

**SBS SUBMISSION TO THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT,
REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS
RADIO PROMINENCE ON SMART SPEAKERS PROPOSALS PAPER**

NOVEMBER 2024

KEY POINTS

- SBS welcomes the Government's consultation on a proposed radio prominence framework (the **Framework**). There is an immediate need for regulatory intervention to ensure that Australian audiences continue to have easy access to local audio content without international technology companies acting as a 'gatekeeper'.
- There is the need to ensure that these international tech companies cannot inequitably insert themselves between consumers and public interest services, and dictate the terms on how, or even if, access to those services is offered to Australians.
- Similarly, it is not appropriate for these global manufacturers and software providers to demand payment from publicly-funded broadcasters as a condition of access or prominence, thereby diverting taxpayers' funds away from public interest broadcasting. The content on SBS's audio services is a long-standing public good that is available for free and for the benefit of all Australians.
- A principled approach to addressing these issues has already been endorsed by Parliament through the passage of the television prominence framework (which will also assist with prominence and discoverability for SBS Audio services that are on SBS On Demand). Similar market and consumer dynamics are present in the radio broadcasting and audio space.
- SBS supports a regulatory framework which:
 - Ensures consistent and reliable access to Australian radio and audio broadcaster services – terrestrial, online simulcast, and catch-up/on-demand audio content including podcasts
 - Ensures broadcasters retain control over the audience pathway to their services
 - Ensures manufacturers and software providers can not alter or adapt radio broadcaster content, including through the insertion of additional advertising
 - Is not restrictive in scope, and which extends beyond smart speakers to connected vehicle audio systems, multi-modal devices, and radio or audio aggregation apps or services
 - Is not unnecessarily restricted to newly manufactured devices
 - Is implemented quickly, with minimal transition periods (within six months is an achievable timeframe for smart speakers. Implementation in vehicle audio systems may require a different timeframe)
 - Contains sufficient flexibility to enable the framework to be updated quickly in response to future trends and changes.



I. INTRODUCTION

SBS appreciates the opportunity to respond to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' (the **Department**) *Radio prominence on smart speaker* Proposals Paper (the **Proposals Paper**).

As identified in the Proposals Paper, there are emerging and newly established market and technology trends which warrant regulatory intervention to safeguard Australians' access to public interest radio and audio content:

'[t]here is an asymmetric relationship between radio stations and voice assistant platforms operating on smart speakers. On these devices, there is limited capacity for users to browse for media services and content, and the integration of these services with the voice assistants is vital to finding an audience. There is also an increasing level of vertical integration of the platforms and content creation'¹

[...]

[There are] 'barriers that may make it difficult for radio broadcasters to be heard on these devices, now and in the future. Specifically, the model would mitigate the risk that the major providers of voice activation software used on smart speakers – currently Google, Amazon and Apple – leverage their bargaining power on these gateway devices to restrict the availability of Australian radio services, or otherwise impose fees or charges for a basic level of access'.²

SBS's data demonstrates that a substantial proportion of our audiences listen to SBS Audio content online via third-party services, platforms, or devices.

It is neither appropriate nor equitable for global tech giants (either as manufacturers or software providers) to determine the terms on how, or even if, access to the local free-to-air (**FTA**) radio and audio services is offered to Australians. The continued sustainability of these services is also partly dependent on continued listener patronage, which could be negatively impacted by the market practices of manufacturers and software providers.

SBS's audio content is unique and not offered by other services or international providers. SBS's services, and other Australian FTA services are a primary means through which consumers access free, local and reliable Australian news and information including emergency event information. These services also offer a range of important cultural outputs including Australian music, community announcements, and entertainment. Thus, they are valued so highly by Australian audiences.

SBS serves all Australians with free, independent, and trusted news and information through eight SBS Audio stations, and programs and podcasts in more than 60 languages, and is Australia's most trusted news brand.³ In addition to terrestrial radio delivery nationally, SBS delivers audio content online through a dedicated website for each service, SBS Audio and SBS On Demand services and apps, and the dedicated NITV Radio multiplatform service by, for, and about First Nations peoples.

