



Submission by Free TV Australia

Submission regarding the Communications Legislation Amendment (Prominence and Anti- siphoning) Bill 2023

January 2024



Table of contents

1. EXECUTIVE SUMMARY	1
2. INTRODUCTION.....	4
2.1 ABOUT FREE TV AUSTRALIA.....	4
2.2 HOW AUDIENCES ACCESS TV	4
3. THE VALUE AND IMPORTANCE OF FREE-TO-AIR TELEVISION TO AUSTRALIANS.....	5
4. THE IMPORTANCE OF PROMINENCE TO AUSTRALIAN VIEWERS.....	6
5. THE PROPOSED PROMINENCE FRAMEWORK	8
5.1 TECHNICAL EXPERT REPORT	8
5.2 RESPONDING TO THE MANUFACTURERS' POSITION	10
5.3 TIMING FOR COMPLIANCE.....	11
5.4 EXISTING REGULATED TV DEVICES.....	12
5.5 SEARCH FEATURES	13
5.6 ELECTRONIC PROGRAM GUIDES (EPGs)	14
6. THE IMPORTANCE OF ANTI-SIPHONING FOR AUSTRALIAN VIEWERS.....	17
6.1 FREE BVOD SERVICES AND THEIR INCREASING IMPORTANCE	17
6.2 NEW OBJECT WITHIN THE BSA.....	22
6.3 EVENTS ON THE ANTI-SIPHONING LIST	22
6.4 DELISTING	22
7. APPLICATION OF REGIME TO FREE DIGITAL RIGHTS	24
8. PROPOSED AMENDMENTS	26
8.1 AMENDMENTS TO PROMINENCE FRAMEWORK	26
8.2 AMENDMENTS TO THE ANTI-SIPHONING SCHEME	28
8.3 RELEASE OF DRAFT REGULATIONS	28
9. GLOSSARY	30

1. Executive Summary

- Free TV Australia (**Free TV**) welcomes the opportunity to make a submission to the Senate Environment and Communications Legislation Committee (**Committee**) on the Communications Legislation Amendment (Prominence and Anti-Siphoning) Bill 2023 (**Bill**).
- Free TV is pleased that, in introducing the Bill to Parliament, the Government has recognised the integral role of free-to-air television (**FTA**) in making Australian content available to all Australians free of charge. **Most crucially**, Free TV welcomes the following measures in the proposed legislation:
 - Requires that Free Broadcast Video on Demand (**BVOD**) Service apps and a Live TV tile be available when a viewer first sets up their TV, and for the apps to be pre-installed on the TV's home page (on Regulated TV Devices).
 - Prohibits charging fees or payment from FTA Broadcasters for compliance with the minimum prominence requirements.
 - Prohibits interference with the FTA Services and their content, which includes prohibiting the insertion of advertising not authorised by FTA Broadcasters.
 - Commits to the anti-siphoning scheme and extends the protections afforded by the scheme to prevent, not only subscription broadcast services, but also subscription streaming services, from acquiring rights ahead of FTA Broadcasters.
 - Expands the Anti-Siphoning List to include women's and diverse events, better reflecting the community.
- The stated intention of the Bill is to achieve free universal access of free local TV services and sport. However, there are **some material amendments** that are key to delivering these outcomes, ensuring that vital services can be easily found and that iconic sports continue to be freely available to all Australians.

Prominence

- With regard to prominence, the following changes are needed:
 - Reduction of the timeframe by which compliance with the requirements commences, from 18 months connected with date of manufacture and supply, to **no longer than 6 months** from Royal Assent, with shorter periods to be specified in the regulations for a number of requirements.
 - Extension of the requirements to cover, not only new Regulated TV Devices, but also existing Regulated TV Devices, where those devices continue to receive software updates.
 - Requirement for content provided through FTA Services, including through Free BVOD Services and delivered online by FTA Broadcasters, to be included in the content search function on Regulated TV Devices.
 - Requirement for any electronic program guide (**EPG**) provided within a Regulated TV Device to present FTA Services, including all the primary channels and multi-channels of each FTA Broadcaster, including the versions of those channels streamed live over the internet. Additionally, for each EPG to place these FTA Services in the EPG prominently and ahead of other channels.

Anti-siphoning

- With regard to anti-siphoning, the following changes are needed:

- 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. However, Australians are increasingly accessing their free television services over the internet. Many people in new housing do not have aerials connected. 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 Bill should be amended to require that, to satisfy the anti-siphoning rules, both the free broadcast and free digital streaming right must both be acquired by the relevant broadcaster before the event can be shown by a pay TV or subscription streaming provider.
- The proposed 12-month automatic delisting period carries a real risk that events will drop off the list before they are able to be acquired. While many events are acquired more than 12 months in advance, many are not. The 2024 Melbourne Cup is a current example, with negotiations for this event still ongoing.

Details on how the Bill should be amended and what the regulations should include are canvassed throughout and summarised at Section 8 of this submission.

Key points

Prominence

- The benefits of the prominence framework must be realised in a timely manner. As currently drafted, no television set would be required to meet the prominence rules until 2026 at the earliest, but many Australians are finding it impossible to find their local free TV services right now.
- To support a number of our proposed amendments, Free TV has commissioned an expert with relevant experience in the field of television manufacturing, who has provided a technical report. This report confirms that an 18-month delay to prominence is unjustified. Not only have manufacturers been on notice of the prominence framework since early 2022, but as detailed in the expert report, some requirements could be implemented within one month, with the remainder to follow within 6 months.
- The right regulatory framework for the FTA sector will continue to support Australian democracy, Australian cultural identity, and in the case of news and current affairs, will provide accurate, fair and impartial information that counters misinformation and disinformation.
- Free TV hopes that the Committee will support the amendments to the Bill recommended in this submission, which will improve the proposed prominence framework and anti-siphoning scheme for the benefit of all Australians.

Anti-siphoning

- The importance of free local TV services to Australian viewers, regardless of whether they are accessed using an aerial or via a free BVOD app, is recognised by the prominence framework introduced by the Bill. That approach must be mirrored within the anti-siphoning provisions of the Bill. As the Explanatory Memorandum (**EM**) observes, a person's ability to access online content is central to the protection of key rights, such as the right to freedom of expression. Other rights, such as the right to take part in cultural life, including through viewing sport, should be protected regardless of the technology used by audiences to watch iconic and culturally significant sporting events. Parliament should protect the right of all Australians to watch these important sporting events for free, however they are accessed.

- Only if the right to televise through terrestrial broadcast and the right to digitally stream live (and near-live) are made inseparable will there be free, universal access of iconic sports. This is a critical aspect to ensure the scheme is future-proof, with increasing numbers of Australians unable to receive television services via an aerial resulting in audiences increasingly using free BVOD apps to find their free local TV services.
- The sporting events on the anti-siphoning list as it stands today are the minimum viable number. The proposed changes to the Anti-Siphoning List, adding some major women's competitions, appropriately reflects their surging popularity, while the Paralympics is a logical inclusion, given its status as a major international event.
- In addition, the Minister should also reinstate World Cup cricket (both the International Cricket Council Cricket World Cup, and the T20 World Cup) regardless of where it is played. Currently, the instrument limits the listing to matches played only in Australia and New Zealand. The recent popularity of the ICC Men's Cricket World Cup played in India, and the uproar that accompanied the subsequent exclusive acquisition of that event by Amazon, makes it clear that Australian audiences expect to access these iconic events showcasing our national cricket team for free.

2. Introduction

2.1 About Free TV Australia

Free TV is the peak industry body for Australia’s commercial television broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial free-to-air television makes to Australia’s culture and economy. We proudly represent all of Australia’s commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Australia’s commercial broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent.

A report released in September 2022 by Deloitte Access Economics, *Everybody Gets It: Revaluing the economic and social benefits of commercial television in Australia*, highlighted that in 2021, the commercial TV industry supported over 16,000 full-time equivalent jobs and contributed a total of \$2.5 billion into the local economy. Further, advertising on commercial TV contributed \$161 billion in brand value. Commercial television reaches an audience of 16 million Australians in an average week, with viewers watching around 3 hours per day.

Free TV members are vital to telling Australian stories to Australians, across news, information and entertainment. Free-to-air television broadcasters understand and appreciate the cultural and social dividend that is delivered through the portrayal of the breadth and depth of Australian culture on television, and Australians prefer local stories. Commercial television networks spend more than \$1.5 billion on Australian content every year, dedicating over 85% of their content expenditure to local programming.

