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Media Policy Division
Department of Infrastructure, Transport,
Regional Development, Communications and the Arts
GPO Box 594 CANBERRA ACT 2601

Submission on Radio Prominence on Smart Speakers – Proposals Paper

The CBAA thanks the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for the opportunity to respond to the Radio prominence on smart speakers - Proposals paper.

About CBAA

Founded in 1974 and celebrating our 50th anniversary this year, the CBAA is the national peak body for community broadcasting licensees.

As a cultural organisation established for the promotion of community broadcasting, including both radio and television, we are proud to have over 90 per cent of all community radio and television licensees, including those with a First Nations, faith, disability, LGBTIQA+ and multicultural community interest, as members.

Importance of community radio to Australians

Maintaining free, readily available and easy access for all Australians to listen to critical community radio services is an essential service for informed and connected communities.

Community broadcasters deliver over 500 AM/FM/DAB+ services and two dedicated television services that reach over 5.19 million people across Australia each week – almost one quarter (24%) of Australians. These services are increasingly made available through online streaming, podcasting and on-demand catch up listening.

Our members provide a trusted voice for underrepresented and underserved communities including First Nations people, culturally and linguistically diverse communities, education, faith-based communities, people with disability, LGBTIQA+, youth and seniors. Our stations support the arts, culture and music, including as a critical launchpad for and promoter of Australian music. Community broadcasting is also recognised for its key role as a lifeline during bushfires, floods and other emergencies and for disseminating trusted public health information to diverse audiences throughout the pandemic (as recognised in the recent Department of Prime Minister and Cabinet COVID 19 Response Inquiry Report). The community broadcasting sector is a vital contributor to Australian culture as recognised in National Cultural Policy *Revive: a place for every story, a story for every place.*

As stated in the Proposals Paper

> Community radio stations have an immediate and direct connection to their local communities, as they are required (among other matters) to represent a community interest and provide material that is significant to the local community.

The sector's social and economic impact is driven by:

- 18,100 volunteers[1]
- 941 employees
- generating $1/4 billion in value

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[1] Station Financial Data FY2022-23, CBAA

Community broadcasting is playing an increasingly important role in connecting Australian communities that are underserved by other media. Community broadcasters enrich and strengthen the social and cultural fabric of Australian society and amplify the voices of diverse Australian communities.

Regional and remote Australia:

- 74% of licensees are based in regional and remote areas.[2]
- 62% of regional listeners say their main reason to tune in is for local information and news.[3]

First Nations Australians:

- 51 organisations provide 158 services, the great majority in regional and remote areas.
- Australians from Aboriginal and Torres Strait Islander background are 44% more likely than the general population to listen to community radio.[4]

Multicultural Australia:

- 1.5 million Culturally and Linguistically Diverse (CALD) people listen to community radio (29% of total audience) for an average of 16.9 hours per week.[5]
- Community radio broadcasts over 110 different languages.

People with disability:

- The Radio Reading Network provides 19 AM/FM and DAB+ digital radio services nationally with 668,000 listeners each month.[6]
- The sector is working to diversify services to increase representation of disability in media, improve how disability is portrayed and improve community attitudes towards people with disability in line with Australia's Disability Strategy.

Faith-based communities:

- Includes 32 Christian radio stations and 1 Muslim station.
- 95% of Christian community radio listeners say their station has a positive impact in their lives and helps them grow spiritually (88%) and relationally (74%)[7]

CBAA's role in delivery of online services

The CBAA plays a crucial role as an intermediary organisation in the community broadcasting sector. It is a focal point for facilitating work to strengthen and develop a supportive ecosystem for stations by co-ordinating efforts across multiple organisations, fostering collaboration, and driving systemic change.

The CBAA's activities extend beyond direct service provision to sector-wide initiatives that build capacity in the community broadcasting sector. In line with the sector's 10-year plan *Roadmap2033*, we provide centralised services that leverage economies of scale to support all community broadcasters to be available to audiences on online and emerging platforms.

The CBAA provides technology services to community broadcasters including:

- the Community Radio Plus listening app with 323 stations broadcast streams, on-demand audio and podcasts;

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[2] Community Radio Listener Survey – July 2024
[3] Community Radio Listener Survey – July 2024
[4] Community Radio Listener Survey – July 2024
[5] ibid
[6] Community Radio Listener Survey – July 2024. Total listening for Net RPH and Net Vision Australia
[7] The Social Impact of Christian Radio in Australia survey, McCrindle, 2021

- secure online streaming, podcasting and website services;

- manage metadata, CMS and APIs which enable community broadcasters to communicate audio content to assorted platforms and devices;

- content sharing services via satellite and through a digital WAN; and

- data sharing and visualisation to provide community broadcasters with audience analysis and evidence-based insights to inform strategic planning.