SBS has a specific Charter remit to serve the more than 5.6 million people in Australia who use a language other than English at home, and our SBS Audio content includes unique stories, coverage, and explainers, including:

- *SBS Examines*⁴ – providing radio and podcast content in more than 40 languages to promote social cohesion and counter mis- and disinformation (funded through to June 2025);

¹ Proposals Paper, page 6

² Proposals Paper, page 7

³ According to the *Digital News Report: Australia 2024*, available at <https://www.canberra.edu.au/research/faculty-research-centres/nmrc/digital-news-report-australia>

⁴ <https://www.sbs.com.au/language/english/en/sbs-examines>



- *Australia Explained*⁵ which includes radio and podcast content in more than 50 languages that assists new arrivals to settle well into life in Australia, such as content on voting enrolment and democratic processes, among many other topics; and
- *SBS Learn English*⁶ podcasts that help improve English language proficiency in an Australian context.

As use of smart speakers and software driven audio devices and platforms grow, a well designed and promptly introduced Framework is vital to ensuring continued access to the kinds of SBS services outlined above, together with the services provided by the ABC, commercial radio broadcasters, and community radio broadcasters.

SBS, the ABC, Commercial Radio and Audio (CRA) and community radio broadcasters are united in their support for an effective, flexible, and future-ready radio prominence framework.

II. THE PROPOSED FRAMEWORK SHOULD BE ENHANCED

SBS welcomes the Government's work in developing a proposed framework for radio prominence. The framework contains a number of elements which will be critical in ensuring the success of the framework, including that there be no payment for prominence, and no alteration to a regulated radio service's content including in relation to advertising contained in the content.

However, to ensure the framework fully meets the current policy challenge, there are a range of additional or enhanced features which should be included in the framework, to maximise the public policy outcomes for the community.

These are:

- a) The scope of 'regulated access providers' should be enhanced.** The Proposals Paper describes these as '[v]oice assistant platforms – [...] providers of voice activation software used in smart speakers'⁷.

There are instances when a third-party operating system or software is deployed unaltered for end-users to interact with. However, there are also instances when an operating system or software is modified, or has some further set(s) of software 'overlaid' or installed with it – for example, to provide end-users with a 'branded' interface or more customised experience. The Framework should make it clear that *all* relevant software providers would fall under the definition of 'regulated access providers', and are thus also responsible for ensuring the prominence of FTA services.

In instances where software modification alone is insufficient, then device or hardware manufacturers must also be included in the Framework as regulated access providers,

- b) Connected vehicle audio systems should be included in the Framework from its commencement.** CRA's figures demonstrates that 78 per cent of Australians listen to radio in the car and 31 per cent of all listening takes place in cars.⁸ It is also estimated that 90 per cent of all new vehicles sold in Australia by 2030 will have their own internet connection.⁹ While noting that the Proposals Paper states that prominence in these systems 'will take a longer timeframe'¹⁰, it is important that they be included in the Framework from its commencement,

⁵ <https://www.sbs.com.au/language/english/en/australia-explained-language-list>

⁶ <https://www.sbs.com.au/language/english/en/podcast/sbs-learn-english>

⁷ Consultation Paper, page 8

⁸ Commercial Radio Australia data

⁹ *Future Vehicles 2030* Connected and Automated Vehicles Report, page 15, Austroads (Government body made up of all AU and NZ state based transport departments), <https://austrroads.com.au/publications/connected-and-automated-vehicles/ap-r623-20>

¹⁰ SBS notes the Proposals Paper's reference to paragraph 2.145 (page 32) of the Environment and Communications Legislation Committee's report on Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023 [Provisions], published in 2024, available at



to ensure that relevant implementation steps regarding these systems do not encounter any unnecessary delay. It is relevant to note that the operating systems that are used in vehicle audio systems are generally the same systems that are used to operate smart speakers, so the framework and regulation can be consistently applied with relative ease.

- c) The Framework should be flexible and easily adaptable to changes in technologies, services, platforms and devices:** The Framework should provide the Minister for Communications with a power to make legislative instruments which enhance the scope of the Framework in response to emerging trends in audio consumption and technology.

This would mirror the approach taken in the television prominence framework.

- d) The Framework should also ensure continued free and easy access to SBS's catchup radio programs, and podcasts.** A significant portion of SBS's audiences prefer to listen to our audio content (both programs and podcasts) at the time of their choosing¹¹. SBS's free podcasts are very popular – in the financial year 2023–24, online audience engagement with them was in excess of 53 million instances across SBS's own and third-party platforms, services and devices. To ensure the Framework properly reflects contemporary consumption, it is imperative that services offered by the FTA audio sector in Australia that are not live simulcasts of terrestrial services (such as podcasts) are also included in the definition of 'regulated radio services'.