2.2 How audiences access TV

In addition to these comprehensive broadcast offerings, FTA Broadcasters have invested heavily in meeting the needs of the modern audience through the development of first class Free BVOD Services, encompassing both live streaming and catch-up content. Millions of Australians continue to watch sport on TV through the linear broadcast delivery. But as audience preferences evolve, more Australians are opting to view free local TV services through a live stream in a BVOD app. In many modern housing developments, this might be the only way they can access their Free TV broadcasters as aerials are rarely installed in new builds. As set out below, this issue is set to be exacerbated as more than a million new dwellings are expected in the next five years.

The proportion of the audience choosing BVOD to watch free sport has more than doubled in the last three years. Up to 20% of audiences are now choosing a free TV BVOD option for live and free sport, and this is particularly the case with younger demographics.¹

¹ See detail at Section 6.1 of this submission.

3. The value and importance of free-to-air television to Australians

Since the first television broadcasts in 1956, FTA Broadcasters have been an essential part of Australia's media industry. Our sector provides Australians with trusted sources of news and current affairs, which supports Australia's democracy and supports Australian cultural identity. In the case of news and current affairs, FTA Broadcasters provide accurate, fair and impartial information that counters misinformation and disinformation. We contribute to Australia's sense of identity and culture through telling Australian stories, through both scripted and unscripted entertainment and drama programming. We also bring all Australians together through our live and free coverage of iconic and culturally significant sporting events.

FTA Broadcasters are responsible for the achievement of important social and cultural policy objectives, as set out in the objectives of the Broadcasting Services Act 1992 (Cth) (BSA), including:

- availability to audiences throughout Australia of a diverse range of television services offering entertainment, education and information
- promotion of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity
- availability to audiences throughout Australia of television programs about matters of local significance.

The achievement of the objectives of the BSA relies on two interrelated factors, namely that:

- consumers can readily find FTA Services on widely available consumer equipment
- commercial TV networks are able to raise and retain sufficient advertising revenue to fund the required investment in local content, including news, live sport, entertainment and scripted drama.

The availability of Free BVOD Services provided by FTA Broadcasters has significantly increased the choice of services and screen content available to Australian viewers at no cost. Free BVOD Services are delivered by the internet and can be accessed on a wide range of portable and other connected devices. Access by internet is increasingly important, given the number of new housing developments in which Australians reside, that do not come with terrestrial reception equipment.

It is important that changes to Australia's broadcasting regulatory system reflect this important expansion of free television services provided by FTA Broadcasters so as to ensure that this system remains relevant and achieves the public policy objectives which underpin it.

To do otherwise would be to risk Australia's broadcasting regulatory system being incapable of meeting the requirements of Australian viewers.

4. The importance of prominence to Australian viewers

The growth of global media platforms has important implications for Australia’s national and cultural identity, and for our access to local information. A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

A strong local media sector, and the ability for Australians to find locally relevant services, is also central to our ability to maintain public participation and trust in democracy. While commercial television now needs to compete with a greater range of services than ever before, recent experiences with national emergencies, such as bushfires, floods and COVID-19, demonstrate that FTA Broadcasters deliver a vital national public service. Australians expect and continue to rely on these services in times of national crisis to make sure they get the facts they need, and to bond with their communities over entertainment viewing.

However, these public policy outcomes can only be achieved if the services provided by FTA Broadcasters are available, prominent and discoverable by Australians on their Regulated TV Devices. The actions of the Regulated TV Device manufacturers, and their operating system providers, are undermining the achievement of these objectives, as we expand on below.

As the Government has recognised, and first announced in Opposition in May 2022, it is critical that a prominence framework is established in such a way as to ensure that as a country we can continue to find and enjoy the benefits delivered by a viable and thriving local broadcast industry. Without this, we risk losing our free access to local news, local stories and sport.

In the modern media environment Australians are increasingly expecting to be able to access their content from FTA Broadcasters on the device (and via the technology) of their choice. This expectation is evidenced by the increasing numbers of Australians accessing FTA Services via a Free BVOD Service.

Importantly, while some may be accessing FTA Services via the internet by choice, many others either do not now, or will not in the future, have the choice because:

- their new home is not built with an aerial and it may be prohibitively expensive to install one; or
- they cannot have one installed (for example, in high-rise apartments).²

With Australian Bureau of Statistics housing data showing that more than 1.35 million dwellings were completed in the last seven years (to September 2023),³ and the Government targeting construction of 1.2 million homes in the next five years,⁴ this is a real policy issue to address. Those in homes with internet,

² It is clear that this is already a problem for many individuals in new homes – as evidenced by sample Whirlpool forum conversations at **Attachment D**. Note that some local building codes discourage or do not allow installation of roof-top TV antennas on free standing residential dwellings.

³ Data from the Australian Bureau of Statistics, Building Activity, Australia report, published in September 2023, showed that, seasonally adjusted, between the December 2016 quarter and the September 2023 quarter, 1,359,089 dwellings were completed – data available at <https://www.abs.gov.au/statistics/industry/building-and-construction/building-activity-australia/latest-release#number-of-dwellings-completed>.

⁴ In August 2023 National Cabinet announced a target to build 1.2 million homes over five years from 2024, supported by a Housing Support Program for local and state governments, and aligned with expected demand over the next five years – announcement available at <https://www.pm.gov.au/media/meeting-national-cabinet-working->

but no aerial, deserve the benefits of free and trusted news, entertainment and sport, like all other Australians.

Free BVOD Services play an integral role alongside Terrestrial TV, both in terms of the content and functionality offered to viewers, and in terms of the viewer demographics that use each service. For many Australians who do not have access to terrestrial TV, they are playing a crucial role. Only FTA Broadcasters can offer Australian viewers the best of a ubiquitous terrestrial broadcast network and streamed content via our Free BVOD apps—providing a seamless experience as audience preferences evolve. Audiences accessing the free streaming apps of commercial broadcasters are provided with a truly free service, not one where credit card details are required as a means of upselling to a more comprehensive paid service offered by a subscription streamer.

It is critical that the prominence framework supports this evolution by ensuring that Australians can easily find FTA Services on Regulated TV Devices.

together-deliver-better-housing-outcomes. This is echoed by the November 2023 projections of the Housing Industry Association in its latest forecast summary – available at <https://hia.com.au/-/media/files/our-industry/economics/summary-of-hia-forecasts.pdf>.

5. The proposed prominence framework

Free TV welcomes and supports the stated intention of the Bill to introduce a prominence framework to ensure that all Australians can access their local free television services on connected TVs.

The problem that prominence regulation addresses is the abuse of manufacturer and digital platform bottleneck power to restrict access to free local television services and influence viewing choices. Manufacturers have a strong incentive to place their own or commercially linked services in positions of prominence, making free services from which they do not commercially benefit harder to find.

This has implications for consumer choice, but also for Australian cultural presence on global digital platforms. The issue is no longer theoretical. Since Amazon's recent attempt to impose a 30% revenue charge on Australian FTA TV providers for inclusion on the Amazon Fire TV device, it has become clear that global platforms and device manufacturers will act as gatekeepers to the consumer and charge broadcasters to reach Australian viewers.

The TV home screen has become the key means by which viewers access services on their connected TV. The only question is whether this access should be determined by the commercial interests of the TV manufacturers, or by public policy considerations in the interests of all consumers.

This is why the compliance obligation in the Bill for TV manufacturers to meet minimum prominence requirements is so important and must be supported by Parliament.

However, while Free TV welcomes and supports this objective, there are some significant issues that must be addressed to ensure this objective is achieved. In particular:

- The 18-month implementation timeframe is too long and will leave millions of Australian viewers unable to find their local free TV services;
- The framework should apply to all Regulated TV Devices which are supported by software upgrades, not just new devices manufactured after the implementation date.
- Search must be included in the scope of the framework so that viewers who search for particular programs are offered freely available content as well as paid options.
- EPGs must include all channels provided by licensed broadcasters, which would be consistent with regulatory developments in the UK.

These matters are addressed in greater detail in Section 5 of this Submission.

A table setting out specific provisions of the Bill and providing comments on suggested changes is at **Attachment A**.

While largely welcoming the measures put by Government, Free TV considers that there are a number of aspects that could be improved, in order to give effect to the intention of the framework.