Through these and other initiatives, the CBAA enhances the capabilities of individual broadcasters while simultaneously working to improve the overall ecosystem in which they operate.

Community Broadcasters support the prominence framework

The CBAA welcomed Government's legislated prominence framework for connected TV devices, and we strongly support the introduction of radio prominence legislation and the inclusion of community radio broadcasters as regulated services benefiting from the new protections.

We acknowledge that this intervention about ensuring the Australian public have ready and free access to the services that they want to listen to. The legislation should be framed as broadly as possible with these public interest objectives in mind.

It is vital that all communities maintain free, readily available and easy access to community radio services. Alongside free-to-air broadcast delivery to radio receivers, the prominence framework may go some way to support user access to the services of free-to-air radio broadcasters via connected listening devices available today and to evolving products in the future.

Community radio audiences are increasing, and more Australian's than ever are listening to the radio on connected devices including smart speakers. CBAA Triton Digital Webcast Metrics indicates that 34.0% of Total Listening Hours (TLH) is now via smart speakers, trailing mobile devices by only 4%.

81% of the Australian population over the age of 12 – 18 million Australians, listen to the radio, either broadcast or streaming services each week.[8]

Community radio audiences have increased by 10% in the last year from 4.7million weekly listeners in 2023 to 5.2 million in our 2024 survey.[9]

Online streaming of radio services is increasingly popular. Radio streaming among 25-54-year-olds has doubled in three years. Smart speaker ownership doubled in four years to 34% and streaming radio listening in cars rose by 75% in two years to 28%.[10]

As listening devices continue to evolve with technological innovation, regulation is required to ensure Australians can continue to freely and easily access community broadcasting services.

A radio prominence framework is required to place obligation on manufacturers and operating system (OS) providers of the relevant devices (including smart speakers, other smart devices and the systems in connected cars) to:

- provide consistent and reliable access to Australian radio broadcaster services including both broadcast and internet access;

- enable the radio broadcaster to determine the access pathway to its services; and

- not add their own broadcasting, advertising or other content (without the consent of the radio broadcaster)

The Prominence Framework should provide for audiences free, easy and universal access to radio not only on smart speakers and other smart devices but also, within the short term, in connected cars.

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[8] The Infinite Dial 2024 Survey
[9] CBAA 2023/24 Community Radio Listener Survey
[10] The Infinite Dial 2024 Survey

Comments on the eight key design elements

The CBAA agrees with the matters identified in the Policy Paper as justification for intervention, subject to comments on the following issues.

The essential elements of the framework should be:

- consistent and reliable access, broadcaster control of the access pathway to their services, no interference from manufacturer/operating system adding their own broadcasting, advertising or other content (without consent of the radio broadcaster).
- The provisions should apply to all connected services, not just voice-activated services, so that they do not exclude the dominant ways that Australians access radio, such as through car entertainment systems. This could be achieved either direct provision in the legislation or a process of review and Ministerial designation powers (as per television prominence).
- Audio content covered by the legislation should not be limited to the simulcasts of broadcast radio.
- Operating systems and device manufacturers should be regulated, as they are both pivotal to the supply chain.

Timing is critical, for the reasons outlined in the Proposals Paper and the new protections need to be enacted and implemented as soon as possible. Long transitional periods are not reasonable or required for these software updates.

1. Level of prominence

Table 5 Item 1 presents "consistent and reliable access" as the preferred option for the framework, as opposed to "basic availability" or "enhanced promotion".

CBAA agrees that the "consistent and reliable access" approach would be the minimum baseline for radio prominence.

In the context of community radio, providing prominence through accurate geo-locating of a service is important. Community radio is often hyperlocal and targeted for small towns and for broadcast in defined sub-metropolitan areas. It is used as a key source for emergency news and local information. If someone is asking for a local community radio station when navigating the roads during a bushfire it should be easy to find the local service.

This could be addressed in the ACMA's guidelines but, for the same reasons as above, where location is critical such as in an emergency, it may be appropriate for this to be an essential requirement in the legislation.

Whether access is "consistent and reliable" should be determined objectively and regulated entities should have a reasonable steps obligation to ensure continued compliance with prominence requirements.

2. Payment for prominence

The CBAA supports a "no cost" approach and agrees that the other options are inappropriate and unworkable in the Australian context. Community broadcasters already operate under very tight funding and rely heavily on a voluntary workforce to provide essential services. Ensuring high-quality radio service availability and providing an enhanced user experience on evolving audio listening platforms already require a significant investment in skills and technology from CBAA and community radio stations.