- e) The Framework should also ensure free and easy access to SBS's radio and online audio content via radio or audio content aggregating apps and services (such as iHeartRadio or TuneIn Radio). 'Multimodal' devices ('a smart speaker with a screen') should also be included in the Framework.**

Given these services are an important way in which Australians are accessing free and local radio and audio content¹², it is appropriate to ensure audiences have free and easy access to audio content on these apps and devices. FTA services' app tiles should be easily discoverable within these user interfaces, mirroring a similar provision in the TV Prominence Framework.

- f) The Framework should include existing devices for which software updates are still being rolled out.**

SBS consistently opposed the parts of the TV prominence framework which ensured it only applies to newly manufactured devices as unnecessary and counter to the public policy intentions behind the framework. We retain this view as regards the proposed radio prominence framework. Implementation is easily achievable by upgrading the software of existing devices already in the market, and there is no justification to defer the commencement of the new rules.

- g) An accelerated timeframe for implementation.**

SBS recommends a period of 6 months for implementation of the radio prominence framework, given the Framework can be implemented via updates to software (particularly operating systems). Long lead times are not warranted and will only dilute the public interest benefit of the Framework.

III. ADDRESSING THE PROPOSED FRAMEWORK

This section of SBS's submission focuses on the proposed key design elements of the radio prominence framework as outlined in the Proposals Paper (refer to Table 1). The table below sets

[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000302/toc_pdf/CommunicationsLegislationAmendment\(ProminenceandAnti-siphoning\)Bill2023\[Provisions\].pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000302/toc_pdf/CommunicationsLegislationAmendment(ProminenceandAnti-siphoning)Bill2023[Provisions].pdf)

¹¹ For example, SBS's internal research shows that engagement with SBS Audio services peaks between 7pm to 9pm, and particularly on Wednesday.

¹² For example, iHeart has 6.5 million Australian listeners according to a report by *Podnews* website, accessed in July 2024: <https://podnews.net/press-release/iheart-aus-jun24>



out the key design principles, together with the Government's proposals, and SBS's response and/or position.

Proposed radio prominence framework for smart speakers		
Key design issue	The Proposals Paper's proposed approach	SBS comment
1. Level of prominence	<u>Consistent and reliable access</u>	Support Geo-location of the audiences will need to be addressed. For example, ensuring the appropriate services are made prominent if the end-user is logged in from a particular location in Australia, or when the location is not known or changing (e.g. when a vehicle is travelling).
2. Payment for prominence	<u>No cost</u> [to a regulated radio service]	Support
3. Service integrity	<u>No alteration</u> [of a regulated radio service's content, including advertising]	Support
4. Regulated radio service providers	<u>Australian national, commercial and community broadcasters</u>	Support
5. Regulated radio services	<u>Online simulcasts of radio broadcasting services</u> [only]	Do not support (see below – SBS supports inclusion of all linear and on-demand audio services and content)
	<u>All linear and on-demand audio services and content</u>	Support As SBS puts forward (in II. above), the regulated radio services should also include SBS's catchup radio programs, and podcasts available online. Precedent can be seen in the TV Prominence Framework, whereby free-to-air television broadcasters' app tiles are given a level of prominence in a user interface, and the operations within these apps include provision of catchup television programs, as well as episodes, trailers, and snippets of the programs



		(mirrored in the radio context by catchup programs, and podcasts).
6. Regulated access provider	<u>Voice assistant platforms</u>	<p>Support with enhancements</p> <p>As SBS puts forward (in II.) above), the regulated access provider should also include radio or audio content aggregating apps and services (such as iHeartRadio or TuneIn Radio, among others), as well as 'multimodal' devices.</p> <p>As outlined immediately above in relation to the scope of 'regulated radio services', precedent can be seen in the TV Prominence Framework, whereby free-to-air television broadcasters' app tiles are given a level of prominence among other providers' tiles within a visual aggregation/user interface.</p> <p>SBS understands the Framework can be implemented via software (particularly operating systems) modification. That said, in instances when software modification alone is insufficient, then device or hardware manufacturers must also be included in the Framework as regulated access providers, to ensure the Framework operates as intended.</p>
7. Access pathway	<u>Open access pathway:</u> regulated access providers to have discretion to determine the mechanism by which devices provide access to regulated radio services.	Do not support (see below – SBS supports a nominated access pathway)
	<u>Nominated access pathway:</u> regulated access providers to provide access to regulated radio services via the mechanism nominated by a regulated radio service provider.	<p>Support</p> <p>Broadcasters, as the holders of intellectual property (IP) in their content, should be able to determine the manner in which their content can be accessed by audiences.</p> <p>For example, if a broadcaster's content is made available elsewhere online (with or without the broadcasters' authorisation), broadcasters should be able to nominate their preferred audience pathway – i.e. via the broadcasters' website or other online</p>



