

Submission

24 April 2022

Department of Infrastructure, Transport, Regional Development and Communications

GPO Box 2154 CANBERRA ACT 2601

Via website: <https://www.infrastructure.gov.au/have-your-say/>

Re: Streaming Services Reporting and Investment Scheme

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Department of Infrastructure, Transport, Regional Development and Communications for the opportunity to comment on its *Streaming Services Reporting and Investment Scheme Discussion Paper (the Discussion Paper)*.

ACCAN is Australia's peak communications consumer organisation representing consumers of communications products and services, including the internet and mobile telecommunications. As audio-visual content has become increasingly distributed using digital platforms via broadband internet and mobile telecommunications services, ACCAN has represented consumer interests on a case-by-case basis. ACCAN recently made submissions in response to the *Media Reform Green Paper*¹ and the issues paper on *A Caption Scheme for Subscription Television*.² ACCAN has consulted with other advocacy organisations and this submission is endorsed by Deafness Forum Australia and the Centre for Inclusive Design.

In our submission to this discussion paper ACCAN can offer feedback regarding key questions where we have expertise. ACCAN's submission addresses three key areas. First, we outline the need for media consumers to have an independent, representative voice during a time of significant media market disruption. Second, we argue that all local content counted towards investment targets needs to be made available to stream with closed captioning (**CC**) and audio description (**AD**). Third, we assert that accessibility needs to be a core pillar in considerations of the discoverability of Australian local content. ACCAN offers five recommendations:

Recommendation 1: ACCAN recommends the resourcing of an organisation to provide a representative consumer voice in media reform issues.

Recommendation 2: ACCAN recommends that all local content counted towards reporting requirements have high quality closed captions and audio description.

¹ ACCAN 2021a, *ACCAN response to Media Reform Green Paper*, available: <https://accan.org.au/accans-work/submissions/1854-media-reform-green-paper>

² ACCAN 2021b, *Captioning Rules for Subscription Television*, available: <https://accan.org.au/accans-work/submissions/1934-captioning-rules-for-subscription-television>

Recommendation 3: ACCAN recommends that streaming services should publicly report on their local and total offerings that feature closed captioning and audio description.

Recommendation 4: ACCAN supports the investigation and oversight of discoverability of Australian audio-visual content by the ACMA.

Recommendation 5: ACCAN recommends that the ACMA consider the accessibility of menus and interfaces as a key reporting requirement of discoverability reporting and oversight.

1. Media Consumers Need a Representative Voice

The media landscape is becoming more complex than ever. Media consumers can access a diverse number of innovative services. However, the number and the novelty of services in the marketplace also places new burdens on consumers. To access a full range of services, media consumers need to balance multiple accounts, subscriptions and connected devices as well as internet bandwidth and data limits. It is important that balance is brought to the policy debates in this marketplace to ensure that issues that could undermine consumer confidence and choice are identified and addressed. As ACCAN has previously noted³,

There is an expectation from consumers, industry, and government for appropriate representation on all communications issues that have a consumer impact. Consumers need a representative voice in the broadcast policy arena with the capability and willingness to engage, consult and inform both ‘supply’ and ‘demand’ stakeholders about consumer issues.

In the past ACCAN has addressed media policy issues on a case-by-case basis. For example, at the Government’s request, ACCAN undertook consumer consultation and representation with the Digital Television Switchover and the consumer education campaign. ACCAN’s participation ensured that government and industry considered consumer interests as a vital part of the successful transition from analogue to digital TV services. ACCAN currently represents consumer interests on the Government’s Future of Broadcasting Working Group and was also a member of the Government’s Audio Description Working Group in 2017. There is clearly a role for a properly resourced, representative body to engage with government and industry on the future reform of broadcasting and narrowcasting in Australia.

Recommendation 1: ACCAN recommends the resourcing of an organisation to provide a representative consumer voice in media reform issues.

2. Counting and reporting local, accessible content

Regarding questions:

5. Are there additional criteria that should be considered for designation under Tier 1 or Tier 2 of the Scheme?

³ ACCAN 2021a op. cit.

20. What information should be publicly disclosed through the mandatory reporting process? Which metrics should be aggregated across industry, and what information should be delineated by service?

Broadly, these questions are asking what requirements should be made of streaming services and how those requirements should be publicly reported.