5.1 Technical expert report

- Expert advice obtained by Free TV indicates that most prominence requirements could feasibly be performed by the manufacturers within one month.
- Other requirements that need software implementation could be done within 6 months.

- Software updates could be applied to currenting existing devices in homes that still receive them.

Free TV has commissioned Stephen Cleary, who has nearly 30 years' experience in the consumer electronics industry at senior levels, with expertise in Digital and Smart TVs, to provide a report detailing how Smart TVs are typically manufactured and how the prominence framework can be implemented. Mr Cleary is an expert in broadcast, automation, user experience and TV over internet protocol, with extensive market understanding. Mr Cleary's report is set out at **Attachment B (Expert Report)**

Mr Cleary was asked to consider the prominence requirements that are anticipated to form part of the prominence framework as set out in the Minister's second reading speech to the Bill. In summary, those requirements are:

- provide access to regulated television services, including through certain requirements for how the apps are presented using tiles, tabs or links (referred to as "icons" in this submission);
- pre- or auto-install regulated television services when the regulated television device connects to the internet for the first time, and automatically update them as required ("**Must Carry Requirement**");
- present a "live television" icon to provide access to linear broadcast regulated television services on Regulated TV Devices that contain a radiofrequency tuner ("**Live TV Requirement**");
- present a separate application icon on the primary user interface to provide access to each regulated broadcasting video-on-demand television service ("**Home Page Requirement**");
- present regulated television services in logical channel number order on the EPG of the regulated television services where the device contains a radiofrequency tuner and includes an EPG for linear broadcasting services ("**EPG Requirement**").

Mr Cleary makes the following points in the Expert Report:

- All the prominence requirements can be effected through server configuration changes or software implementation.
- None require hardware, system-on-a-chip, mechanical or physical changes.
- Some can be done by server configuration and some may require software implementation.

As canvassed in the Expert Report, the Home Page Requirement can be done either by replacing icons already appearing on the icon line-up on the home page with the FTA Broadcasters' icons, or by adding a new row or ribbon of icons. If it is to be done by way of new row or ribbon, or other interface design, that will require software implementation. If it is to be done by replacing the icons already present, it can be done through server configuration, meaning it could be done within one month.

It is also clear from the Expert Report that icons can be added to the line-up of other icons through server configuration, and their order or position can be determined, even if they do not necessarily appear on the home page or primary user interface. That is, through server configuration, icons can be placed in the area that is "above the fold", meaning that a viewer can see the apps without scrolling or taking other action. They can also be placed in the area "below the fold", requiring some scrolling or action to see the icons. Even if it were the case that including icons on the home page or primary user interface were to take a long period of time, it would be possible to include certain icons ahead of others in the line-up, even if it were Below-the-Fold (in this submission, referred to as "**Below-the-Fold Option**").

The Expert Report, in summary, sets out what is possible for TV manufacturers in terms of timeframes for the prominence requirements as follows:

- The prominence requirements that can be done by server configuration can commence **within one month**. This includes the Must Carry Requirement (adding BVOD apps to the currently existing row of apps, auto-installing BVOD apps and updating BVOD apps), Home Page Requirement, if done simply by placing icons on the home page (without home page redesign) as well as the Below-the-Fold Option.
- The prominence requirements that can be done by software re-design can commence **within 6 months**. This includes the Home Page Requirement if done by way of software re-design (such as adding new ribbons), Live TV Requirement and the EPG Requirement.
- For software re-design, manufacturers may prefer 18 months. However, in reality each software aspect will likely take 6 months to complete, including to specify, implement and test. An 18-month timeframe may take into account manufacturers' preferred process cycles and their preference to bundle requirements together, but changes can be made much faster.

5.2 Responding to the manufacturers' position

- While manufacturers may have a business preference for an 18-month lead time, all the requirements could be feasibly done in less than 6 months, with many done in under one month.
- None of the requirements require changes to hardware, including chip set.
- Existing devices could be updated to meet most of the prominence requirements, where they continue to receive software updates.

To the extent that the Bill puts forward a prominence framework based upon arguments made on behalf of television manufacturers⁵ the Expert Report serves to counter such arguments and alleviate manufacturers' concerns:

- No changes to chipsets, or other hardware changes, are required to give effect to the prominence requirements.
- Any suggestion Australia will be out of alignment with global standards in making country-specific prominence requirements is misplaced. The Expert Report confirms there is no "Global Standard" and that manufacturers already produce models specifically for Australia – both hardware requirements such as power plugs, but also software requirements to implement Parental Lock, Audio Reference Levels and LCN behaviour.⁶
- Claims that prominence cannot be applied "retrospectively" or to existing devices under any circumstances must be revised in light of the Expert Report, which outlines how software can be configured relatively quickly through "over-the-air" configurations.
- Timeframes of 2 years are unnecessary to give effect to the prominence framework. Many requirements can be done in around one month, taking into account server configuration.
- Any claim that manufacturers do not support feature upgrading might be with reference to hardware. However, as the Expert Report makes clear, the prominence framework can be achieved through software or server solutions, and largely through server configuration.

⁵ Such as those set out in the submission of Consumer Electronics Suppliers Association (CESA) of 10 March 2023 - <https://www.infrastructure.gov.au/sites/default/files/documents/pfpp--consumer-electronics-suppliers-association-cesa.pdf>.

⁶ See Section 2.3 of the Expert Report.

- Insofar as there is a disconnect between the software support periods being offered by manufacturer, platform owner or app owner (whether 5 years or another time period), it is clear that some software updates are applied to existing devices. Where they are applied, and are capable of achieving the prominence requirements, they should be applied.

5.3 Timing for compliance

- Timing for compliance should take into account the desirability of the Australian community benefiting from the framework in a timely way, and what is technically achievable, as detailed in the Expert Report.
- An 18-month timeframe (linked to date of manufacture and supply) for compliance is excessive and delays the benefits of the prominence framework unreasonably.
- While the timeframe should give appropriate weight to what is feasible for manufacturers, it should not unduly delay compliance as a matter of preference, convenience or simply because that is what is typical in the industry.
- A maximum of 6 months for some and one month for other requirements is reasonable. This balances what is fair for Australian viewers and the FTA Broadcasters, as well as the manufacturers.
- Manufacturers have been on notice of Government's commitment to prominence since May 2022, and have been aware of global trends favouring prominence since at least 2020.

Manufacturers on notice

The Australian Government announced in Opposition its commitment to legislate a prominence framework in a statement on 7 May 2022:

Labor also wants to ensure our local TV services, which broadcast the Australian content, sports, news and emergency broadcasting Australians rely on, are easy to find on connected TV platforms, like smart TVs.

We will legislate a prominence regime to ensure Australian TV services can easily be found on connected TV platforms.

The Government confirmed this commitment in August 2022.

This follows commitments being made in other countries for similar regulation to ensure that local services are available, prominent and discoverable on modern televisions and other devices. For example, in April 2022 the UK Government released a White Paper outlining its commitment to prominence, which has since been followed by a draft prominence Bill in April 2023. In November 2020 the German State Media Treaty came into force, providing for prominence. The global conversation about prominence for free television on connected devices has been occurring for quite some time.

All participants in the Australian television industry, including manufacturers and retailers of television sets and other equipment, have had the benefit of a clear statement of the Government's policy intention for more than 18 months.

Accordingly, manufacturers have been put on notice and given significant lead time to develop implementation plans, able to be implemented worldwide, that would ensure that their user interfaces can support prominence frameworks as they are implemented over time by different jurisdictions.

Implementation could be done in one month

Not only have manufacturers been on notice of the prominence framework for an extensive period of time, but as detailed below, the majority of the requirements could be implemented within one month with the remainder done in 6 months. The Minister's second reading speech to the Bill explains the basis for the 18 month timeframe as follows:

*The framework will commence the day after the act receives royal assent, enabling regulations and any relevant guidance and determinations to be made well ahead of the application of the scheme to regulated television devices. To this end, the framework will only apply to a regulated television device that is manufactured 18 months after the commencement of the framework, and is supplied on or after this date. **This application provision acknowledges and accommodates the lead times associated with the design, development, manufacture and distribution of electronic goods, which typically involve global supply chains.***

[Emphasis added.]

However, as set out in the Expert Report, many prominence requirements could be reasonably implemented within one month. Even to the extent that prominence on the home page or primary user interface would take longer, a middle ground could be including FTA Broadcasters' icons in the Below-the-Fold Option. This option could be done as an interim solution, while Australians wait 6 months for any software design implementation that needs to occur before they can find their FTA icons Above-the-Fold.

