test of 'primary purpose'', adding a consideration of devices which are commonly used to view local television services would improve this proposal. Thus, limiting legislation to those connected devices with a 'primary use' and a 'commonly used' principle will provide clarity for consumers about which type of device will provide ease of use to access both linear and BVOD local television services. This categorisation of regulated devices will additionally simplify the implementation of a Prominence Framework.

Framework models

Proposal 8.3: a must-carry (access) framework.

Under this proposal, regulated TV devices would be required to carry (make available) local TV services, with no fees, payments or other consideration payable by the provider of the local TV service to the entity responsible for the device for this basic level of access.

ACCAN supports Proposal 8.3: Must Carry Framework. ACCAN asserts that this proposal will provide Australian connected television consumers the maximum benefit in accessing free-to-air linear and broadcast video on demand (BVOD). In order to meet both the Australian communities expectations and needs as well as the Government's policy intent, ACCAN recommends that the following proposed minimum access requirements be mandated in the adoption of this proposal;

1. Local TV service applications must be located on, and available from, the primary user interface of the device, and visible from the start-up of the device, unless that placement is altered by the user;
2. Access to local TV service applications would be via a single 'local TV service' tile, or multiple tiles, provided that the access point was located on the device's primary user interface and remained visible from device start-up;
3. Local TV service applications must be available from any relevant app store or library that is available on the regulated TV device; and
4. For devices with an RF tuner (i.e. a device capable of receiving and decoding live TV broadcasts):
   > a) linear TV functionality (including channel selection and any electronic program guide) must be accessible from the primary user interface and from the remote control for the device (or any other mechanism that may be used navigate or control the device); and
   > b) any EPG must include all linear TV broadcast offerings from local TV services and present those offerings using the logical channel number sequence (with the exception of cable and satellite set-top boxes).

The Proposal's inclusion of a requirement to disclose 'paid' placement of apps or content that does not impede on the aforementioned minimum access requirements, will provide greater clarity for consumers in understanding how additional applications and content are being prioritised.

ACCAN is available to discuss any of our comments if requested.

Dr Wayne Hawkins
Director of Inclusion ACCAN