		source. Without a regulated nomination process, regulated entities may require broadcasters to use an app or pathway that imposes unreasonable conditions and restrictions.
8. Minimum technical standards	<u>Negotiated standards</u> : 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	Conditional support There may be benefits arising from technical standards being negotiated among relevant parties in the first instance.
	<u>Regulated standards</u> : an obligation for regulated radio services to meet technical and other operational requirements as determined by the regulator.	Conditional support Should the negotiation among relevant parties become unsuccessful, mandatory standards determined by the regulator should then take precedence.

IV. CONSULTATION QUESTIONS

This section of the SBS submission addresses the consultation questions put forward in the Proposals Paper (commencing on p 43), which cover the potential costs and potential benefits of the proposed framework.

Potential costs associated with the proposed radio prominence framework	
Consultation questions	SBS responses
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)?	1. & 2. This is difficult to quantify as it is not clear what the final parameters of the Framework will be. SBS would welcome further collaboration with the Government regarding the additional financial modelling required to fully address these questions.
3. What technical changes to voice assistants would be required to adhere to the proposed framework? a. What would these changes involve?	3. N/a. Device manufacturers and software providers are best placed to answer.



<p>b. Could they be implemented via updates to software?</p> <p>c. What hardware changes, if any, would be required?</p> <p>d. How long would they take to develop and implement?</p> <p>e. What resources and / or costs would be involved?</p> <p>4. Would any increase in the consumption of live radio content as a result of the framework have an effect on the consumption of on-demand audio content?</p> <p>a. If so, in what way, and which entities or services would be affected?</p> <p>5. What impact would the framework have on third-party suppliers of smart speakers that use voice activation software?</p> <p>6. What impact would the framework have on the range and features of voice assistants and / or smart speakers made available in the Australian market?</p>	<p>4. SBS does not currently collect data which could immediately address this question. Further research would be required.</p> <p>5. & 6. N/a. Device manufacturers and software providers are best placed to answer.</p>
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Potential benefits associated with the proposed radio prominence framework

Consultation questions	SBS responses
<p>7. 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?</p>	<p>7. SBS ensures its audio services are available to listeners on a range of platforms, devices and services (examples immediately below) via the CRA's RadioApp. Details of fees paid and their distribution across the value chain are commercially in confidence.</p> <ul style="list-style-type: none"> • iOS and Android smartphones • Carplay and Android auto • Android Automotive OS • Google smart speakers • Alexa smart speakers • Sonos speakers
<p>8. To what degree do voice assistant platforms or related entities currently generate revenue from in-stream advertising, or advertising before or after a consumer accesses a radio station (i.e. pre- or post-roll advertising)?</p>	<p>8. N/a. Device manufacturers and software providers are best placed to answer.</p>
<p>9. To what extent do voice assistant platforms or any related entities generate other monetary or non-monetary benefits from radio stations that may be foregone</p>	<p>9. N/a. Device manufacturers and software providers are best placed to answer.</p>