There is accordingly no basis to delay the application of the proposed prominence framework for 18 months. Allowing such an excessive lead time for compliance is unnecessary and harmful. Such a delay will exacerbate the public policy harm of Australian viewers being denied access to FTA Services on Regulated TV Devices and the failure to make Australians aware that the services exist.

5.4 Existing Regulated TV Devices

- The objects of the prominence framework will be circumvented unless the requirements apply to existing TVs, where they are capable of being applied.
- If it were otherwise, it will not be until 2026 or even later, that the first Australian households will receive prominence, and they will be only a small proportion of the population at that.
- Unless the Bill is amended, for Australians who buy TVs today and right up until the obligations come into effect, they will not see benefits for another 8-10 years when they again buy a new TV.
- This is an arbitrary wait period when many of the TVs currently existing are capable of receiving prominence through software changes. None of the prominence requirements require hardware changes, with all being effected through software implementation and server configuration.
- TVs that are capable of receiving the relevant software changes, should receive the software changes.

It is important to understand that the proposed prominence framework does not require changes to the hardware of television sets and other devices. The framework can be wholly implemented through server configuration or through software design.

The requirements of the proposed prominence framework are already matters with which manufacturers are highly familiar, and matters about which they have developed capability, as they already give, and have for some time given, prominence to global streaming services and other content providers on a

commercial basis. It is clear that manufacturers are capable of changing the position, placement or order of the icons for the apps of streaming platforms like Netflix, Disney, YouTube or Amazon. Such occupants of “prime real estate” on the user interface acquire their placement promptly in accordance with terms set out in commercial agreements. If a solution can be applied to give effect to commercial agreements in a timely way, there is no technical reason why they cannot do likewise for FTA Broadcasters to give effect to regulatory obligations.

There is accordingly no justification for the proposed prominence framework to only apply to new Regulated TV Devices. In order to achieve the important public policy objectives of the framework, it must apply to all new Regulated TV Devices soon to be supplied to the Australian market, as well as those currently existing in Australian homes that continue to be supported by manufacturers through software updates. The only exception should be for Regulated TV Devices and other devices which no longer receive software updates from manufacturers and suppliers.

Delaying the implementation of the prominence framework will have a detrimental impact on all Australians who currently own a TV, and will only benefit those who buy a new TV after the obligations come into effect.

The Consumer Electronic Suppliers’ Association (**CESA**) estimates that Australians buy between 1.5 million and 1.8 million television sets every year.⁷ Even if the Bill is passed swiftly, if the prominence framework only applies to Regulated TV Devices manufactured 18 months after the date of assent, we can expect that at least 3 million – 3.6 million Australians will purchase Regulated TV Devices before the prominence framework commences. In reality, Regulated TV Devices manufactured before this date will continue to be sold to Australians for many months after the prominence framework commences. With the average lifespan of a television set being between 7–10 years, those Australians will continue to miss out on the benefits of the prominence framework for many years to come.

5.5 Search features

- Content delivered through FTA Services should be treated no less favourably than other content available on Regulated TV Devices in search results.
- Discoverability is not only dependent on icons being presented in accessible and prominent places, but also ensuring that search results are not deficient or misleading.
- Self-preferencing is a key issue the ACCC is considering in its Digital Platforms Services Inquiry 2020–2025.
- Government has a unique opportunity to address this issue in the prominence framework to avoid replicating the frustrations and difficulties experienced by viewers in online forums.

Content search and discovery tools within Regulated TV Devices must be covered by the framework. These tools are an important part of the means by which Australian viewers become aware of content and obtain access. The tools include voice-activated searches, text-based searches and algorithmically-driven content recommendations.

⁷ CESA – Submission on Proposal Paper: Prominence Framework for Connected TV Devices, dated 10 March 2023 p 4.

At present, there is no requirement for Regulated TV Devices to offer content that meaningfully connects with Australian viewers' search. Australian viewers who search their Regulated TV Devices for a television show or other content that is available for free on an FTA Service will often only be presented with paid options to access that content. For example:

- A viewer who types in the name of a film that is available from an FTA Broadcaster for free may be presented with various options that invite them to pay for the film through a streaming service, with the search results omitting the FTA version.
- A viewer who searches for a title of a program available from an FTA Broadcaster is presented with results for content that is irrelevant or only tenuously related to the program. When they click on the results, they are taken to a streaming service that invites them to pay for content directing the viewer away from the FTA services they sought to access.
- A viewer who searches for a particular program may find that the program does not appear in search results at all.

Throughout its Digital Platforms Services Inquiry 2020– 2025, the ACCC has, on a number of occasions, reported on the consumer and competition harms that flow from anti-competitive self-preferencing by digital platforms. In the current case, the harm is that Australian viewers are denied the opportunity to discover that content is available to them at no cost.

These requirements must cover not only the search and discoverability tools that are available today, but also those that are developed in the future and ensure that inclusion in these tools is made available to FTA Broadcasters free of charge.

Given the importance of FTA Services to the community and the social and cultural policies that they underpin, the prominence framework must apply a “free content first” principle, which requires that content provided by FTA Services is listed first in content search results.

At the very least, the versions of content provided by FTA Services, and the FTA Services themselves, need to appear in search results. To omit such search results is to deny the Australian viewer their right to access what they are entitled to for free.

The Bill should be amended to include search and discoverability in the regulation-making power, and the regulations should require that, where a Regulated TV Device includes any content search, discoverability or prominence tools:

- each of those tools must give prominence to the content provided by FTA Services in each tool. If a consumer searches for content that is made available by an FTA Service, the tool must provide prominence to the content provided by the FTA Service; and
- the content from each Free BVOD Service must be made prominently available in any aggregated “More like this” or similar services offered through the tool.

5.6 Electronic program guides (EPGs)

- EPGs are confusing for viewers, especially when their TVs contain EPGs provided by the manufacturer containing hundreds of channels.
- EPGs must contain, and feature prominently Above-the-Fold, the FTA Broadcasters' primary and multi-channels.

The prominence framework must ensure that FTA Services are easy to find on Regulated TV Devices and, at a minimum, that viewers who are seeking to access FTA Services are not misled into accessing other channels. Terrestrial television delivers a simple and effective means for viewers to conveniently access any particular FTA Service they are seeking. Through unique numbers assigned to each FTA Service arranged in numerical order called Logical Channel Numbers (LCN), viewers could readily navigate to and choose their FTA Service, and be left in no doubt as to which FTA Service they were watching.

Content delivery on connected devices is more complex. In order to preserve the ease of access that linear television gives and to avoid any ambiguity, Freeview provides an EPG setting out the FTA Services in order of LCN.

Many Regulated TV Devices come with EPGs provided by manufacturers, sometimes containing hundreds of numbered channels, which have become confusing for viewers in locating their FTA Services. These EPGs might be accessed through an icon titled “TV” or “Live TV”, or through a button on the remote titled “Guide” or similar. In many cases, these EPGs do not include the FTA Services, and may have numbered channels that do not correspond to the relevant FTA Service. Viewers should be able to access any EPG on their Regulated TV Devices, select the LCN that corresponds to the FTA Service they are seeking to view, and be confident that they are in fact accessing that service.

As for search and discoverability tools, the requirements must cover, not only the EPG tools available today, but also those developed in the future, and ensure that these continue to be made available to FTA Broadcasters free of charge.

While the Bill provides power to make regulations about EPGs that provide information about FTA Services, there must also be a requirement that, where a Regulated TV Device provides its own list, register or EPG about services that are not FTA Services (such as EPGs for internet-only channels provided by the television manufacturer) then the identified live stream of those FTA Services must be made available (unless the FTA BVOD stream is not offered by the FTA broadcaster for use on that device).

For all Regulated TV Devices that provide a list, register or EPG, however delivered:

- All available FTA Services must also be presented in order of their LCN.
- Each Free BVOD Service which provides a linear stream of content that is substantially the same as a service on Terrestrial TV must also be presented.
- FTA Services must be given prominence in all EPGs, including by ensuring the list of FTA Services’ primary channels and multi-channels are placed Above-the-Fold. That is, seen by the viewer without requiring the viewer to scroll or take other action to reveal the list.