ACCAN strongly supports incentives to encourage the creation of Australian content, however local content policies should ensure that local content can be accessed by all Australians. As ACCAN noted in our 2020 *Supporting Australian stories on our screens* submission:⁴

Article 30 of the Convention on the Rights of Persons with Disabilities (the CRPD) outlines that people with disability have the right to equal access to participation in cultural life, including equal access to television shows, films, theatre and other cultural activities. Not only must people with disability have access to these types of cultural materials, it must also be ensured that these materials are made available in accessible formats. This must be equally the case for children and young people with disability, acknowledging the role that accessible Australian content can play in helping them to gain a sense of inclusion, community and national identity. As such, access to (and the cultural value of) accessible Australian content on broadcast, subscription and streaming services must be carefully considered.

The imperative to produce Australian stories for screen must be supported by policies to ensure all Australians can access those stories.

The need to make Australian stories more accessible has been recognised in the past. In 2011 Screen Australia mandated that all funded projects would be required to be both captioned and audio described.⁵ In 2020 the Federal Government funded the ABC and SBS to provide 14 hours a week each of audio described content.⁶ Indeed, even with these commitments, experts commented that the “introduction of audio description on the public broadcasters is cause for celebration, but Australia still falls well short of other countries”.⁷ As subscription video on demand (SVOD) services carry a greater proportion of audio-visual content consumed by the wider community, any barriers to access take on a greater significance.

Research shows that SVOD services do provide some closed captioning and audio description but there is no formal requirement in Australia for them to do so.⁸ In its recent Human Rights and Technology report⁹ the Australian Human Rights Commission made five recommendations to increase the amount and quality of closed captioning and audio description in Australia. Recommendation 29 singled out streaming services.

⁴ ACCAN 2020, *Supporting Australian stories on our screens*, available: <https://accan.org.au/accans-work/submissions/1767-supporting-australian-stories-on-our-screens>

⁵ Screen Australia 2011, *Improved access means more audiences for Australian films*, available: <https://www.screenaustralia.gov.au/sa/media-centre/news/2011/06-09-accessibility-improvements>

⁶ Ellis, K. & Peaty, G. 2020, *Audio description finally comes to ABC and SBS*, available: <https://theconversation.com/audio-description-finally-comes-to-abc-and-sbs-141276>

⁷ Ellis, K. & Peaty, G. 2020 op. cit.

⁸ Ellis, K., Locke, K., Peaty, G., Hersinta & Kao, K. 2021, *Access on Demand: An analysis of the accessibility options on streaming television*, Australian Communications Consumer Action Network, Sydney.

⁹ AHRC 2021, *Human Rights and Technology*, available: <https://tech.humanrights.gov.au/accessible-technology>

The Australian Government should introduce legislation to provide minimum requirements for audio description and captioning in respect of audio-visual content delivered through subscription video-on-demand, social media and other services that are not covered by the *Broadcasting Services Act 1992* (Cth). Obligations should be determined in consultation with industry, and people with disability and their representatives.¹⁰

While there have been small steps towards making Australian screen culture accessible to all Australians, clearly more needs to be done. As the Federal Government recognises the value streaming services play in funding and distributing Australian content, the reporting instruments should also oblige SVOD services to make that content accessible to all Australians.

Requirements for local content to have accessibility features benefit all Australian consumers, not just people with a disability. Recent research found that accessibility features are sought after and expected by SVOD consumers.¹¹ Ellis et. al. (2021) argue that “in addition to being an essential tool for people with disability, accessibility features are also becoming a factor in consumer choice for mainstream viewers”.¹² Their research found that even audiences that do not identify as having disability use accessibility features to better fit the services into their lives and that of their family. As one participant, who did not identify as having disability, told researchers:

At home we use audio description because my mum has a visual disability. So I’ve gotten used to having it on. [AD] also helps me when there is some interruption around me. Or sometimes I’m on a phone call or video call, but I still would like to watch the movie. It helps a lot, especially when you are speaking another language, you can still keep up with the movie, which is pretty nice.¹³

Accessibility features have broad ranging benefits for consumers if they are of sufficient quality.

To ensure that accessibility features benefit Australians, research shows that accessibility features must be high quality and easy to access. Research found that the quality of closed captioning and audio description were important to ensure comprehension and enjoyment. As one participant told the researchers, they would like to see:

More programs that support captions, and consistently do so over episodes and seasons. Also, making them spoiler-free would be a bonus, as currently the subtitles may give away a joke, a moment of shock (for example, captions would show a normal conversation being interrupted before it actually happens on screen), or it would sometimes read something different.¹⁴

Accessibility features should be of high quality to guarantee inclusion but also to ensure that the high production quality and interesting narratives available on streaming services are not undermined by low quality closed captions and audio description. Closed captions and audio description should be considered an essential vehicle for the narrative.

