

# **ABC Response to the Radio Prominence on smart speakers Proposals paper**

**November 2024**



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## Introduction

The Australian Broadcasting Corporation (ABC) welcomes the opportunity to respond to the Department's proposals paper "Radio prominence on smart speakers". As the national public broadcaster, the ABC is committed to ensuring that Australian audiences have seamless and reliable access to the high-quality and range of ABC audio content. With the rapid growth of smart speaker ownership in Australian homes and the increasing reliance on voice-activated software for accessing audio content, the ABC supports the development of regulatory measures to establish fair and equitable prominence for Australian regulated radio services.

The ABC was established to provide media services to the Australian public that feature Australian voices, perspectives, accents and concerns and that showcase Australian performance, events, news and information, and life-saving information during times of emergency. The public fund it and have a right to be able to receive the public benefit that flows from listening to ABC services. To be able to do that, they must be able to find them — hence the need to ensure that the national broadcasters are among the regulated radio services that are accessible and prominent through voice activation on smart speakers.

This submission outlines the ABC's position on each of the proposed approaches to key aspects of the framework. It makes the case that the framework must support the public interest and transparency in a fast-evolving digital landscape. The services of Australian free-to-air broadcasters must be easily and accurately discoverable and a request for a radio station must yield a reliable response with the correct content. Importantly, Australian radio stations should not be charged by platforms for providing radio services to listeners nor be subjected to overlay advertising. Broadcasters should have the ability to nominate their preferred access pathway.

Establishing effective prominence regulations for voice-activated software that runs on smart speakers, as well as other smart products/systems will enable Australian free-to-air radio services to compete fairly in a competitive digital media environment dominated by global tech giants.

The ABC notes the current draft framework excludes in-car audio systems and urges the Government to consider expanding this framework to include vehicle infotainment systems with some urgency. The ABC suggests that the definition be broadened to include all devices that have a voice-activation capability.

An effective framework must ensure that public, commercial and community stations in Australia remain accessible to listeners via smart speakers on all voice-enabled platforms, including in-car infotainment systems.

## Possible elements of the framework (5.1)

### 1. Level of prominence

**Preferred: ‘Enhanced Promotion’.**

The ABC’s preference in this area is for the regulatory approach to be a version of the **enhanced promotion** option. The ‘consistent and reliable access’ model proposed in the paper would ensure that ABC content streams are provided to listeners when specifically requested. However, more is required. Listener behaviours are changing and “general requests” for content are expected to become the norm, if they are not already. Much as with search engines and TV prominence, there is every expectation that platforms will allow companies to pay to ensure their content is delivered more frequently, if not exclusively, in response to general requests.

While ABC content is publicly funded and created to provide a public benefit, the ABC is not funded to compete with commercial entities that can pay for preferential treatment in recommendation results. There is thus a significant likelihood that its services will become less commonly returned in response to general requests from users for content unless steps are taken to ensure their greater prominence.

The lack of algorithmic transparency makes it hard to assess the extent to which the ABC’s services (and those of SBS) are likely to be withheld from the public by smart speakers in such circumstances. Without greater safeguards in place, smart speaker voice software providers and device manufacturers will have the opportunity to self-prioritise their own content services. As more conversational interactions become available through smart speakers because of generative AI technology, it can be expected that requests such as ‘play more jazz’ will become more common. In this instance, the ABC would want relevant content served in response and the user be offered the option of ABC Jazz.

To ensure that the public benefits generated by the public broadcasters are delivered to Australians, the Government must regulate to support regulated radio stations in this regard via an obligation to ensure that all broadcasters are given reasonable prominence by algorithms that determine what service is delivered in response to a general request.

To be clear, in advocating for an enhanced promotion position, the ABC is not proposing that it be guaranteed the lead position in any algorithmic ranking used to determine which content is provided to listeners in response to a general request, but rather that such rankings be required to ensure that ABC services are provided to listeners making general requests on a reasonably regular basis. This option should apply to all regulated radio services and includes the requirement that accurate and reliable responses to user requests for Australian regulated radio content via voice-activation software on smart speakers and create a positive user experience by delivering the same high-quality content that is available through the Australian radio industry. The ABC supports the ability of ACMA to issue guidelines, and binding determinations should ensure that voice-activated responses are consistent and reliable.

Users of smart speakers may not appreciate the technical pathways required to serve their voice-activated queries and inaccurate responses potentially impact the ABC’s reputation as a trusted source of news and entertainment. Although there is not a 100% success rate for queries at present, enhanced promotion is the preferred approach to ensure the ABC is accessible and prominent for listeners.

## 2. Payment for prominence

**Proposed: ‘No cost’.**

The ABC supports the proposed **no cost** approach, which replicates the approach taken for the connected TV prominence framework and the current arrangements that apply to terrestrial radio broadcasts. The ABC is not funded for the possibility that such additional costs might be imposed in future and this approach avoids this question.

