



24 February 2023

## Prominence framework for connected TV devices - Proposals paper

Google welcomes the opportunity to provide comments in relation to the prominence framework for connected TV devices Proposals paper.

### Android TV, Google TV and Chromecast

Google offers three types of products built for the TV screen, all of which we've worked collaboratively with the Australian TV ecosystem to introduce.

We have invested in local partnerships, with a team engaging with broadcasters and other content providers, including Nine Entertainment (Stan, 9Now), ABC (iView), SevenWest Media (7Plus), Paramount Australia (10Play), SBS (SBS on Demand) and the Foxtel Group (Foxtel Now).

We support our partners' goals to make their applications, and hence content, accessible across our products. We view these local partnerships as an important component for a thriving TV ecosystem, which in turn enables technology development, business innovation and partner growth.

The three products are as follows:

- **Android TV** is our smart TV operating system available to both original equipment manufacturers (OEMs) and operators to utilise on their devices. Aspects of Android TV can be adjusted and customised by operators at their discretion. We have worked, and are continuing to work, closely with key stakeholders in the Australian TV ecosystem to ensure they are available and integrated at a platform level.
- **Google TV** is our TV user interface, built on Android TV, and available to retail customers via Chromecast with Google TV and certain third party OEMs' TV devices. We launched the service in Australia in October 2020 with Stan, 9Now, 7Plus and ABC iView fully integrated. Google continues to support the Australian broadcast community in joining and benefiting from the platform, although individual broadcasters will naturally make their own choices.
- We offer two types of **Chromecast** devices, both of which plug directly into a user's television. Both Chromecast and our newest offering, Chromecast with Google TV, allow a user to "cast" content from any Chromecast-enabled application on their phone to their TV. Our Cast Software Development Kit (SDK) is freely available and enables app developers to integrate this casting functionality into their applications.

### Underpinning principles to Google's comments on specific proposals:

1. **User choice should be respected as paramount.**
  - a. User choice should be respected and promoted. The regulatory framework should focus on ways to offer opportunities to consumers that they may or may not take up - as opposed to forcing particular choices on consumers. It is imperative that providers are able to respond to user intent and needs. Any regulatory framework should not make it harder for users to find and consume the content they wish to watch. When a person searches for something, the results should be the best attempt at responding to that request - without any overlay of regulated prominence.

- b. Further, users may simply choose not to watch content from certain apps based on their experience, and we should be able to honour that. Regulation should not seek to push or default back to making certain content prominent, particularly where a user has chosen not to engage with that content.

**2. The framework should only intervene so far as is reasonable and proportionate for its purpose.**

- a. This in turn will help ensure the framework does not lead to perverse outcomes. Ensuring the objective of any intervention is tightly defined and well understood by stakeholders will help determine what scale of regulatory response is appropriate.
- b. This principle is highly relevant in determining which apps should be contemplated for any resulting prominence under a regulatory framework, taking into account the specificities and particular features of each app. A highly targeted approach is necessary in what is a thriving and dynamic ecosystem.
- c. Any framework should not extend past live free-to-air broadcast and corresponding BVOD apps. Ideally these would be housed within one single, broader app. In our view this would optimise the user experience, and discoverability of Australian free-to-air broadcaster content.

**3. There should be no undue impost on innovation and trade.**

- a. Continuing innovation in user interfaces, product design and consumer experience, is central to meeting evolving habits and demands of consumers, and ongoing improvement of outcomes for Australian consumers. The design of the framework, and the process undertaken, should also be aligned with Australia’s commitments under applicable free trade agreements, including the Australia-US Free Trade Agreement (AUSFTA).

**4. The framework must recognise critical dependencies**

- a. A Smart TV provider can only make an application available and the content within that application discoverable, if the app provider or broadcaster has agreed to and supported the work required for the relevant integration.