¹⁰ AHRC 2021 op. cit.

¹¹ Ellis, K., Locke, K., Peaty, G., Hersinta & Kao, K. 2021 op. cit.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

Regarding question 20, ACCAN argues that streaming services should routinely report on their provision of content with closed captioning and audio description. This can contribute to two results. First, it would further allow consumers to make informed decisions between streaming services based on their provision of accessible content. Second, it would also encourage services to promote their delivery of accessible content. A recent survey by Ellis et. Al. (2021) found that “30% of respondents with disabilities had problems finding accessible content” on streaming services.¹⁵ An obligation to routinely report the accessibility components of audio-visual content would encourage further investment by providers and give consumers better information when choosing between services. As discussed in the next section of the submission, a key challenge in the SVOD space is not just safeguarding the provision of accessible Australian content but ensuring that consumers are able to discover and access that content.

Recommendation 2: ACCAN recommends that all local content counted towards reporting requirements have high quality closed captions and audio description.

Recommendation 3: ACCAN recommends that streaming services should publicly report on their local and total offerings that feature closed captioning and audio description.

3. Discoverability and accessibility

Regarding questions:

21. What aspects of discoverability should ACMA consider specifying for services to report on through the Scheme?

22. How should discoverability information be publicly disclosed, given that services may take differing approaches to discoverability?

The Discussion Paper asks two questions about discoverability on streaming services and particularly the discoverability of Australian content. Discoverability concerns how consumers are presented with content to watch, including the design of menus and through recommendations or curated lists. Discoverability is a key aspect of distributing Australian content on streaming services. Researchers argue that “availability, discoverability and production of local content are intertwined issues: each comprises an essential part of the overall local content system”.¹⁶ The Discussion Paper notes that only 30 per cent of Australians find it easy to find Australian content on SVOD services.¹⁷ To ensure the success of policies aimed at fostering Australian content there needs to be far more scrutiny of the discoverability of Australian content.

The Discussion Paper proposes that designated SVOD services should account for how they are making Australian content discoverable to Australian audiences. The paper proposes that this process should be overseen by the Australian Communications and Media Authority (ACMA) which

¹⁵ Ellis, K., Locke, K., Peaty, G., Hersinta & Kao, K. 2021 op. cit.

¹⁶ Lobato, R, Cunningham, S. and Scarlata, A. 2021, *Response to Media Reform Green Paper*, available: <https://www.infrastructure.gov.au/sites/default/files/documents/mrgp- a-prof-ramon-lobato-prof-stuart-cunningham-alexa-scarlata.pdf>

¹⁷ DITRDC 2022, *Discussion Paper – Streaming Services Reporting and Investment Scheme*, available: <https://www.infrastructure.gov.au/departments/media/publications/discussion-paper-streaming-services-reporting-and-investment-scheme>

would also publish annual reports on the discoverability of Australian content. The proposition emphasises the need for flexibility in a dynamic area of media distribution.

Recommendation 4: ACCAN supports the investigation and oversight of discoverability of Australian audio-visual content by the ACMA.

The effort to make Australian content more discoverable to Australian audiences logically leads to a need to ensure that SVOD menus and interfaces are accessible. Given that the structure of menus and interfaces is an “essential part”¹⁸ of SVOD services, it is essential that considerations of discoverability encompass accessibility requirements. Recent research has shown that user interfaces could create “layers of inaccessibility” on SVOD services and that a “consistent theme [throughout the research] was issues with user interfaces”.¹⁹

To ensure all Australians can access content, including local content, SVOD services must ensure that accessibility components including closed captions, audio description and simplified menus are not just available, but promoted to users. Accessibility components need to be simple to navigate and use. Research recommends that industry should work with the disability community to co-design “a clear set of Australian standards addressing how and where accessibility features should be housed”.²⁰ In ACCAN’s view, accessibility should be a key pillar of discoverability and the ACMA should investigate and report on each SVOD service’s provision of accessible interfaces and menus.

Recommendation 5: ACCAN recommends that the ACMA consider the accessibility of menus and interfaces as a key reporting requirement of discoverability reporting and oversight.

ACCAN is available to discuss any of the issues we have raised in this submission.

Sincerely,

Samuel Kininmonth

Policy Officer

The Australian Communications Consumer Action Network (ACCAN) is Australia’s peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

¹⁸ Lobato, R. Cunningham, S. and Scarlata, A. 2021 op. cit.

¹⁹ Ellis, K., Locke, K., Peaty, G., Hersinta & Kao, K. 2021 op. cit.

²⁰ Ibid.