



14 June 2019

Order Applications
Diversity Localism and Accessibility Section
ACMA
PO Box Q500
QVB NSW 1230

Via email: captioning@acma.gov.au

ACCAN thanks the Australian Communications and Media Authority (ACMA) for the opportunity to comment on the caption exemption draft order for Telstra Pay TV Pty Ltd, (STV/EO-364).

ACCAN's long held concern that Australian consumers who rely on closed captions struggle to have the same functional access to television services as other Australians has not changed since we last submitted to the ACMA's draft exemption orders. Deaf and hearing impaired Australians continue to be excluded from full access to any television service in Australia, despite this issue of inequality being debated in our public policy discussions for decades. In 2012 the Australian Parliament passed legislation mandating greater captioning of subscription television with an expectation that subscription television services would meet increasing annual caption targets.¹

Australian subscription television market predictions forecast increased take up of services with significant revenue growth over the next 5 years.² Australians with disability need to be able to benefit and enjoy these new services in the same ways as their families, friends and colleagues.

Closed caption requirements have been part of the Australian subscription television market legislative framework since 2012.³ Under the previous model, in which the Australian Human Rights Commission presided over the exemption process, subscription services needed to provide tangible evidence that they were working towards meeting their legislative obligations; legislation designed to ameliorate disability discrimination. ACCAN urges the ACMA to apply this principle to the current exemption process.

ACCAN reiterates our recommendation that the adoption of an exemption process based on setting a revenue percentage benchmark, similar to that used in the UK, should be evaluated

¹ The Broadcasting Services Amendment (Improved Access to Television Services) Act 2012
<http://www.comlaw.gov.au/Details/C2012A00083>

² See IBIS World's Pay Television market research report 2014
<http://www.ibisworld.com.au/industry/default.aspx?indid=1817>

³ <http://www.acma.gov.au/Citizen/TV-Radio/Television/Captioning/captioning-1>

by all Australian access service stakeholders; industry, service providers, consumers, regulator and government.⁴

In the interest of providing access for all Australians to our changing media environment, ACCAN strongly recommends that the ACMA deny this exemption. ACCAN asserts it is unacceptable that after decades of advocacy and lobbying for increased access to both publicly funded and subscription broadcast television services, Australians who rely on captions continue to find themselves excluded from equitable access to subscription television services.

International best-practice mandates the provision of captions irrespective of the broadcast platform. Section 203 of the U.S. *Twenty-First Century Communications and Video Accessibility Act* requires all devices that can receive or play back video programming to be capable of displaying and passing through closed captioned content.⁵ In addition, the Federal Communications Commission has created an Accessibility Clearinghouse listing mobile devices with closed caption capability.⁶

In conclusion, the technology exists to provide captioned video programming, legislation is in place to promote greater access to video programming and no transparent evidential claim of 'unjustifiable hardship' or exceptional circumstances have been provided in the exemption draft order. For these reasons ACCAN recommends that the ACMA deny the exemption application.

Sincerely,

Wayne Hawkins
Director of Inclusion
Wayne.Hawkins@accan.org.au

⁴ see <http://accan.org.au/our-work/submissions/1152->

⁵ see <http://www.fcc.gov/encyclopedia/twenty-first-century-communications-and-video-accessibility-act-0>

⁶ See FCC Accessibility Clearing House <http://ach.fcc.gov/products-and-services/mobile-devices/region-na/all-manufacturer/all-blind-features/all-cognitive-features/all-hearing-features/all-mobility-features/all-physical-features/page-1-of-3/show-100/>