**Comments on specific proposals**

Proposal	Google comments
<b>Framework Scope - local TV services</b>	
<b>Proposal 5.1: linear FTA broadcasts</b>	<p>Google supports the proposal of ensuring availability of national, commercial and community linear free-to-air broadcasts, in line with the above principles. However, there are two requirements under this proposal that would not be workable for Google.</p> <ol style="list-style-type: none"> <li>1. Specific to principle 1, content, including linear broadcasting, should be surfaced in a way that promotes user choice and discovery.</li> <li>2. Changes to the remote inputs may pose a significant cost to Google, with respect to the Chromecast with Google TV remote, as well as OEM manufacturers.</li> </ol> <p>We welcome the proposal to ensure availability of linear free-to-air broadcasting. In other countries, eligibility for similar provisions is limited to public service broadcasters only. We would be happy with this approach (i.e. ABC and SBS) but understand the Government may wish to include commercial free-to-air services as part of this proposal for Australia.</p>
<b>Proposal 5.2: linear FTA broadcasts and BVOD applications</b>	Adding more sources will dilute the overall value of the prominence provisions. It also requires a higher level of technical integration and

Proposal	Google comments
	<p>development from broadcasters, who will need to maintain and manage standalone BVOD apps.</p> <p>Provided any obligations were expressly limited to free-to-air and public broadcaster BVOD apps, and those broadcasters had commensurate obligations to maintain and manage those apps, then this could be workable. A preferred approach would be through a single app which contains the relevant content of free-to-air broadcasters. Efficacy of this approach relies upon free-to-air broadcasters maintaining these apps.</p>
<p><b>Proposal 5.3: content services providing Australian programming</b></p>	<p>Google does not support this approach due to the technical complexity required. Additionally, it moves away from user choice into mandated government programming, and over time, as more organisations invest in Australian content, prominence requirements would become unworkable due to the sheer number of services requiring prominence.</p>
<p><b>Framework Scope - regulated TV devices</b></p>	
<p><b>Proposal 6.1: all TV devices</b></p>	<p>This proposal is unworkable due to the ubiquity of devices in society.</p>
<p><b>Proposal 6.2: a primary use approach</b></p>	<p>Google supports this proposal as the more workable option however we would encourage specificity in the device criteria including the requirement that classified devices, consistent with the approach in other jurisdictions:</p> <ul style="list-style-type: none"> <li>● Have a primary purpose to aggregate and distribute audiovisual media content including broadcast programming</li> <li>● Are devices which on which the regulated tv services typically appear</li> <li>● Are devices which offer content at no charge to viewers in accordance with the relevant public policy objectives</li> <li>● Are only included to the extent to which it is reasonable, for example, not applying classification retrospectively for devices which have already been manufactured or contracted to specification with no option to make certain alterations.</li> </ul>
<p><b>Framework Scope - responsible parties</b></p>	
<p><b>Proposal 7.1: obligations on device manufacturers</b></p>	<p>This will not meet the objectives of the reform, as the content displayed on a Smart TV device is contingent on numerous “layers of the stack” each of which has different complexities and levels of control over the customer experience. For example, in the Smart TV space, a given offering may depend on any combination of: the underlying software provider, consumer-facing software provider, one or more device and/or component manufacturers, and the over-the-top content providers.</p>
<p><b>Proposal 7.2: multi-party obligations</b></p>	<p>This is the only workable option, but the threshold for which connected TV providers should be in scope should be commensurate with the degree of control each stakeholder has over how the user experiences the interface. It would be inappropriate to place obligations on an organisation that does not control product element(s) addressed by the obligation.</p>

Proposal	Google comments
<b>Framework models</b>	
<b>Proposal 8.1: a reporting framework</b>	<p>This is our preferred approach for an initial reform. TV is a dynamic industry and an incremental approach is required which can be assessed and built upon over time based on evidence provided in the reports to consider the necessity and practicality of subsequent proposals.</p>
<b>Proposal 8.2: a fair bargaining framework</b>	<p>This proposal could be considered in the event that proposal 8.1 was determined to be insufficient after a suitable time period, allowing for industry to commence the required reporting.</p> <p>The level of complexity and interdependencies in the Smart TV ecosystem mean that any intervention should be measured and incremental.</p>
<b>Proposal 8.3: a must-carry (access) framework</b>	<p>Google does not support this proposal. Apps can only be made available where the relevant broadcaster/provider has made available and appropriately maintained their app. It is unworkable to mandate that providers offer apps, without a commensurate obligation on broadcasters to make those apps available in an appropriate form.</p> <p>We note that there are limited options to alter remote controls for Chromecast in the Australian market as they are produced for the global market.</p>
<b>Proposal 8.4: a must-promote framework</b>	<p>These proposals would represent significant overreach and would likely have a significant and detrimental impact on user choice and competition. They would not be workable for Google as a user-focused company.</p>
<b>Framework implementation</b>	
<b>Proposals 9.1-9.3</b>	<p>In our view, whichever framework is used, it should include a clear statement of objectives to guide decision making.</p>