Regulating all types of EPGs is consistent with regulatory developments in the UK, where extensions to existing EPG regulatory requirements have recently been considered. In a consultation that closed in November 2023, the UK Government noted its commitment to ensuring that local broadcaster content is prominent, including on newer forms of EPG. In overview:

- In the UK certain EPGs are already regulated, including in relation to providing prominence.
- The UK Government says that the introduction of newer unregulated and self-regulated EPGs has resulted in a clear regulatory gap which, among other things, means that guides do not have to ensure benefits for audiences like prominence for public service channels – which include BBC channels, ITV1, STV, Channel 4, Channel 5, S4C and local television services.

- The Government believes that legislation is required to update the EPGs that are regulated in the UK.⁸

⁸ This reform is part of a broader package to legislate so that public service content provided by the public service broadcasters is made available and given protected prominence across major online television platforms. The UK Government says that this means that high quality public service content will remain discoverable and easily accessible to UK audiences on their televisions despite the rapid evolution in content distribution. This will involve prominence rules being in place for regulated television selection services as they are for regulated EPGs. More information is available in Regulation of additional electronic programme guides: consultation document (updated 10 November 2023) – available at <https://www.gov.uk/government/consultations/consultation-on-the-regulation-of-additional-electronic-programme-guides/regulation-of-additional-electronic-programme-guides-consultation-document#executive-summary>.

6. The importance of anti-siphoning for Australian viewers

Free sport on television is a fundamental part of the Australian way of life. As popular as ever, free sport on TV remains a strong social connector, allowing Australians from all walks of life to share in the same moments together regardless of their economic circumstances or geographic location. The availability of live and free sport to Australians as a result of the operation of the anti-siphoning scheme which has existed since 1994, enjoys widespread community support.⁹

The public policy principle underpinning the anti-siphoning scheme is that nationally-significant sporting events remain available free of charge for all Australians to watch. The scheme protects the access of Australian viewers to events of national importance and cultural significance by giving priority to FTA Broadcasters in acquiring the broadcast rights to those events. This policy objective is as important today as it was when the anti-siphoning scheme was first introduced.

But changes in technology mean that the scheme requires expansion so as to ensure that Australians are not required to pay for a myriad of subscription video on demand and/or bundled telecommunications services in order to watch iconic sporting events. In order for this important objective to be achieved, it is imperative that FTA Broadcasters be afforded priority in acquiring the right to broadcast listed sporting events on Terrestrial TV, as well as to retransmit that content on their Free BVOD services. Essentially, protection of what is acquired and shown to viewers on Terrestrial TV, should be mirrored in relation to the acquisition of rights to show the same events on Free BVOD services. If it were otherwise, there would be inequality across viewership between those that have access to Terrestrial TV (for whom protections apply) and those who are wholly reliant on internet for television (for whom protections would not apply). The Bill requires amendment to achieve this.

6.1 Free BVOD Services and their increasing importance

- Australians enjoy access to free sport today as much as ever.
- In the modern world, viewers expect to be able to view free content on any device through any technology available.
- To limit the rights acquired under the anti-siphoning scheme to terrestrial broadcast would be incongruent with the expectations of the Australian community, and inconsistent with what is recognised under the prominence framework as the increasing relevance and importance of Free BVOD Services.

There is no better example of the ability of live sport to capture the imagination of the nation and join us together in a shared experience than the recent Matilda's World Cup campaign.

Through that campaign, the Matildas attracted unprecedented audiences on Channel 7, across both the terrestrial and live streaming options. In total, 18.6 million Australians tuned in across the tournament—a number that could not be reached behind paywalled subscription services or on broadcast alone. Of this 18.6 million, 14.8 million were reached on the terrestrial platform, with a further 3.8 million viewing on

⁹ More than three-quarters of Australians (76%) agree that Free TV provides free access to sporting events, and 7 in 10 agree that it is in the public interest that major sports and sporting events can be accessed for free and by all Australians. Results are based on a national online survey conducted in October 2021 with a randomly-selected sample of 2092 respondents.

Free BVOD Service. That is, over 20 per cent of the audience for the Women’s World Cup chose to watch on the Free BVOD Service. This trend towards Free BVOD Services will continue.

Australian viewers have come to expect that free TV services can either be viewed via Terrestrial TV or the internet. For some Australians, viewing free TV services via Free BVOD is the only way to view these services because many newer estates and apartment developments do not have a terrestrial antenna. This trend will continue.

Additionally, many Australian viewers, especially younger viewers, prefer to watch free TV services on mobile devices such as phones, tablets and laptops, which can only occur via Free BVOD Services.

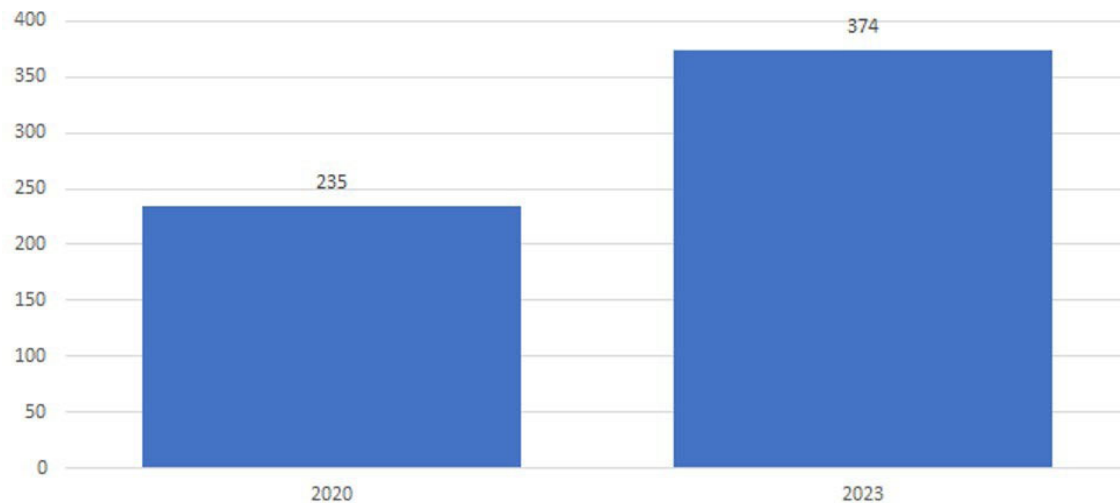
The increasing importance of Free BVOD Services has altered the commercial landscape for the acquisition of the right to broadcast significant sporting events. In order to justify the payment of very large fees to acquire the right to broadcast significant sporting events to non-paying audiences, a broadcaster must be able to acquire all of the free broadcast rights rather than have the Terrestrial TV rights diminished in value by the acquisition of Free BVOD rights by others.

This approach is consistent with the way audiences consume televised sporting coverage, without distinguishing between the technologies which deliver free sports programming.

Given that key sports rights deals are re-negotiated well ahead of the expiry of the current deals, this anti-siphoning reform process must provide for a future where local TV services are delivered over a mix of Terrestrial TV and Free BVOD Services. As technology and platforms evolve, waiting for the online regulatory environment to be resolved risks rights deals being struck that do not adequately cater for the modern TV audience, or the sustainability of the services that they rely on.

The importance of Free BVOD Services to Australian viewers is recognised by the prominence framework introduced by the Bill and that importance must be recognised within the anti-siphoning provisions of the Bill.

Growth in Free BVOD hours (m) consumed between 2020 and 2023 – 59%

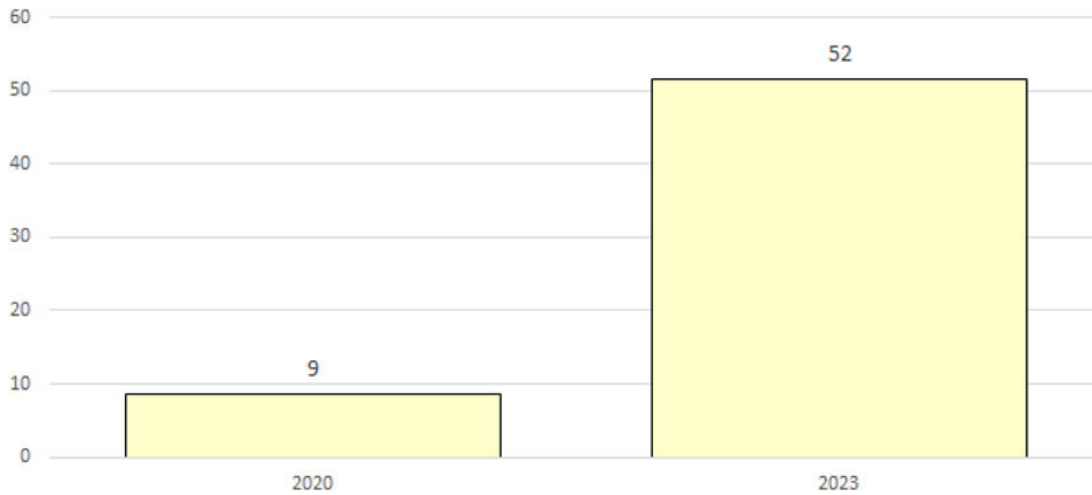


Source: Milton Data, Jan-Aug 2020 vs Jan-Aug 2023, BVOD data for FreeTV networks only, all devices

As above, between 2020 and 2023 (year-to-August comparison), the number of hours of free local TV services consumed via Free BVOD Services increased by 59 per cent. In 2023, Australian audiences consumed 374 million hours of Free BVOD content.