3. Service integrity

The CBAA supports the "no alteration" proposal for the reasons outlined in the Proposals Paper. Any other model would be detrimental to community broadcasters meeting their service obligations and their ability to attract sponsorship revenue, which is vital to their sustainability.

4. Regulated radio service providers

The CBAA supports the inclusion of community, commercial and national broadcasters as regulated services. Each of these sectors is subject to significant obligations under the *Broadcasting Services Act 1992* and meet well established public policy needs which justify receiving the benefit of prominence protections.

5. Regulated radio services

The Proposal Paper suggest that regulated services be limited to "online simulcasts" and not include all online linear audio services and on-demand audio services and content.

CBAA recommends that regulated radio services include:

- the radio broadcasting services provided by commercial radio broadcasters, the national broadcasters and community radio broadcasters, (where a regulated audio device is capable of providing broadcasting services) whether AM, FM or DAB+ broadcasting; and
- audio content that is made available online on a free basis, whether directly by the broadcaster or through an aggregator app selected by the broadcaster (such as Community Radio Plus, iHeart or TuneIn) and not limited to online simulcasts of broadcast radio.

CBAA believes that it would be reasonable to require regulated entities to provide prominence for streaming and on-demand content. Such content is important for modern radio audiences and access to these services enhance the community benefit of radio services. There is a well-documented trend towards audiences accessing content at a time of their choosing such as through stations websites, apps and aggregator apps on mobile and connected devices. This content may be accessed easily through an app nominated by a radio broadcaster by use of voice commands, in the same way that simulcast content is accessed.

We note that Broadcast Video on Demand services are included in the television prominence provisions and there is no policy justification to treat radio differently by excluding similar on-demand content in the radio environment.

There should also be the flexibility in the legislation to modify this provision in line with audience trends, so that the legislation is not attached to current methods of access and is future-proofed. This could be provided for through a Ministerial designation process, as contemplated elsewhere in the Proposal Paper and which exists in the television prominence legislation.

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6. Regulated access providers

The Proposal Paper suggests regulating voice assistant platforms rather than device manufacturers. The CBAA considers that device manufacturers are a pivotal part of the supply chain of devices through which listeners access radio and can be regulated in the same ways as under the television prominence legislation.

From commencement, the regime should apply to all smart devices that incorporate voice assistants and not be limited to smart speakers. It should apply to connected cars in the short term and enable other devices to be added in future as technology and audience behaviour evolves.

To ensure compliance with the new laws, both manufacturers and OS providers should be regulated.

We also support any related regulation that requires regulated entities to work collaboratively and productively with the radio sector, including to ensure community radio's presence on their platforms and devices.

Our sector, along with other free-to-radio broadcasters has sought to work productively with providers of voice assistants to provide a best-practice user experience to radio audiences using smart speakers. We are keen to ensure that community broadcasting listeners can easily access community broadcasting services on all connected devices, and though the access pathway determined by the station as the producer of the radio service.

As referenced in the Proposals Paper, the smart speaker market in Australia is dominated by Amazon, Google and Apple.

To date, the CBAA has worked closely with Amazon's Australian staff to increase the audio command skills of Amazon Alexa to provide consumers with easy access to diverse community radio station services. Google and Apple have so far elected not to engage with CBAA or stations directly.

The prominence framework will be an important factor in ensuring we have access to and can work productively with these organisations in ways that are practical for our sector to implement and reestablish station control over how listeners receive their services.

7. Access pathways

The paper considers either open access pathways or nominated pathways.

The CBAA believes that radio broadcasters should be able to determine the access pathway to their audio content services. This is critical for the integrity of services as they are received by audiences.

Community radio stations should control how their audio content is accessed on regulated devices, meaning that access should be through the apps nominated by the radio broadcasters which could include station native streams or trusted aggregator apps (such as Community Radio Plus).

Ideally this should happen as part of a collaborative process with the regulated services. However, including a provision to this effect will ensure that operating system or device manufacturers do not function as gatekeepers by requiring the use of specific apps which may add cost or complexity to broadcasting operations.

For this reason, the CBAA supports a regulated nomination process to ensure that gatekeepers do not impose unreasonable conditions or costs on broadcasters.

Currently there is an inconsistent approach to access pathways on smart speakers and other connected devices. Amazon offer stations the ability to control their streams through Alexa via their *Radio Skill Kit* that allows broadcasters to control their own presence and access their own data. Google and Apple preference arrangements with commercial third-party aggregator apps. The refusal of these companies to engage with our sector has limited the ability for audiences to easily find

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community radio services and compromised the integrity of radio services through introducing third party aggregator applications between stations and audiences.

CBAA believes all connected devices should access the source of the stream determined by the broadcaster.