as a result of the implementation of the framework?	
<p>10. To what extent will the framework make it easier, simpler and more convenient for radio listeners to access radio stations?</p> <p>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?</p> <p>b. Would the improved user experience be likely to drive future radio listening on voice assistant platforms? If so, to what extent?</p>	<p>10. The Framework, if enhanced in the ways SBS has outlined above, will make it easier, simpler, and more convenient for listeners to access audio content online in general, and thus may increase future listening via regulated access providers. However, there are also other factors involved such as (non-exhaustive) costs, designs, and ease-of-use of the regulated access providers' devices, services, or platforms.</p> <p>Increased listening may especially arise for those who are blind or have low-vision, as they rely more on voice-assisted systems in their day-to-day lives.</p> <p>That said, some cohorts of the population who cannot afford the various means to access online audio may not be able to derive benefits from the Framework.</p>
<p>11. Would the framework support the ability of commercial and community radio stations to maintain or grow radio listening?</p> <p>a. If there is an expectation of audience growth, by how much would this increase?</p> <p>b. Would this enable commercial radio stations to increase advertising rates? What is the expected value of this increase?</p> <p>c. Would this enable community radio stations to increase sponsorship revenues? What is the expected value of this increase?</p>	<p>11. N/a. Not directed to SBS.</p>
<p>12. To what extent would the framework result in an increase in radio listening for national broadcasters?</p> <p>a. Would this increase be expected for all radio services provided by the national broadcasters, or for particular stations?</p> <p>b. To what extent would the framework support the capacity of the national broadcasters to fulfil their respective charters?</p> <p>c. Would this enable the SBS to increase advertising revenue? What</p>	<p>12. Whilst SBS has not undertaken detailed modelling on these questions, it can be assumed the Framework will make it easier, simpler and more convenient for listeners to access audio content online and will result in a consequential audience uplift.</p> <p>SBS Audio provides audio content in more than 60 languages and through eight stations, and the levels of access to audio content online (among other means of access) vary greatly among our diverse audience groups. Therefore, any changes arising from</p>



is the expected value of this increase?	<p>implementation of the Framework would likely be non-uniform.</p> <p>SBS is optimistic that, easier, simpler, and more convenient access to our online audio services would result in an overall increase in listenership, therefore further fulfilling SBS's delivery on its Charter, as well as increasing advertising revenue – which SBS then uses to further produce its public-interest content.</p>
<p>13. What impact would the restriction on levying fees or altering services (including in relation to advertising) have on commercial, national and community broadcasters?</p> <p>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?</p> <p>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?</p> <p>c. Would this benefit all radio broadcasters equally, or would there be differential impacts based on the type of station, location and size?</p>	<p>13. Per SBS's response to question 7, SBS ensures its audio services are available to listeners on a range of platforms, devices and services via the CRA's RadioApp. Details of fees paid and their distribution across the value chain are commercially in confidence.</p> <p>As radio broadcasters' business models and sizes vary, it is unlikely that any impacts arisen would be uniform.</p>
Application considerations	
Consultation questions	SBS responses
<p>14. What is the appropriate application period for the radio prominence framework:</p> <p>a. 6 months;</p> <p>b. 12 months;</p> <p>c. 18 months; or</p> <p>d. another period?</p>	<p>14. As SBS understands, and in line with the UK's radio prominence framework already in effect, the Framework could be implemented via updates to the devices' software (particularly operating systems), thus, there is no need for any manufacturing lead time.</p> <p>Therefore, the appropriate application period for the radio prominence framework should be no longer than 6 months.</p> <p>That said, in instances when software modification alone is insufficient to implement prominence, then device or hardware</p>



	manufacturers must also be included in the Framework as regulated access providers so as to ensure the success of the Framework as intended.
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?	15. a. Yes. 15. b. & c. Yes; additionally, the Framework should also apply to: <ul style="list-style-type: none">• Vehicle audio systems• Radio or audio content aggregating apps and services (such as iHeartRadio or TuneIn Radio, among others) as well as the 'multimodal' devices.• Any new and relevant technologies, services, platforms, or devices that may emerge in the future. They could be included in the Framework via the Minister for Communications' power through legislative instruments, as outlined above.

IV. CONCLUSION

SBS's audio content and programs continue to deliver significant public interest benefits to Australian audiences, and in particular, the 5.6 million Australians who use a language other than English at home.¹³ SBS's audio content plays a key role in connecting communities, promoting social cohesion, and enabling participation in public life.

However, regulatory intervention is needed to ensure audiences can continue to find and freely access these services, which they fund through tax contributions. The prospect of large technology and software firms taking a gatekeeper position between Australians and these services should not be left unaddressed. It is clear that this is already occurring and regulatory action is urgently required.

SBS supports the model put forward in the Proposals Paper, subject to a range of reasonable enhancements which will ensure the framework operates as intended to protect the link between audiences and public interest audio content, well into the future.

SBS appreciates the opportunity to respond the Department's Proposals Paper and looks forward to working closely with Government and audio industry counterparts to ensure a prompt implementation.

¹³ According to the 2021 Census, Australian Bureau of Statistics, available at: <https://www.abs.gov.au/media-centre/media-releases/2021-census-highlights-increasing-cultural-diversity#:~:text=Shared%20language%20is%20a%20component,how%20well%20they%20spoke%20English>