But it is in sports content that FTA Broadcasters have seen the most significant growth on Free BVOD Services. As shown below, between 2020 and 2023 there has been a 495 per cent growth in sports audiences on Free BVOD Services.

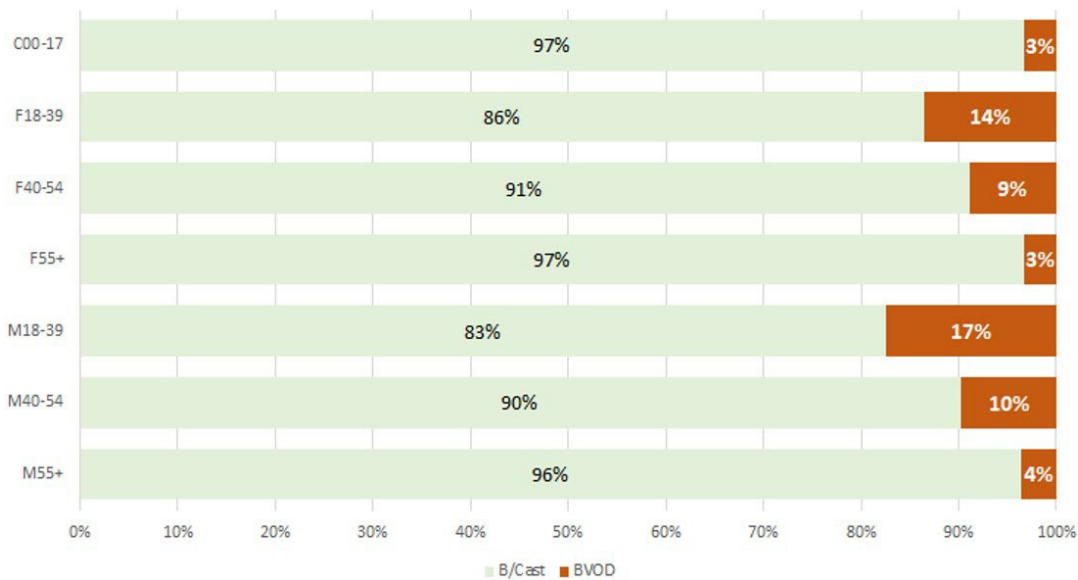
Explosion in sports viewing on Free BVOD: 495% growth between 2020 and 2023



Source: Milton Data, Jan-Aug 2020 vs Jan-Aug 2023, BVOD data for FreeTV networks only, Sports genre, all devices

This growth in sports viewing is most pronounced among younger demographics. The graph below shows the proportion of FTA audiences that viewed sports content on the Terrestrial TV and Free BVOD Services between January and August 2023. This highlights the importance of Free BVOD Services for the inclusion of younger people in shared iconic sporting events with around 15 per cent of the 18-39 year old demographic, choosing to access sporting content via a Free BVOD Service.

BVOD share of sports viewing by demographic (2023)

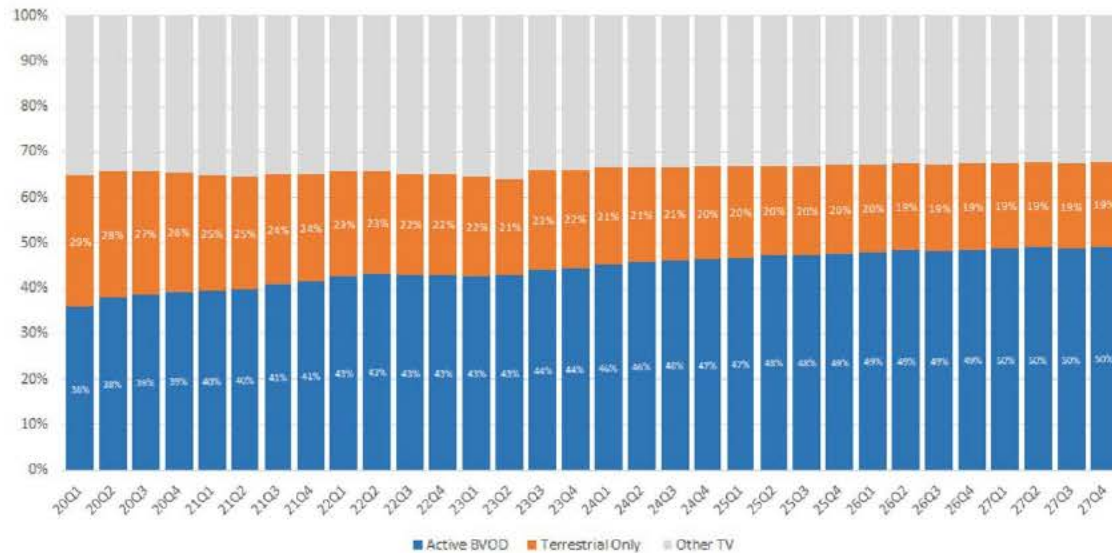


Source: Milton Data, Jan-Aug 2023, FreeTV BVOD as % of all FreeTV viewing on all devices

Note: "C" refers to children; "F" refers to females; "M" refers to males.

The importance of Free BVOD Services is expected to continue to grow over time. As shown in the graph below, independent modelling conducted by Milton Data has projected that by 2027, 50 per cent of households in Australia will be active users of Free BVOD Services.

Use of TV services trend – 50% of households expected to be active Free BVOD users by 2027



Source: Milton Data, Trends based on service usage over 4 week period

This trend is particularly the case for sport.

For example, an increasing percentage of viewers are watching the State of Origin rugby league series and the NRL grand final on BVOD as opposed to linear TV:¹⁰

Program	YEAR	METRO OVERNIGHT	REGIONAL OVERNIGHT	LIVE BVOD AUDIENCE	TOTAL TV	BVOD as % of Total TV
NRL GRAND FINAL	2020	2,103,374	872,447	174,660	3,150,481	5.5%
	2021	2,201,629	1,038,190	362,535	3,602,354	10.1%
	2022	1,670,623	695,618	388,689	2,754,930	14.1%
	2023	2,045,419	874,007	605,063	3,524,489	17.2%

Program	YEAR	METRO OVERNIGHT	REGIONAL OVERNIGHT	LIVE BVOD AUDIENCE	TOTAL TV	BVOD as % of Total TV
STATE OF ORIGIN SERIES	2020	1,711,092	811,597	185,235	2,707,924	6.8%
	2021	1,837,354	811,292	273,722	2,922,368	9.4%

¹⁰ Data obtained from the Nine Network – 18 January 2024.

	2022	1,786,433	783,406	427,205	3,005,126	14.2%
	2023	1,765,857	788,869	523,375	3,077,166	17.0%

It is clear from this analysis that audiences expect to be able to access their free coverage of major sporting events on both Terrestrial TV and Free BVOD Services. They do not distinguish between free local TV services based on the means of delivery.

The anti-siphoning scheme must deliver on the expectation that Australian audiences have. Namely, that if sports programming is available on any of the FTA Services' channels 7, 9 or 10, (or their regional affiliates), or the National Broadcasters, they should also be available on 7Plus, 9Now or 10Play, or in the case of the National Broadcasters, SBS On Demand or ABC iView. From the audience perspective, there is simply no difference between these services, other than the way they are delivered. The regulatory regime must evolve to support this expectation of the Australian community.