8. Minimum technical standards

The paper discusses as options either "regulated standards" or "negotiated standards"

- *regulated standards:* an obligation for regulated radio services to meet technical and other operational requirements as determined by the regulator.

- *negotiated standards:* an obligation for regulated radio services to meet technical and other operational requirements as determined by the access providers, with the capacity for the regulator to issue guidance and make determinations as necessary.

The framework for standards exists in the television prominence requirements in Part 9E of the *Broadcasting Services Act* 1992 can be readily adapted to the radio prominence environment. That is, the ACMA should be able to determine circumstances in which regulated radio services are offered, following its usual consultation processes.

Broadcasters should have the ability to select their own apps, provided that (as applies under Part 9E of the BSA for television prominence and discussed in the next paragraph) the app is technically compatible with the OS of the relevant device or entertainment system.

A regulated nomination process is important to prevent regulated entities from requiring broadcasters to use an app that will impose unreasonable conditions (eg payment, service restrictions or withholding data access).

CBAA supports a regime that is consistent with Part 9E (BSA), which provides that the ACMA may determine in what circumstances a regulated radio service is offered. Access pathways would need to be able to be integrated with the OS of the regulated audio device meaning that the regulated entities would not be negatively impacted by such nominations.

RESPONSE TO QUESTIONS IN THE PROPOSALS PAPER

Table 7 – Potential costs associated with the radio prominence framework.

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)?

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)?

3. What charges or fees are currently levied on radio stations by voice assistant platforms, or any related entities in order to facilitate, enable or otherwise support the access to radio services on smart speakers?

The CBAA and community broadcasters already absorb significant costs to make high-quality audio content available to audiences through connected audio devices. These services are provided for free to Amazon, Google and Apple. We will continue to invest in enhancing the user experience of listeners and look forward to working collaboratively with both manufactures and OS providers to provide high-quality services and seamless user experience.

Table 8: Potential benefits associated with the proposed radio prominence framework

7. 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?
8. Would the framework support the ability of commercial and community radio stations to maintain or grow radio listening?
   a. If there is an expectation of audience growth, by how much would this increase?
   c. Would this enable community radio stations to increase sponsorship revenues? What is the expected value of this increase?

As outlined above, community radio audiences have grown in the last year. Audience behaviours are evolving with the increased availability of new listening technology including smart speakers and connected in-car devices. It is vital that the regime should apply to all smart devices that incorporate voice assistants and not be limited to smart speakers. The new provisions of the BSA should allow for connected cars to be added in the short term and other devices to be added in future, as the ways in which Australians access the audio content of Australian radio broadcasters evolve.

Table 9: Application considerations

14. What is the appropriate application period for the radio prominence framework:
    a. 6 months;
    b. 12 months;
    c. 18 months; or
    d. another period?

Issues around radio prominence have been aired in Australia and internationally over a number of years and are being implemented in other jurisdictions. We believe that the considerable and recent work done on television prominence legislation can be readily translated into the radio environment.

Given that compliance involves voice assistant software and can be achieved through normal processes of updating software, the implementation date should be as short as possible and no longer than 6 months.

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 framework should apply to all connected devices that give access to radio and are capable of software updates, not just voice assistants. Both manufactures and OS providers should be regulated under this regime.

For the reasons noted above, the framework should also, either immediately or in the near future, include car entertainment systems and receivers, whether or not activated by voice or through another mechanism.

As outlined in the Proposals Paper (Table 4), cars are a major point of access for radio, and this includes through connected voice assisted services such as AirPlay and Google as well as in in-built dashboard systems with visual interfaces.

For community radio, this is particularly important as listeners look to us as a source of local information when they are driving, particularly in regional and remote areas and the data on car listenership in the Proposals Paper affirms how significant this form of access is in the Australian environment.

We recognise that this may require further consultation including around visual interfaces. As there is a need to implement prominence measures as quickly as possible, legislation should, at a minimum include a provision contemplating connected cars and other connected audio devices which can be reviewed within a reasonable timeframe (6 months from enactment) and capacity for the Minister designate additional access providers, whether in cars or other new forms of access so that the framework is future-proof.

As noted above, these issues have been the subject of consideration here and overseas for some years and the issues to be dealt with in a consultation or review will be familiar to manufacturers and OS providers regulated under this regime.

Additional matters

The CBAA supports the suggestions made in the CRA submission that there be transparency requirements, a complaints process to ensure that broadcasters can raise issues with regulated device manufactures and have them addressed quickly. We also support the inclusion of similar ACMA information gathering powers, civil penalties, and review provisions as provided for the television prominence legislation, to ensure that the new framework operates as intended.

We welcome the opportunity to discuss these matters further with you and are available to meet with you at a convenient time.

Sincerely,

Jon Bisset

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