

19 January 2024

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: ec.sen@aph.gov.au

Re: Communications Legislation Amendment (Prominence and Anti-Siphoning) Bill 2023

Many older Australians rely on access to free tv for access to information and entertainment, including sports coverage. As Australia's peak body representing almost nine million Australians over 50, we are uniquely positioned to comment on these issues from their perspective. From our discussions and research with older Australians, we know that free TV is a trusted medium and valued for communication and information provision.

In relation to this Bill, while the measures Government intends to legislate are positive in terms of assisting older Australians to locate and find free television. However, more could be done to ensure all Australians, especially older Australians, have ease of access. COTA Australia supports:

1. Implementing the prominence legislation sooner than the intended 18-month timeframe.
2. Including rules about how to find free televisions services in the search function of TVs as part of the prominence framework, so that viewers can find and watch the shows that bring people together and create a sense of community that can be important in older age.
3. Extending the anti-siphoning scheme to cover the right to stream listed sporting events over the internet – so that older Australians who watch free television over the internet can watch big sporting moments and be part of their community and social network conversations, without having to pay to access them.

Prominence

- **Implementation Timeframe** – as currently drafted. The new prominence rules will not take effect until 18 months after commencement of the Bill and will only apply to connected TV devices manufactured after that date. While there will need to be an implementation period to comply with the new prominence rules, **viewers should get the benefits of the new rules much sooner than that.** It is not clear why the start date is linked to the manufacture of television sets after a particular date, when we understand, for example, that the placement of apps on a home screen is a matter of altering

configuration settings or over-the-air software upgrades, not manufacture of physical devices.

As currently drafted, viewers will not have the benefits of the new prominence rules for at least another 3 years, given the likely time taken to pass the Bill and supply chain realities. Consumers who currently own a TV, or buy one before the start date, will not see any benefits until they purchase a new TV. For older people on fixed incomes this means potentially waiting years. The framework requires a software, not hardware, solution which should be delivered quickly.

The Bill should leave it to the regulations that will be made under the new provisions so that a shorter and more reasonable implementation timeframe can be set to the benefit of viewers.

- **Exclusion of Search** – The Bill currently excludes Search capability from the scope of the prominence framework. This means that if a viewer searches for a particular program, on many TVs they are currently offered only subscription or paid content options and may not be advised that the same program is available for free.

This is not in the best interests of consumers, especially for many older Australians on fixed incomes who may not be able to afford subscription services. Where content is available for free, it should be made known to the consumer and this should be required under the new prominence rules.

Anti-siphoning

- **Streaming rights are not included** – It has long been a fundamental pillar of public policy that major sporting events should be available to watch for free, so all Australians can share in the moments that bring us together as a nation. This should be the case no matter where you live or how much you earn.

The new anti-siphoning rules contained in the Bill will only require free-to-air television broadcasters to be offered the over-the-air, aerial-delivered broadcast rights to events on the anti-siphoning list. This should be extended to cover rights to free coverage delivered by free-to-air broadcasters over the apps on TVs that are connected via the internet.

This is important because Australians are increasingly accessing their free television services over the internet. Currently almost 20% of Australians regularly access their free television services this way and this number is projected to grow to 50% by the end of the decade. People moving into new housing developments and apartment blocks are usually not offered the option of accessing television using the aerial and are forced to rely on accessing their free television services through the apps.

The Bill does not protect the right of these Australians who access their television services over the internet to watch their sporting events for free. The ‘broadcasting safety net’ put forward in the Bill will not be a complete safety net for all and will be even less so in the future.

This is a major oversight in the Bill and will potentially disadvantage millions of Australian viewers who expect to receive these events free of charge, no matter how they choose to watch them. It should be rectified.

Thank you for the opportunity to make a contribution to this legislative process.

Yours sincerely,

Patricia Sparrow

Chief Executive Officer