6.2 New object within the BSA

The Bill proposes that a new object of the BSA should be inserted, being:

to promote the free availability to audiences throughout Australia of television coverage of events of national importance and cultural significance

This object does not achieve the required objective of ensuring that Australian viewers are able to access events of national importance and cultural significance by both Terrestrial TV and Free BVOD Services.

The object should be amended to read:

to promote the free availability to audiences throughout Australia of coverage of events of national importance and cultural significance by means of all television technologies, including online technologies.

6.3 Events on the anti-siphoning list

In addition to proposed amendments to the Bill relating to anti-siphoning, there are a number of events that should be added to the anti-siphoning list itself, which is set out in the legislative instrument made by the Minister that specifies the events that should be available free to the general public. Under the current scheme, the list is made under s 115(1) of the BSA, and following amendments proposed in the Bill it would be made under s 146V.

Free TV considers that the sporting events on the anti-siphoning list as it stands today are the minimum viable number. As previously noted, the proposed changes to the Anti-Siphoning List adding some major women's competitions appropriately reflects their surging popularity, while the Paralympics is a logical inclusion given its status as a major international event.

It is also time to look at whether the limitation of cricket games on the list to those played in Australia or New Zealand is working for the Australian public. Australians should be able to watch our national team play no matter where the game is taking place. This would mean removing the qualification in the current list that provides that only International Cricket Council Cricket World Cup, and the T20 World Cup matches, played in Australia or New Zealand are protected.

6.4 Delisting

Under the current scheme, an event is removed from the anti-siphoning list if the rights have not been acquired by a free-to-air broadcaster within 6 months of the event's commencement. This automatic delisting period is fundamental to the scheme because it frames commercial negotiations between rights holders and broadcasters. The current period remains appropriate and reflects the fact that rights negotiations, in practice, often continue until close to the commencement of an event.

Despite this, the Bill increases the automatic delisting period to 52 weeks. Free TV is very concerned that after this change:

- FTA broadcasters will not be able to conclude all rights negotiations within the extended timeframe proposed. Negotiations often continue until only weeks or even days before events occur; and
- automatic delisting at such an early stage will result in the anti-siphoning list being circumvented through the use of delaying tactics. The Bill also includes a new provision enabling the Minister to specify an alternative delisting period for an event of up to 52 weeks. Our members strongly oppose

the provision that enables this extension. As evidenced by the recent AFL negotiations, rights deals are frequently concluded within 52 weeks of the next season. There is no demonstrated need for this additional power.

Although some events require negotiations well ahead of time, in many cases, they cannot occur so far in advance. To illustrate the significance of the delisting period, and the impact of the proposed increase to 12 months:

- The Melbourne Cup currently has not been acquired by an FTA Broadcaster for 2024.
- In respect of the rights to televise cricket during the 2018/19 summer, rights were only granted in April 2018 (relocating from Nine/Ten to Seven/Foxtel).

7. Application of regime to Free Digital rights

- Anti-siphoning rights must include both terrestrial broadcast rights to an event and the digital retransmission of that event as an inseparable package.
- Bidding for sport will become commercially unviable if FTA Broadcasters can only acquire the rights to broadcast terrestrially. There is a real prospect that FTA Broadcasters will no longer bid for sport if the rights are limited in such a diminished way.
- The number of Australian in new-build housing will continue to grow, which rarely includes an antenna. All Australians deserve access to free sport, regardless of whether they have an antenna that receives terrestrial broadcast or not.

If the anti-siphoning scheme applies in the way set out in the Bill, there is no doubt that there will be critical risk to the future for sport on FTA TV. If acquisition rights only apply to terrestrial broadcast, and not the Free BVOD Services, FTA Broadcasters will simply have no choice but to decline to bid for the rights to broadcast sports. It will make little commercial sense to bid for such a narrow range of rights, when the audience for terrestrial television increasingly moves to digital options. The equivalent digital right, that mirrors the terrestrial broadcast right, must be protected and available for FTA Broadcasters as a package under the anti-siphoning scheme.

In addition, this is an issue of equity for Australian audiences. In the modern media environment Australians increasingly expect to be able to access content from FTA Broadcasters on the device of their choice. Accordingly, rights acquired through the scheme should be technology-neutral. The right to broadcast on Terrestrial TV should carry with it a comparative right to stream the same content live and near-live on Free BVOD Services.

The Bill currently excludes the protection of free sport in an online environment. As set out above, in the modern world, Free BVOD Services play a crucial role alongside Terrestrial TV, both in terms of the content and functionality offered to viewers, and in terms of the viewer demographics that use each service. Only if Free BVOD rights which mirror terrestrial rights are included alongside broadcast rights as part of the modernisation of the anti-siphoning scheme can Australians have assurance that they may watch iconic sporting events for free, regardless of where they live or what technology they use.

Free TV proposes this model as a “Total TV” approach to anti-siphoning that ensures that audiences will always have access to a genuinely free option for viewing iconic sporting events. Such an approach provides assurance that no Australian is locked into a particular delivery platform. This is a future-facing regulatory solution that provides genuine choice for consumers, allowing for shifts in audience preferences and for the business models of FTA Broadcasters to continue to evolve. This is crucial for the sustainability of the services Australians rely on.

Any policy option that locks local TV services into a “broadcast only” future is not a sustainable business model. This will allow online content service providers to cherry pick the most profitable live streaming rights, fragment sports coverage, and lead to a significant loss of revenue for FTA Broadcasters. This will ultimately result in FTA Broadcasters having insufficient revenue to acquire even the broadcast rights for sport, causing the failure of the intended “safety net” for Australian audiences. This important issue needs to be addressed now rather than when long-term rights deals have been put in place by streamers and subscription television operators.

By ensuring the scheme protects both the terrestrial broadcast and the equivalent online transmission stream, the scheme will continue to:

- guarantee universal access whether you are connected to the Internet or aerial, and
- incentivise TV networks to continue to buy broadcast rights when they become less commercially attractive or viable - the equivalent free streaming right is stitched to the broadcast right.

Furthermore, if the terrestrial broadcast rights have reduced value over time and are not acquired by a metropolitan TV provider, regional audiences that rely on Terrestrial TV will be disadvantaged. This further undermines the sustainability of regional TV broadcasters.

8. Proposed amendments

Free TV welcomes the introduction of the proposed prominence framework and the expanded anti-siphoning regime.

As set out in this submission, for the important policy objectives to be achieved, a number of amendments to the legislative scheme set out in the Bill are essential.

8.1 Amendments to prominence framework

Timely implementation of obligations to new Regulated TV Devices

The Bill must be amended so that the changes apply in a reasonable timeframe. To this end, we propose a timeframe that requires compliance with the following prominence obligations, to be set out in the Regulations:

<p>Within one month</p>	<p>(a) Must Carry – FTA Broadcasters’ apps are pre-installed or auto-downloaded on all Regulated TV Devices and updated.</p> <p>(b) Below-the-Fold – As an interim measure, FTA Broadcaster’s icons are presented on the TV’s line up, whether on the primary user interface, home page or another page, and the icons give the user access to the FTA Broadcaster’s Free BVOD Service (the icons are to be of a similar size and format of those for other services on the device). (This should be an interim requirement, while preparations are made to provide prominence Above-the-Fold.)</p>
<p>Within 6 months</p>	<p>(a) Prominence (Above-the-Fold) – FTA Broadcasters’ icons are presented on the TV’s line up on the primary user interface, or home page, and the icons give the user access to the FTA Broadcaster’s Free BVOD Service (the icons are to be of a similar size and format of those for other services on the device).</p> <p>(b) Live TV – An icon titled “Live Television” is included on the Regulated TV Device (if not already there), which includes access to all the FTA Broadcasters’ linear broadcast services, placed in LCN order.</p> <p>(c) EPGs – Any and all EPGs on the Regulated TV Device includes the FTA Broadcasters’ linear broadcast services in LCN order and their primary channels and multi-channels are placed Above-the-Fold.</p>
<p>Time to be determined</p>	<p>(d) Search – FTA Broadcasters’ content is given prominence, and at the very least is included and treated no less favourably in search results than that of other content.</p>

To give effect to a more timely prominence framework, we propose that Part 2 clause 24 be deleted and that proposed s 130ZZO be amended to include power for the regulations to prescribe timeframes:

The regulations may prescribe when the minimum prominence requirements come into effect.

