

# A submission in response to the Department of Communications' Consultation Paper: Digital Television Regulation

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## About Media Access Australia

Media Access Australia is Australia's only independent not-for-profit organisation devoted to increasing access to media for people with a disability.

We promote inclusion by providing information and expertise on the accessibility of mainstream technologies to government, industry, educators, consumer organisations and individuals.

We work as a catalyst for change across television, video, cinema, the arts, education, digital technology and online media, with a primary focus on people who are blind or vision impaired, or Deaf or hearing impaired.

Media Access Australia grew out of the Australian Caption Centre (ACC), which was founded in 1982. As the ACC we provided captioning services for all Australian television networks, as well as the captioning of live theatre, videos and DVDs. The captioning and other commercial operations of the ACC were sold to Red Bee Media in 2006.

## Media convergence and consumer protection

Digital convergence is rapidly changing the way that consumers watch television. TV viewing was once confined to what are now called the 'primary channels' of each network. Legislation to ensure minimum levels of captioning was originally framed in this context. The provision of captions ensures that the one in six Australians who are affected by hearing loss can access video content on equal terms with their fellow consumers.

The media landscape has changed significantly, however. The networks now offer a range of multi-channels and online 'catch-up TV' services which are becoming increasingly popular. These are positive developments, bringing potentially more consumer choice in content and the way in which it is consumed, and they should be open to everyone, including those with disabilities. But the captioning provisions in the *Broadcasting Services Act* that apply to the primary channels do not apply to these services. Consumers who have campaigned for decades to achieve reasonable levels of captioning on free-to-air television are now seeing the consumer protection afforded to them in legislation ebbing away.

The Government's discussion paper also signals a general shifting of approach towards allowing more freedom of the types of services and how broadcasters use spectrum, including letting third-party providers access it. With this flexibility and freedom, which is ultimately to allow market-driven services to be provided, there should be obligations to ensure that consumer services such as access are not lost in the process.

The situation with audio description, an essential service for the blind and vision impaired, is far behind captioning. Although it is available on television in many other countries, and despite the fact that there was a successful trial of the service on the ABC in 2012, there is still no audio description service on Australian television. A trial of audio description on the ABC's iView service is due to commence soon, but, as Vision Australia has pointed out, two-thirds of blind people do not have access to the internet.<sup>1</sup>

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<sup>1</sup> <http://www.visionaustralia.org/about-us/advocacy/campaigns/tell-the-whole-story-audio-description-on-tv>



While it's the transition of media from television to the internet that is today grabbing the headlines, it should not be forgotten that broadcast television still accounts for most of the television viewing in Australia. (According to a recent Screen Australia report, in 2014 television viewers who also had access to video-on-demand services spent 11.6 hours a week watching the former and 2.6 hours watching the latter<sup>2</sup>.) The UK communications regulator Ofcom expects digital television in its present form to be around until at least 2030<sup>3</sup>, so there should not be any attempt to delay the introduction of access services including captioning and audio description to it on the grounds that it is 'old technology'.

## Captioning on digital multi-channels

In July 2014, caption quotas included in the *Broadcasting Services Act* reached 100% on programs broadcast on the networks' primary channels between 6 am and midnight.

However, for digital multi-channels (including ABC2, ABC3, ABCNews24, SBS2, 7Two, 7Mate, GO!, Gem, One HD and 11), the only programs which must be captioned are repeat programs that were originally captioned for screening on the same network's primary channel.

The legislation introduced in 2006 that authorised broadcasters to provide multi-channels exempted them from the captioning rules that applied to primary channels. It was argued that these were new channels which had not yet shown themselves to be profitable, so expecting them to provide captioning on new programs was unreasonable. A review of the multi-channels was scheduled to for the end of 2012, but this never took place.

Multi-channels have now been around for almost a decade, and are simply part of the TV landscape. Viewers regard primary channels and multi-channels as simply 'channels'. Even the Government's consultation paper states that "All commercial television broadcasting services are now considered to be multi-channels." (Page 8) Broadcasters move programming from primary channels to multi-channels and back again, which means that a series that needed to be captioned on a primary channel does not need to be (and often won't be) captioned on a multichannel. Programs also move between broadcasters, so a series which has been screened many times with captions on one network will, in all likelihood, not be captioned if it turns up on another network's multi-channel. This is very frustrating for consumers.

Media Access Australia believes that all channels should be covered by legislation in a consistent manner. This means scrapping the requirement that repeats need to be captioned, which in itself can be an onerous task, as records must be checked and old caption files tracked down. It is also not a transparent process for consumers, who will not know if a program on a multi-channel which they once watched with captions was screened on the same network's primary channel.