This ensures all regulated radio services are treated equitably and allows the ABC to maintain the accessibility of public broadcasting for Australian listeners. The principle aligns with international approaches, such as that of the UK, who have taken a similar approach to protect public interest broadcasting and fair access to regulated radio services.

A ‘no cost’ principle would allow the ABC to deliver on its Charter and invest its funding in serving Australian audiences with content, as opposed to competing in an increasingly crowded digital marketplace for prominence.

## 3. Service integrity

**Proposed: ‘No alteration’.**

The ABC fully supports the proposed **no alteration** approach, which is crucial for maintaining the integrity of its radio content and protecting the interests of both broadcasters and listeners.

Allowing voice-activation software on smart speakers to alter the content of radio services, including the insertion of advertisements and sponsorships, would undermine the integrity of the original broadcasts. It should be noted that the ABC is prohibited from carrying advertising on its broadcasting services under s 31 of the *Australian Broadcasting Corporation Act 1983* (ABC Act). Allowing any alteration of the streams would undermine the spirit and intent of this prohibition. Listeners expect when consuming content from the ABC for the content to remain intact. Any unauthorised alterations could lead to diminished loyalty from its audience and affect the trust they place in the ABC.

The proposed ‘no alteration’ principal aligns with existing regulations for both smart TVs and the UK’s radio prominence framework, which emphasize the importance of unaltered content delivery. By adopting a similar approach, Australia would reinforce its commitment to high standards in broadcasting within the digital landscape.

## 4. Regulated radio service providers

**Proposed: National, commercial and community broadcasters’.**

The ABC strongly supports the principal of regulated radio service providers including the **national, commercial and community broadcasters** within the prominence framework on smart speakers. This approach is important to serve the public interest and media policy objectives of making news, emergency and entertainment content that meets editorial standards and safeguards accessible to all Australians.

As noted above, the ABC (and SBS) were established to provide media services to the Australian public that feature Australian voices, perspectives, accents and concerns and that showcase Australian performance, events, news and information, and life-saving information during times of emergency. The public fund them and have a right to be able to receive the public benefit that

flows from listening to them. To be able to do that, they must be able to find them — hence the need to ensure that the national broadcasters are among the regulated radio services.

The principal mirrors the connected TV framework and encompasses public media organisations, such as the ABC or SBS, that have obligations associated with their enabling legislation, as well as the licence fee conditions that commercial media must follow.

## 5. Regulated radio services

**Preferred: ‘All linear and on-demand audio services and content provided by regulated radio service providers (including podcasts)’.**

The ABC, while recognising the importance of online simulcasts, strongly advocates for the inclusion of **all linear and on-demand services provided by regulated radio service providers**. This broader approach would better serve Australian audiences and reflect the evolving nature of audio content consumption. An online simulcast option does not capture the work that broadcasters deliver to respond to making live and on-demand audio to meet contemporary audience expectations, changing behaviours and product development. Any framework should consider the future growth and use of voice activation.

In a digital media environment, audiences increasingly engage with audio content beyond live broadcasts. By including all linear and on-demand services, the framework would acknowledge contemporary listening preferences, where listeners seek out a mix of podcasts, catch-up content, and curated playlists. With this understanding of changing listener behaviour, and after working directly with voice assistant platforms, the ABC has provided bespoke bulletins since the first arrival of smart speaker platforms in Australia. In addition, the ABC relies upon digital streaming to distribute its digital radio services to audiences outside of capital cities who are able to access this content via DAB+ broadcasts. Under the proposed principal of online simulcasts of radio broadcasts, neither the bespoke bulletins nor digital radio services would be included in the prominence framework.

The preferred approach by the ABC for prominence to all linear and on-demand services enhances accessibility for a diverse audience and the inclusion of prominence to on-demand content ensures that listeners can access essential information and entertainment at their convenience, as well as accessing the ABC’s substantial on-demand audio content library, which is currently accessible through ABC Listen. Including this content supports local creators and supports the Australian media ecosystem, ensuring that the ABC’s live and on-demand audio content library is accessible to audiences.

From a listener perspective, there is an expectation that any voice software would be able to serve both linear and on-demand audio content. By adopting an inclusive approach that encompasses all linear and on-demand services, the framework would ensure that Australia’s regulatory environment remains relevant and adaptive, especially with the rapid deployment of AI. To limit prominence to online simulcasts and align it with the UK model fails to acknowledge the difference between the two markets.

The ABC acknowledges that there would be work required by it to support this requirement. Currently, it has not built no on-demand/podcast integrations with any of the smart speaker platforms and there would be significant technical work required to integrate ABC on-demand catalogues so the third-party platforms could serve podcast content from the ABC. One solution would be for the voice-activation platforms to support first-party integration of podcasts and on-demand content; should a broadcaster undertake the required technical integration work to

achieve this, then requests for that content should be served from the first-party integration as a default.

