



Digital Television Regulation

Submission by the Australian Communications Consumer Action
Network to the Department of Communications

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About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

Contact

Wayne Hawkins Disability Policy Advisor

[Redacted contact information]

[Redacted contact information]

1.1. Introduction

ACCAN acknowledges there may be potential benefits from deregulatory reform to remove redundant legislation from the *Broadcasting Services Act 1992* (BSA) in light of the switch from analog broadcast television to a digital only broadcast television environment. As such, except where noted in the following discussion, ACCAN has no objection to the Government's proposed reforms to the BSA.

ACCAN's primary interest in this review is to represent the interests of consumers in ensuring that any changes to broadcast regulation and legislation in a digital television environment do not undermine consumer access to television services. Therefore we make comment on specific questions raised in the discussion paper in addition to raising other issues not explicitly addressed, but which are pertinent to digital television regulation.

The introduction to the discussion paper states that "all Australians can now access the full range of television services wherever they might live¹." ACCAN asserts that this is not necessarily the case for Australians with disability. For example, Australians who are blind or vision impaired do not have full access to any free-to-air television broadcast because there is no provision of Audio Description (AD). AD is an access feature which is essential for people who are blind or vision impaired to enjoy digital television. AD is widely adopted internationally with many comparable countries providing significant amounts of AD content across free-to-air digital platforms². An AD trial was undertaken by the ABC in 2012. These international examples provide evidence that any perceived technical obstacles arising from the ABC trial can be ameliorated.

Additionally, Australians who are Deaf or hearing impaired, or indeed any Australians who rely on closed captions to enjoy television do not have access to the 'full range' of free-to-air broadcast television due to the fact that only primary channels are required to provide 100 per cent closed captioning and this is only between the hours of 6am and midnight . Until all free-to-air television programming has closed captions these Australians will be denied access to the 'full range' of digital television. ACCAN's research indicates that over 30 per cent of Australians use closed-captions some of the time when watching television and it is widely known that many Australians who are Deaf or hearing impaired rely on closed-captions to

¹ See Digital Television Regulation Discussion Paper available at http://www.communications.gov.au/television/consultation_paper_digital_television_regulation Form

² For example free-to-air broadcasters in the UK, USA, Canada and New Zealand are required to provide mandated quotas of Audio Description.

UK <http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/subtitling-signing-or-audio-description/>

US <http://www.fcc.gov/guides/video-description>

Canada <http://www.crtc.gc.ca/eng/archive/2015/2015-104.htm>

NZ <http://tvnz.co.nz/access-services/moves-able-5711135>

gain meaningful access to television news, information and entertainment.³ The numbers will only increase in future decades due to the impact of current demographics.

ACCAN notes the Australian Government's 2010 Media Access Review final report recommended the Government give:

"further consideration to the introduction of progressive audio description requirements after the completion of the audio description trial" (recommendation 6).

"...commences another review of captioning and audio description on electronic media in Australia by 2014." (recommendation 22).⁴

Neither of these recommendations has been implemented. Additionally, on 30 November 2012 the then Minister for Communications announced that the Australian Government would commence consultations in 2013 on how captioning levels would be increased on free to-air television multichannels following the completion of the digital switchover process.

ACCAN notes that there has been no legislated increase for closed captioning of multichannels since the switch to digital only television broadcasting in December 2013. Digital multichannels have been part of the Australian free-to-air television landscape since 2005 and yet there is no requirement for these free-to-air multichannels to provide closed-captions other than those previously closed-captioned programs rebroadcast from the networks primary channel.

ACCAN is concerned that the television access needs of Australians with disability continue to be considered as a separate issue to more general questions of television access. Positioning disability needs as 'outside' of the norm has meant that Australians with disability have been, and continue to be, in a constant race of catch-up with their non-disabled family, friends and colleagues when it comes to accessing free-to-air television. ACCAN maintains that this consideration of disability access as somehow separate must cease if all Australians are to benefit from digital television.

Regional consumers and digital television reception

ACCAN is also aware of consumers in regional communities who have not received the promised benefits of digital television. Farmers in Queensland's Berajondo community have not had ABC network reception since the restack of the spectrum in November 2014. Additionally, residents of the South Australian community of Delamere have been plagued with intermittent television reception since the switch to digital broadcast. Neither of these

³ See <http://accan.org.au/index.php?option=com_content&view=article&id=298:research-on-caption-awareness&catid=98:access-for-all&Itemid=234>.

⁴ See http://webarchive.nla.gov.au/gov/20110217071307/http://www.dbcde.gov.au/television/television_captioning/media_access_review

communities has been provided the requisite Government assistance to ameliorate these problems. It is clear to ACCAN that until all these issues have been resolved digital television in Australia will not have delivered the benefits consumers were promised.

1.2. Response to Discussion Paper

Section 1.3 Multi-Channels

ACCAN notes that there is an explanation within this section which specifically states that closed captioning is to be considered outside of this review. Closed captioning on multi-channels has been conceptualised by government and broadcasters as somehow a different requirement to primary channels. Australian television viewers reliant on closed captions do not see this distinction and consider multi-channels as just another viewing option. As such multi-channels need to have the same requirement to provide full and equal access for all viewers. In the digital only broadcast environment it is no longer appropriate for these multi-channels to be considered separately from primary channels.

2.1 Datacasting and Narrowcasting Services

ACCAN is concerned that the Government's proposal to remove the current narrowcasting restriction barring commercial and national broadcasters from using their digital multiplexes for narrowcasting services will likely lead to more content being broadcast without closed captioning. As with section 2.3 below, there needs to be processes to protect consumer and community interests.

2.2 Third Party content

Providing greater flexibility for broadcasters to monetise the use of their spectrum via third party content is likely to have negative consequences for consumers, in particular television viewers with disability. Australian free-to-air and national broadcasters need to balance commercial interests with community expectations. This means that all Australians, including those with disability, should be able to access television. History shows us that the market has failed to deliver on this community expectation hence we have legislation to provide access features. Allowing broadcasters to use allocated spectrum more flexibly without requiring the provision of access features on this new content will undermine community participation.

2.4 Online Services

It is clear from the rapid rise in online delivery of catch-up television that there is a move away from traditional broadcast television. ACCAN is concerned that with this move to online content, broadcasters have no legislative requirement to make their content accessible for viewers with disability. It has taken decades to get 100 per cent closed captioning on Australian free-to-air and national television between 6 am and midnight and for all news and

current affairs programming. As more content is delivered online much of these gains and access features are at risk of being eroded. Australia is out of step with comparable jurisdictions in not requiring access features via broadcaster's online catch-up platforms. For Example, the US Communications and Video Accessibility Act (2010) mandates that television content broadcast with closed-captions retain captions when replayed across other internet platforms. While some broadcaster's online platforms, such as the ABC's iView, are providing a very high percentage of closed captioning, other broadcasters catch-up platforms are providing none. ACCAN maintains that with this move to online content delivery, it is necessary that broadcasters be required to provide access features with all their online content to ensure that content is accessible to all.

ACCAN is available to provide additional information or feedback to this submission if requested.