



15 February 2024

Committee Secretary  
Senate Standing Committees on Environment and Communications  
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**FetchTV Pty Ltd**  
**Communications Legislation Amendment (Prominence and Anti-Siphoning) Bill 2023**  
**Senate Standing Committees on Environment and Communications**

Dear Secretary

Thank you for allowing us (**Fetch**) the opportunity to make a further submission to the Committee regarding the Communications Legislation (Prominence and Anti-Siphoning) Bill 2023 (**Bill**) following the release of the draft regulations (**Regulations**).

We note the earlier submissions made by Fetch to the Department and to the Committee. We confirm Fetch's directional support for the Bill.

We raise the following matters for consideration.

### 1. **Obligations of Reciprocity**

We take the opportunity to reiterate that Fetch is strongly of the view that the implementation of the proposals for Prominence in accordance with the draft Bill and regulations require implementation of **reciprocity** of obligation in two key areas already outlined.

- 1.1. First, free to air networks, including the ABC and SBS, must provide the platforms (regulated television devices) subject to the minimum prominence obligations for no fee with the following:
  - a. EPG data
  - b. Other listing data/metadata, including information as to programme genre, dates of broadcast, series, episodes, classification. Data must be consistent with what is made available via the FTA's own services.
- 1.2. Second, we confirm that Fetch is supportive of the use of logical channel numbering and the allocation of numbering 1-100 to free to air networks for linear channels. However, as indicated in previous submissions, substantial numbers of Australian households cannot access terrestrial television signals for a range of reasons, including that they are located in a digital blackspot, are in a multi dwelling unit etc. To service those viewers, Fetch wants mandated access to the IP feeds of each of the free to air linear channels to insert into the EPG, using the same channel numbers.

Currently, these IP feeds of the linear free to air channels are only available via the BVOD Apps, which provides a sub-optimal customer experience (the customer must login to the BVOD App in order to access the linear channel feed).

Mandating the availability of the linear free to air channels as an IP feed via the EPG clearly furthers the objects of the Bill particularly by ensuring that ensure that audiences throughout Australia are able to access content that is of public significance at a local, regional or national level.

- 1.3. Fetch's position is that the imposition of these two requirements on the free to air networks is an essential concomitant of a regime mandating "must carry" for linear channels and BVOD apps. This is particularly so given the specific obligations proposed with regard to the EPG for certain regulated television devices.
- 1.4. In addition to amendment to incorporate these obligations, their inclusion will require amendment of section 130ZZN(3) of the Bill to ensure that the provision of data and IP feeds is not "consideration" within the meaning of this section.

## 2. Ensure UI flexibility within framework

- 2.1. With regard to the draft Regulations, Fetch's view is that the draft has introduced some uncertainty around the issue of the practical application of the minimum prominence requirements. The Regulations need clearly to align with the Government's statement in the second reading of the Bill that the regulations setting out the minimum prominence requirements "*would not prescribe the exact position of tiles, tabs or links on the primary user interface nor prevent them from occupying a different position on the primary user interface from time to time.*"
- 2.2. Underlying that statement is a sensible recognition of the fact that each platform providing access to content in Australia has a different user interface (UI). UI flexibility is key to responding to evolving customer behaviours and market differentiation. The concept and object of prominence can be achieved but it must be without the imposition prescriptive UI requirements that homogenize services. Specifically we point to Regulation 6(3)(c) which states:

***"the application must be visible on the primary user interface of the device";***

"Visibility" as used in this regulation introduces uncertainty. It should be made clear, consistent with the Government's stated intention not to prescribe exactly the position of tiles, tabs or links that an application may be *visible* on the primary UI notwithstanding that the user needs to access it via a named menu items, or (as it currently is on the Fetch User Interface) via a tab that the user must click on in order to access the apps or content grouped under that tab.

- 2.3. The Fetch primary UI provides significant prominence in a manner that is logical and intuitive but does not involve literal "visibility" of BVOD apps on the first page (home page) that the viewer sees, nor does the UI provide a single row of apps anywhere. Navigation is based on the customer use case – search, continue watching, find new show, find movie, watch sport, frequently viewed, etc. In different places on the UI, sorting logic can vary – e.g. by recency of use, frequency of use, free and subscribe to only, FTA first, etc.

A simple example of the Fetch UI, using only a reference to the “Apps” tab is as follows:

**Fig. 1 “Landing Page”** – the first screen that an end user sees when turning on the Fetch service:



**Fig. 2 Apps Menu – Apps** – what is displayed will change and is based on a viewer’s individual frequency of use over the past 28 days (both BVOD apps and other streaming apps).



The UI displays separate tabs for Steaming vs. TV Apps.

We’re happy to expand before the Committee with more examples and proposals as required.

Yours sincerely

**SCOTT LORSON**  
CEO  
FETCHTV

### About Fetch

Fetch partners with leading Internet Service Providers and major retailers to provide subscribers with a box based, internet delivered entertainment aggregation platform for viewing on TV and mobile devices. The Fetch product proposition is based on ‘All your entertainment, easy”, with all design and development occurring in-house in Australia. The Fetch service provides seamless integrated access to Free-to-Air TV channels and FTA Apps, subscription channels, FAST channels, YouTube, and SVOD. The service also offers TV and Movie Stores with over 10,000 titles from all the major studios, and UFC pay-per-view. Following an investment by Telstra Group Limited in 2022, Fetch operates as a joint venture between Telstra (54%) and Astro Holdings. Fetch currently services more than 600,000 households, and planned migration to Fetch of the 800,000 Telstra TV base has commenced from late 2023. ISP partners include Telstra, TPG / iiNet, Optus, Vocus, and Aussie Broadband. Retail distribution partners include JB Hi-Fi, Harvey Norman, The Good Guys and more. SVOD apps include Netflix, Disney+, Prime Video, Paramount Plus, Stan, Hayu, and more. Please see [Fetch.com.au](https://www.fetch.com.au)