It is unclear if the proposed model includes Australian digital radio (DAB+) stations, which are among the ABC's broadcast services for the Australian people. It is important that the audio prominence framework explicitly includes digital-only broadcast services.

## 6. Regulated access providers

### Proposed: 'Voice assistant platforms'.

The ABC agrees with the proposed definition of regulated access providers, as it is the voice-activation platform, not the manufactured product, that is responsible for responding to a voice command. At present Google, Amazon and Apple dominate the smart speaker device market and each has developed a voice-activation software product. This software is also licensed to third parties, such as other manufacturers of smart speakers, as well as car manufacturers, so it is critical, as most listening of radio occurs in cars, that the regulation adheres to access obligation across first-party devices and third-party owned.

The **voice-assistant platforms** are fully in control of how their software works and it is correct that the obligations should sit with them. Where a manufacturer develops its own proprietary voice assistant, such as Mercedes Benz's 'Hey Mercedes' in-car assistant, it is expected that the software that drives the speaker adhere to the same rules and obligations.

## 7. Access pathway

### Preferred: 'Nominated access pathway'.

The ABC does not support the principle of an 'open access pathway' for regulating access providers to radio services and online audio content. Without a mandated pathway, there is a risk that access providers may prioritise their own services, partnerships or aggregators over direct access to regulated radio providers. Although a **nominated access pathway** would potentially require additional obligations for regulated access providers, the ABC considers this a more effective and equitable approach. A nominated access pathway would ensure that radio services are consistently accessed through the channels specified by the service providers themselves, guaranteeing that listeners receive a reliable experience aligned with the broadcasters' intent, whilst also providing the broadcaster with the first-party data and insights for its services. A nominated first-party access pathway also reduces the risk of technical issues and quality should there be issues with a third-party stream. If a voice command asks for ABC radio/audio content, the ABC's preference is that content should be served from an ABC source.

In the online environment, user data is a key resource that organisations use to plan, adapt and personalise their services. As a public broadcaster, the ABC uses data to guide decision-making in terms of delivering the best possible audio services for the Australian people. The "open access pathway" model effectively allows third-party stream providers to receive this valuable information instead of the media organisation that originated the content. The value in user data is evidenced by the limited data provided to organisations whose content they carry. The 'nominated access pathway' model would correct this problem.

Smart speaker companies should provide access to a minimum data set to the integrating party (either the ABC or the third-party partner). At a minimum, this would include either per station or by podcast/on-demand title:

1. Unique customers – by day, week, month (including averages) and customisable range
2. Total duration of the content streamed in hours – by day, week, month (including averages) and customisable range
3. Average number of hours a customer has spent listening – by day, week and month and customisable range
4. Total requests for the content – by day, week, month (including averages) and customisable range.

If there is a nominated pathway and/or a direct integration for ABC content, then that integration should be the default for playback of any content made available (including podcasts and on-demand). If a user request specifically references a third party in their query — for example, if a user asks for ‘Conversations podcast from Spotify’ — then returning the content from the third party is appropriate and supports user choice, but a request for ‘Conversations podcast’ should be returned from an ABC integration where available, or from ABC’s chosen preferred supplier.

The ABC preference is for a nominated pathway as a default approach, and only if this doesn’t exist then should open access approach be taken. This approach provides clarity in obligations, allowing for more straightforward monitoring and enforcement, with data on how content is accessed going to the provider, as well as ensuring that listeners receive fair access to all regulated radio services. This approach aligns with the UK radio prominence framework, which allows for radio providers to nominate their preferred source of access pathway whilst ensuring the technical access pathway is operational.

## 8. Minimum technical standards

### **Proposed: ‘Negotiated standards’.**

The ABC supports the proposed approach of **negotiated standards** to meet the minimum technical and operational requirements that regulated radio services must meet to gain prominence on regulated access devices.

The proposed negotiated standards recognise the inherent complexity and variability of integrating different radio services with various voice-activation platforms. By allowing regulated radio services to negotiate their technical requirements with access providers, it should create an adaptive environment that can accommodate technological advancements and variations in service capabilities. What is unclear in the framework is whether each radio provider negotiates with each access platform and how to manage changes to standards in unreasonable time frames.

The media landscape is changing at an unprecedented pace, with new technologies and platforms continually emerging. A negotiated standards framework allows for a more dynamic approach to technical requirements, ensuring that radio services can quickly adapt to new developments without being constrained by outdated regulatory mandates. This responsiveness is crucial for maintaining relevance and accessibility in a competitive audio environment.

