



## **RESPONSE TO EXPOSURE DRAFT**

The Parliament of the Commonwealth of Australia

House of Representatives/ The Senates

### **Broadcasting Services Amendment (Improved Access to Television Services) Bill 2012**

(A Bill for an Act to Amend the Broadcasting Services Act 1992, and for other purposes)

(Broadband, Communications and Digital Economy)

## Introduction:

Deaf Australia appreciates the opportunity to review and respond to ***Exposure Draft on Broadcasting Services Amendment (Improved Access to Television Services) Bill 2012***.

Deaf Australia represents deaf people and access to information is one of our key priorities. We believe that information is essential for all people, irrespective if the person is deaf or not, is a fundamental right for everyone.

Broadcasters who holds license to broadcast contents also have social obligations to ensure that every Australians receives information. We believe this legislation will direct broadcasters to have that responsibility.

Our concerns lies with variable quotas across different broadcasters (free to air, multi channels and subscription television) will be difficult to monitor and will expose inconsistency across cross-programs and how captions will be enforced.

It is generally expected that quality sound and pictures are shown at each and every showing. The caption users feel that captions does not receive same attention and respect it deserves.

We are pleased that the proposed amendment will enshrine current agreements between Australian Human Rights Commission, FreeTV and subscription televisions programs, which presently outperforming the quota outlined in the current legislation. Deaf Australia and other organisations have worked with Australian Human Rights Commission and the broadcasters these agreements over a number of years.

In this respect, Deaf Australia commends Australian Government in taking this action to reflect the current and future developments of accessible programs and enshrining these actions in the legislation whilst ensuring that deaf people can enjoy and receive information without being disadvantaged.

We take into consideration of current transition from analogue to digital transmission and the review will be taken at end of 2012. Deaf Australia wishes to receive assurance that review of transition will remain as scheduled.

In response to *Exposure Draft*, Deaf Australia would like to highlight some discrepancies and offer to amend certain aspects of the amendments, or to comment or to seek clarifications to the draft bill – as broken into divisions:

### Division 1: Introduction

#### 1. Clause 130ZK - Definition.

**COMMENT:**

**Deaf Australia believes a definition of ‘open caption’ and ‘close caption’ be included.**

## **Division 2: Captioning Obligations of Commercial television broadcasting licensees and national broadcasters**

2. **Clause 130ZR(4)** and **Clause 130ZS** contradicts each other.

### **AMEND:**

**Deaf Australia proposes to rewrite 130ZR(4) similar to Clause 130ZS for consistency.**

## **Division 3: Captioning obligations of subscription television licensees**

3. **Clause 130ZV(5), 130ZW(4) and 130ZX(13)** refers to time shift- simulcast and is not consistent to statement outlined in the Administrative Appeals Tribunal (2.1(f)) dated 1 May 2012 and agreed by Australian Subscription Television and Radio Association and the Australian Human Rights Commission. It states:

*“The minimum captioning levels for time-shift simulcast or HD simulcast version of a Channel are the same as the minimum captioning levels for that Channel”.*

### **AMEND:**

**Deaf Australia recommends that the wording is amended to reflect existing agreement to the clauses 103ZV(5), 130ZW(4) and 130ZX(13).**

4. **Clause 130ZV(3) and 130ZV(4)** deals with percentage increase across primary and subscription program.

The formula states that the calculation should not be rounded to the multiple of 5 per cent, but rounded up to the nearest multiple of 5%.

### **CLARIFICATION:**

**Deaf Australia wishes to seek clarification that formula used is rounded up figure target of 5 per cent as a base for each year?**

5. **Clause 130ZY:** refers to exemption orders and unjustifiable hardships.

**Deaf Australia seeks clarification if this process overrides the requirements to caption any channel. That is, could a licensee apply for all channels to be made exempt?**

6. **Clause 130ZY(5)(b):** it refers that exemption of caption may take place if the impact of deafness or hearing impairment viewers, or potential viewers, of the subscription television service concerned.

Deaf Australia is concerned that this may contravene the United Nation’s Convention on the Rights of People with Disability. This act removes the right and the ability of person with disability to make choices.

### **REPEL/ REMOVE:**

**Deaf Australia wishes to remove this section.**

7. **Clause 130ZZ** refers to any repeated programs that have already been captioned being shown on multichannel programs to be captioned as well.

Deaf Australia is not clear that programs previously shown on exempted channels would be required to be captioned on non-exempted programs.

**CLARIFICATION:**

**Deaf Australia seeks clarification on how this section will be monitored and clarification of program shown on exempted and non-exempted channels is required to show caption.**

## **Division 4: Captioning standards**

8. Deaf Australia acknowledges that the caption quality standard is being developed and to be in place within 12 months at the commencement of the section: Clause 130ZZA.

**COMMENT:**

- a. **Deaf Australia strongly believe that a measurable targets be included in the standards and are strictly regulated.**

**AMEND:**

- b. **That standard to be in place within 90 days.**

## **Division 5: Emergency Warning**

9. Deaf Australia is concerned with lack of reference to sign language interpreters in the amendment.

This is essentially important because in time of emergencies, many people may be asked to evacuate the premise/ region and go elsewhere safe. However these places may not have accessible television and are unable to be captioned. By providing interpreter, this will alleviate this concern.

**PROPOSES:**

**'the form of sign language (Australian Sign Language)' be inserted in the following Clauses:**

- **130ZZB (1) (a) and**
  - **130ZZB (2) (a)**
10. Deaf Australia also believe that **'the form of text'** outlined in **130ZZB (1) (a), 130 ZZB (2) (a), and 130ZZB (3)(a)** should be **'open caption'** for the same reason outlined above (see point 1 of this document).

**PROPOSE TO AMEND:**

**That 'the form of text' shall be 'Open Caption'.**

## **Division 6: Reports and record-keeping**

11. **Clause 130ZZC (1), (3), and (5)** states that ACMA must receive reports within 3 months of year-end.

Deaf Australia is concerned that any breaches within the period will not be reported until well after end of period. This will be difficult for ACMA to tackle any compliance.

**RECOMMENDS:**

**Deaf Australia recommends reviewing this section to better monitor and to undertake actions to minimise breaches.**

12. **Clause 130ZZC (7)** did not specify timeframe when ACMA must publish reports on website.

**RECOMMENDS:**

**Deaf Australia believes a timeline must be specified.**

## **Division 7: Review of this Part etc.**

13. This section refers to review by end of 31 December 2015.

**RECOMMEND**

**Deaf Australia believes that a midterm report should be undertaken to ensure effectiveness of the bill.**

## **Other Issue:**

14. Deaf Australia is concerned that regional services are not sufficiently addressed by ensuring that programs is accessible: Clause 103ZS(4) refers to programs transmitted via satellite. We believe every opportunity by broadcasters to broadcast that is already captioned be required.

**RECOMMENDS:**

**That satellite programs will broadcast previous captioned programs.**

## **Conclusion**

Broadcasters quantify captions through Australian Human Rights. Members of the deaf community and caption users have over the years have mixed responses to captions and often are disappointed and disgusted with poor quality and inconsistency which led to frustrations with lack of effective systemic approach to address these issues.

Deaf Australia believes that a regulatory framework must be established to ensure quantity and quality captions whilst conforming to amended bill.

We envision that captions will become the norm.

## **Contact**

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