

# Prominence Submission - Boberry Fudgeham

I make the following submission to the Prominence Framework for Connected Television Devices – Proposals Paper in my capacity as a private citizen and avid consumer of audiovisual content.

Firstly, while recognising that some government regulation in such areas is often required, I fundamentally disagree with the need for any prominence regulation as described in this proposal paper.

By your own admission, the way that consumers are accessing content has changed. In quoting Deloitte's Media Consumer Survey 2021, you have ascertained that consumers have gradually been shifting away from broadcast tv in favour of online and on-demand streaming platforms. Additionally, you have referenced data from Roy Morgan showing that the percentage of Australians accessing BVOD and SVOD services is increasing year-on-year.

For this reason, any legislation that imposes a requirement that broadcast TV services be the primary or default interface for TV devices should be abandoned. This is fundamentally anti-consumer.

As described in this proposals paper, the desired outcome appears to be a protectionist framework for a dying industry at the expense of the user experience.

Put simply, broadcast television offers a subpar viewing experience. Most streaming services provide content in 4K, while broadcast television is likely still many years (and billions of dollars) away from achieving this. By then, it is likely that the streaming industry is providing content in higher resolutions, furthering the divide between broadcast and streaming, and ensuring more people have switched over.

This feels like the TV industry equivalent of the news media bargaining code, which forced the digital platforms to pay money to legacy media organisation that had failed to adapt to the internet age. The success of this code is debatable.

The ACCC's digital platforms inquiry, which recommended the flawed bargaining code, also recommended pursuing a harmonised media regulatory framework.

- Recommendation 6: A new platform-neutral regulatory framework to ensure effective and consistent regulatory oversight of all entities involved in content production or delivery in Australia, including media businesses, publishers, broadcasters and digital platforms. This would create a level playing field that promotes competition in Australian media and advertising markets. The framework should reflect the evolving media landscape and be underpinned by a sound policy rationale based on the functions or impact of the regulated entities.

There is much greater merit in implementing such a harmonised framework. Crucially, though, the proposed prominence framework falls short against this recommendation.

The Government should instead focus on the issue of making sure that Australians can access local news and entertainment content. This should be achieved through pursuing a harmonised media framework which imposes similar content requirements and consumer protections on streaming services. Such a framework would protect the availability of Australian stories while promoting greater competition between all content providers, regardless of the way it is distributed. A licensing regime for streaming services would be a good place to start.

Further, the broadcast networks should be encouraged to increasingly pursue their streaming platforms over the broadcast medium. This could include changes to the current content quotas to allow for a platform neutral approach whereby Channel 7, for example, could satisfy the quotas by either broadcasting or streaming the content.

Unfortunately, I acknowledge that the prominence issue is a political decision taken by the current Government during the most recent Federal election, and as such is not likely to be reversed. Therefore, I offer the following proposal in an effort to help steer the dictated policy in a more appropriate direction.

- Prominence through mandated advertisement of streaming services from the ABC, SBS, and the BVOD services of the licensed commercial and community broadcasters. This could be achieved in two ways: a requirement to show a list of these apps during the set-up process for new devices, and a mandated prominent spot to access the services for download in the TV devices' app store. A similar arrangement for prominence during the set-up process was implemented by Russia for smartphones in 2021.