By focusing on negotiated standards, regulated radio providers such as the ABC, can ensure that the requirements reflect the unique characteristics of Australian radio services, including local content and community-focused programming. This flexibility enables broadcasters to maintain their distinct identities while ensuring that they can meet the necessary technical criteria to be prominently featured on smart speakers, other devices and through voice-activated commands in cars.

It is important that there is capacity for the regulator to issue guidance and determinations, essential for ensuring that the negotiated standards serve the public interest and promote fair

access to radio services. This oversight will help prevent disparities in how services are treated, ensuring that all regulated radio providers have a fair opportunity to achieve prominence.

## **Potential impacts of the proposed radio prominence framework (5.2)**

*1. What resources would be required and/or costs incurred by potentially impacted parties in initially understanding the new framework and implementing new business processes and systems during the 'phase in period' (i.e. the 6 to 12 months prior to the commencement of the new legislation)?*

The ABC's expectation is that any new Government legislation that is introduced for radio prominence will be clear and easy to understand and that ACMA, as the regulator for the regime, will be empowered to clear up misunderstandings by enabling it to make determinations in relations to "edge cases". The ABC is not expecting any major process changes nor to incur costs, other than to advise platforms of any preferences, or as a result of it choosing to develop technical integrations for nominated access pathways.

*2. What resources would be required and/or costs incurred by potentially impacted parties in complying with the framework on an ongoing, annual basis (i.e. after the initial phase in period, once the new framework has commenced)?*

Unless the voice-activation platforms make changes following the framework's introduction, the ABC is not expecting significant changes to ongoing resource requirements or additional costs.

*10. To what extent will the framework make it easier, simpler and more convenient for radio listeners to access radio stations?*

- a. Would these benefits be realised by particular types of radio listener, based on age, income, location or other demographic factors, or would they be realised uniformly by all radio listeners?*
- b. Would the improved user experience be likely to drive future radio listening on voice assistant platforms? If so, to what extent?*

The framework should make it more equitable for Australian regulated radio services to be discovered, as opposed to internet and international services. Unless the 'consistent and reliable access' requirement will require some major improvements to software, the ABC is not expecting the framework to radically change users' ability to reliably access radio stations per se. However, an 'enhanced promotion' model would allow the regulated Australian broadcasters to ensure the availability of their radio services in response to voice queries and responses.

*12. To what extent would the framework result in an increase in radio listening for national broadcasters?*

- a. Would this increase be expected for all radio services provided by the national broadcasters, or for particular stations?*
- b. To what extent would the framework support the capacity of the national broadcasters to fulfil their respective charters?*
- c. Would this enable the SBS to increase advertising revenue? What is the expected value of this increase?*

The framework would allow the ABC to fulfil its Charter to the Australian people by being accessible to the segments of the population who chose to access their audio listening through voice-activated devices. For listeners who are more digitally inclined or for those using smart



speakers for accessibility reasons, supported by an enhanced promotion framework, ABC radio services and audio content would be served to them.

If adopted, the 'nominated pathway' model would provide the ABC with additional data about audiences' use of its services, which would assist it to better deliver relevant content in pursuit of its Charter objectives.

*13. What impact would the restriction on levying fees or altering services (including in relation to advertising) have on commercial, national and community broadcasters?*

- a. Would this remove or reduce costs currently being incurred by broadcasters, or remove the potential for the imposition of additional costs or alterations to services to be imposed in the future?*
- b. Would this cost reduction (or the removal of the potential incurrence of costs in the future) support the sustainability of radio services, or change the type and range of radio services provided to Australian listeners?*
- c. Would this benefit all radio broadcasters equally, or would there be differential impacts based on the type of station, location and size?*

As previously stated, the ABC supports the no cost/no alteration approaches. The ABC is not funded to compete with commercial entities that can pay for preferential treatment in recommendation stacks. The ABC is prohibited from carrying advertising on its broadcasting services under s 31 of the ABC Act. Allowing any alteration of the streams would undermine the spirit and intent of this prohibition.

## **Application considerations (5.3)**

*14. What is the appropriate application period for the radio prominence framework?*

The ABC's preference is for 6–12 months depending on which approaches are formalised. Should the Government's 'consistent and reliable' approach be confirmed, then 6 months will be adequate. If the enhanced promotion model were adopted, then more time would be needed to develop an integration and 12 months+ would be appropriate.

*15. Should the radio prominence framework apply to:*

- a. voice assistants operating on devices supplied in Australia after the relevant application period has elapsed;*
- b. voice assistants operating on devices that are already supplied in the Australian market (i.e. in Australian homes), provided that the device is capable of software updates; or*
- c. voice assistants operating on some other grouping of smart speakers?*

The ABC's position is that the prominence framework should apply to any device supplied in the Australian market that is voice-activated and capable of receiving software updates, including in-vehicle infotainment systems. It should be noted that, depending on the age and capability of the device, some upgrades will sit on device and others in the cloud.