

Submission into:

Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023 [Provisions]

(Circulated by authority of the Minister for Communications, the Hon Michelle Rowland MP).

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Summary:

The legislative need for ‘Schedule 1: Prominence Framework’ is unnecessary! Unnecessary to the point of being embarrassing to the proposers and supporters. Everything being considered under the Prominence Framework terms of reference can be simply achieved by the User of current Smart TV’s with simple selections from the TV Remote Control!

There is a need for public education on HOW to ‘Rearrange’ (Add, Remove, and Move) the Application Icons as they appear on YOUR TV to suit YOUR Viewing Preferences, and this should be best funded by those content providers seeking Prominence.

I have no issue with Schedule 2: Anti-siphoning scheme

Terms of Reference:

The terms of reference for this Bill are not clearly stated, but by inference I am addressing the following points relating to ‘Schedule 1: Prominence Framework’.

support the ability of Australian consumers to:

Easily find and readily access free to-air television services on internet connected television devices with:

Minimal effort;

Rearranging the prominence of application ICONS on your Smart TV can be done from your TV Remote Control

Minimal input or

Rearranging the prominence of application ICONS on your Smart TV can be done from your TV Remote Control, there is no support or external input required from others

Minimal technical skills and knowledge... :

While there are no technical skills required to change the prominence of your TV program App Icons, there is a need for the owner/user to have the knowledge.

I recently demonstrated how to rearrange the TV Icons to a group of 35 mature males recently and only one or two in 35 was aware of this capability.

In researching for this submission, it became apparent that the instructions to rearrange Icons is not prominent, and a this may need industry cooperation to include such instructions in the 'Quick Start-up Guides' as that is the only part of the instruction book that most users will ever read.

- Retailers could supply A4 'Flyers' for each specific model
- Broadcasters and Streamers could include the instructions to rearrange Icons in their public education on-air slots.

There are various YouTube videos which show how to rearrange the Icons on your particular TV. I have copied 3 of the most popular brands below for your information.

Samsung <https://www.youtube.com/watch?v=6wndUMdfoNw>

LG <https://www.youtube.com/watch?v=EWlgnm1UiOc>

Sony <https://www.youtube.com/watch?v=NAup3werpTo>

I have been following, with idle curiosity, the ongoing debate between Streaming Services, Free TV lobby groups and the Government re the Governments plan to regulate the default presentation of the Apps Icons that appear when you first turn on your TV.

A recent ABC TV article titled "Is the Government really trying to control your TV..." summarises the essential issues of the debate, but to put it in simple English, the Government believes that the order of the Applications shown on your TV when it comes out of the box; or when you turn it on; or when you press the 'Home' button is favouring foreign streaming services to the detriment of local content!

It is common for Netflix, YouTube, Amazon etc to occupy the centre of attention, and the Government logic is that this is a conspiracy to favour foreign services over locals such as iView, Foxtel, SBS etc.

The cynic in me suggests that it's a bit like the placement of products in a supermarket. The brand who pays the supermarket the most money gets the best shelf position!

The reality is probably much more simple. Most TVs are manufactured and packaged in China and some marketing/product manager programmed the TV startup defaults on what looked best (although money probably plays a part)

But the whole debate is irrelevant!! It simply demonstrates that no one reads the instruction manuals, certainly the Government has not read them! Even the Streaming services arguing for no change haven't read the instruction manuals!

The simple fact is that on most Smart TVs, YOU - the owner and user, can delete, move and add App icons that suit your viewing preferences!

I have a Samsung - similar to the pictures in the media The icons to the left of 'Live TV' cannot be changed, but they are the 'admin' or system controls for your TV. (But nobody reads them either!!)

'Live TV' is generally the first selectable option so it's in the right place. In my case I have no Netflix subscription, so from my remote, I highlight the Netflix icon, press the remote 'Down' arrow, and I get a secondary menu to 'Move' or 'Remove' (See below)

I have rearranged all my App icons, deleted the ones where I have no subscription, and re-ordered the few remaining icons in the order of likely use - it's all user controllable. And like your phone you can search for and add Apps which you use regularly

It's a bit like rearranging the icons on your mobile phone, but then again no-one reads those instructions either!

So, rather than an expensive regulatory hammer to crack a nut that doesn't actually exist – let's spend the taxpayer money on educating everybody on how to change the App icon layout to suit their own viewing preferences (starting with the politicians? I'm happy to lead a workshop for you all)

FINANCIAL IMPACT STATEMENT

"Nil."??

This is a lazy incorrect statement! Legislating 'Prominence' is likely to force some of the lower cost TV options out of the Australian Market, or at least they will need to increase their prices for market specific product alterations.

More significantly, by legislating against mainstream content providers, even though foreign owned, these entities will be less likely to favour Australia as a location for production

According to Report to the Australia and New Zealand Screen Association by Olsberg•SPI (February 2023) "... International streamers, such as Stan, Netflix, Disney+, Paramount+ and Amazon Prime Video, are expanding their local content slates in Australia. In 2021/22, 29 productions for subscription TV and SVOD services entered production.²⁷ This was a 222% increase on the previous year, where nine titles went into production.."

REGULATORY IMPACT ANALYSIS (INCLUDING PRIVACY!!)

The intention to legislate the prominence of BVOD services the Government is playing into the hands of the 'big end of town' advertisers!

"... BVOD services are those that are made available free to the general public. ... there would be no capacity for a service to charge for access to any component of the service.'

"BVOD" while an accepted term is an oxymoron, it is not 'Broadcast' per se, it is 'Streamed', and increasingly, while the streaming of such BVOD services is 'free' as per the Government's intention, BVOD services are becoming a significant invasion of privacy, with serious privacy, data sharing and regulatory issues.

To watch content on BVOD services, one must, (increasingly) create an account or 'sign-on'. In doing so the BVOD service provider knows personal things about me: name, age, sex, location etc. BVOD providers track your watching habits, and sell your information to advertisers. Such information allows advertising to be highly targeted to me personally and as such justifies a higher price from the advertiser. (eg, for me, a 77yo 'WASP' in an affluent suburb, the only adverts I see on BVOD channels are for retirement villages and funeral plans!!)

And what are the "... certain BVODs pre-installed..."? We, Australians, pride ourselves in being 'multicultural', with likely thousands of ethnic, religious, gender, age differentiated interests, with

probably multiple BVOD services targeted at each demographic. It is not possible to choose favourites for such an audience – the individual BVOD apps are not hard to find or install, let the user decide.

(I do have some support for ensuring the need for new, emerging or fringe BVOD content providers to be given the opportunity to be listed in the TV ‘App Store’)

Tom Allen, a UK comedian, highlights this problem in his segment in the 2023 Royal Variety Command Performance, see <https://youtu.be/6HA26WZY7sc?feature=shared>

Regards

Stephen Dixon

Steve’s TV