Proper caption quotas should therefore be introduced for the multi-channels. These could be based on the current levels of captioning on them, then rise over time. This should not initially make much difference to the programming of captions on these channels, as when channels have a quotas to fill, the natural market behaviour is to fill them with repeated programs first. If there are issues around a particular repeated program then they can substitute it with another captioned program

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<sup>2</sup> *Online and on demand: Trends in Australian online video use*, (2014)

[http://www.screenaustralia.gov.au/research/video\\_on\\_demand.aspx](http://www.screenaustralia.gov.au/research/video_on_demand.aspx)

<sup>3</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/wrc15/Update\\_on\\_WRC-15.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/wrc15/Update_on_WRC-15.pdf)



## Captioning on catch-up television services

At the end of 2014, 50% of Australian internet users had watched movies or TV programs online, and the younger they were, the more VOD content they were likely to have seen. Among 16 to 24 year olds, around 66% now watch TV content online, compared to 75% who watch broadcast television. They are also more likely to own an internet-connected TV.

Of the various VOD services available in Australia, the catch-up TV services of the free-to-air networks have the greatest awareness among viewers (84% of VOD users are aware of at least one, which most of them use).<sup>4</sup>

Of the five catch-up services, only three currently provide captions. The ABC's iview introduced them in 2010, SBS On Demand in 2012, and Plus7 in 2014.

As there are clearly no significant technical barriers to providing captions on catch-up TV services, the Nine Network's 9Jumpin and the TEN Network's TENplay should also provide them. They should be given the opportunity to do this by the end of 2015, and if they fail to, the Federal Government should move to make this compulsory through legislation.

## Caption reporting

The Australian Communications and Media Authority (ACMA) has imposed on the free-to-air networks and subscription television providers what Media Access Australia believes to be an unnecessarily complicated and onerous caption reporting regime. Any loss of captions, no matter how brief, requires a report to be generated, but these reports do not actually have to be lodged with the ACMA until up to 15 months after the incident. As most instances of caption loss are caused by technical faults which are quickly rectified, we do not believe that the compilation of such reports benefits the consumer.

The UK has a much simpler system. Stations must report to the regulator, Ofcom, any instances where 25% or more of a program has not been captioned. The entire duration of that program is then subtracted from the network's total captioning for that six-month period (Ofcom publishes these statistics twice a year). We believe that the ACMA should move to a similar system.

Another flaw in the current reporting model is that it does not deal adequately with the multi-channels. The only information regarding them that the networks need to give to the ACMA is a list of repeats that were not captioned. However, some of the multi-channels caption more than they are required to, and this is something that should be reported on and publicised.

## Audio description

Audio description is the narration of all the important visual elements of a TV program, movie, DVD, performance or other media, giving access for the blind or vision impaired. It is available on television in the UK, US, Canada, many European countries and New Zealand. In the UK, most channels must audio describe at least 10% of their content, and some channels voluntarily do 20% or more.

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<sup>4</sup> These statistics are derived from Screen Australia's *Online and on demand: Trends in Australian online video use*, (2014). [http://www.screenaustralia.gov.au/research/video\\_on\\_demand.aspx](http://www.screenaustralia.gov.au/research/video_on_demand.aspx)



A trial of audio description took place on ABC1 in 2012. This ran for 14 weeks, during which an average of two hours of programs each day were audio described. The ABC released a technical report on the trial, but discussions about the introduction of a regular service which were expected to follow this did not take place.

In 2013, Blind Citizens Australia launched disability discrimination complaints against the ABC for not providing a regular audio description service, and the conciliation process is ongoing. In 2015, Vision Australia launched similar complaints against the Seven, Nine and Ten networks, SBS and Foxtel.

In 2014, the Department of Communications announced a trial of audio description on the ABC's iview service. This is due to commence in April 2015. While Media Access Australia believes this is a very positive development, and the trial will result in much useful information about the delivery of audio description online, this is not an adequate substitute for a regular service on television.

Given that captioning for the Deaf and hearing impaired has been provided on Australian television since 1982, we believe there can be no excuses for not introducing the equivalent service for the blind and vision impaired. The 2012 audio description trial demonstrated that audio description could be broadcast on Australian television, and a significant number of TVs on the market here can access it.

Media Access Australia recommends that the Department of Communications set up a consultation process involving industry, consumers and suppliers to determine a plan to introduce audio description to television (and to the associated catch-up TV services). This plan should see services commencing no later than the end of 2016.