Application to existing devices

Section 130ZZN of the Bill must be amended so that the prominence obligations apply to existing Regulated TV Devices, where they are capable of applying, so that Australian viewers are not unfairly disadvantaged simply because they do not buy a new TV for years to come.

We propose that s 130ZZN include the following subsections:

- (3) *A person who:*
- (a) *has supplied a regulated television device to another person in Australia; and*
 - (b) *is the manufacturer of the device or a related body corporate of the manufacturer of the device; and*
 - (c) *provides or causes to be provided software updates for the regulated television devices which it has supplied to persons in Australia,*
- must ensure that the software updates provided for the regulated television devices it has supplied to persons in Australia cause those devices to comply with the minimum prominence requirements for a regulated television service that is offered by a regulated television service provider.*
- Note 1: In relation to paragraph (a), supply does not include supply for use outside Australia (see the definition of **supply** and subsection 95A(2) of the Competition and Consumer Act 2010).*
- Note 2: See subsection (11) for when a service is or is not taken to be **offered**.*
- (4) *A person who is subject to a requirement under subsection (3) in relation to a regulated television device must ensure that the device continues to comply with the minimum prominence requirements for a regulated television service during the period:*
- (a) *beginning immediately after the time a software update provided for the regulated television device causes the device to comply with those requirements; and*
 - (b) *ending at the earliest of the times listed in paragraph (2)(b).*

Inclusion of FTA Services in content search functions

The proposed s 130ZZO must be amended to allow the regulations to prescribe requirements in relation to the inclusion and prominence of FTA Services in any search and discoverability tools on Regulated TV Devices. The regulations must then include the requirement.

We propose that s 130ZZO be amended to include a new paragraph in subsection (1) (noting that consequential amendments will also need to be made to subsections (3) and (4), to the effect that FTA Broadcasters cannot be charged for prominence on currenting existing devices and that they cannot be interfered with):

(1) *The regulations may prescribe requirements (the minimum prominence requirements), with which a regulated television device must comply, in relation to any or all of the following:*

...
(g) search and discoverability functionality.

Inclusion of FTA Services in all EPGs

The proposed s 13OZZO(1)(f) of the BSA should be amended to allow the regulations to specify requirements in relation to EPGs providing information about access to any live television services, not only those EPGs relating to FTA Services. It is then incumbent on the Minister ensure that such a regulation requires manufacturers to include FTA Services on all EPGs available on the Regulated TV Device.

We propose that s 13OZZO(1)(f) be amended as follows:

(1) *The regulations may prescribe requirements (the minimum prominence requirements), with which a regulated television device must comply, in relation to any or all of the following:*

...
*(f) any electronic program guide on the device that provides information about or access to: regulated television services **or any audiovisual content.***

8.2 Amendments to the anti-siphoning scheme

The anti-siphoning scheme is ultimately likely to be rendered ineffective if priority is not now given to the acquisition of free Terrestrial TV rights, along with the right to retransmit the same content on BVODs, for Listed Events.

This requires the Bill to be amended to prohibit the acquisition of the right to televise or provide coverage of a Listed Event to Australians (whether via terrestrial broadcast or the internet) by any person until FTA Broadcasters have had an appropriate opportunity to acquire the right to televise that Listed Event via Terrestrial TV, and on their Free BVOD Services.

We propose amendments as set out in **Attachment C** to this submission.

8.3 Release of draft regulations

The Minister foreshadowed, in a press release on 29 November 2023, that the Draft Regulations would be released in early 2024 to provide “greater detail on the specific prominence requirements.”

The second-reading speech to the Bill indicated that Parliament would consider the regulations and the Bill together:

“The minimum prominence requirements will be specified through regulations, and the government intends to release an exposure draft of these regulations to support the parliament’s consideration of the framework as a whole.”

On the basis of these statements, Free TV had expected an opportunity to see the draft regulations ahead of preparing this submission. Noting that the substantive prominence obligations will be contained in the regulations, we reserve our discretion to make a further submission when the draft regulations are released and after having a reasonable time to consider their operation.

9. Glossary

Above-the-Fold	means visible, without any action on the part of the viewer, such as scrolling.
ACCC	means the Australian Competition and Consumer Commission.
ACMA	means the Australian Communications and Media Authority.
Anti-Siphoning List	means the <i>Broadcasting Services (Events) Notice 2023</i> .
Below-the-Fold	means visible only with action on the part of the viewer, such as scrolling.
BSA	means <i>Broadcasting Services Act 1992</i> .
Regulated TV Device	means: (a) domestic reception equipment that: (i) is capable of connecting to the internet and providing access to broadcasting video on demand services; and (ii) is designed for the primary purpose of facilitating the viewing of audiovisual content; or (b) specified domestic reception equipment that the ACMA determines, under subsection (2), is a regulated television device; but does not include specified domestic reception equipment that the ACMA determines, under subsection (3), is not a regulated television device.
Free BVOD Service	means a service that: (a) makes audiovisual content available, including television programs, on demand using a listed carriage service; and (b) is made available free to the general public. provided by an FTA Broadcaster.
FTA	means free-to-air television.
FTA Broadcaster	means the holder of a commercial television broadcasting licence, the Australian Broadcasting Corporation (ABC) or the Special Broadcasting Service Corporation (SBS).
FTA Services	means: (a) FTA Services provided by FTA Broadcasters by means of terrestrial broadcast; and (b) Free BVOD Services provided by FTA Broadcasters by means of the internet.
Icon	means an application tile, tab or link to provide access to a BVOD.

Listed Event	means an event listed on the Anti-Siphoning List.
Terrestrial TV	means FTA Services provided by means of terrestrial broadcast on the broadcasting services bands.

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Attachment A

Table of comments on the Communications Legislation Amendment (Prominence and Anti-Siphoning) Bill 2023 – Prominence

Measure	Provision	Function	Comment
Provisions that support the prominence framework			
Must carry obligations	S 130ZZN(1)	Imposes a mandatory compliance obligation on TV manufacturers for devices supplied in Australia to meet the minimum prominence requirements.	Retain
Continuing obligations	S 130ZZN(2)	Imposes a reasonable steps obligation on TV manufacturers to continue to comply for the timeframe and circumstances indicated.	Retain
Prohibition against fees or charges	S 130ZZN(3)	Prohibits manufacturers imposing fees, charges and other payment, ensuring that costs of compliance are not passed on to FTA Broadcasters, and requires manufacturers to meet the obligations free of charge.	Retain, noting that fee-free prominence for FTA Broadcasters should extend to all prominence requirements, including the expanded ones proposed in this submission.
Scope of regulation making power	S 130ZZO	Empowers the Minister to make regulations covering certain matters. These matters are access; display, location, positioning; installation of apps and availability for installation; updating of installed apps; certain types of EPGs.	Retain the regulation making power. Add a new power in the regulation making provision for search and discoverability, and amend the power to make regulations with respect to all EPGs.

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Measure	Provision	Function	Comment
			<p>In addition, amend the power so that the regulations can prescribe timeframes for compliance with the minimum prominence requirements (see further below).</p>
<p>Minimum prominence requirements</p>	<p>S 130ZZO and Second Reading Speech</p>	<p>Together with the regulation making power, the regulations will require compliance with the minimum prominence requirements. The second reading speech to the Bill has foreshadowed what will be included in the regulations by way minimum prominence requirements. Namely:</p> <ul style="list-style-type: none"> • provide access to regulated television services; • pre- or auto-install regulated television services when the regulated television device connects to the internet for the first time, and automatically update them as required; • present a “Live Television” tile, tab or link to provide access to linear broadcast regulated television services on regulated television devices that contain a radiofrequency tuner; • present a separate application tile, tab or link on the primary 	<p>With expansion and additions, we largely welcome what the regulations are foreshadowed to contain.</p> <p>However, in order to achieve the aims of the prominence framework the regulations need to include the following requirements:</p> <ul style="list-style-type: none"> - “Live Television” icon to be placed on the primary user interface (home page); and - present all primary channels and multi-channels in a prominent way on all EPGs, including by placing “Above-the-Fold”. <p>(See further additions below.)</p>

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Measure	Provision	Function	Comment
		<p>user interface to provide access to each regulated broadcasting video-on-demand television service;</p> <ul style="list-style-type: none"> • present those tiles, tabs or links in a similar size and format as the tiles, tabs or links for other content services that are made available on the device; • present regulated television services in logical channel number order on the electronic program guide of the regulated television services where the device contains a radiofrequency tuner and includes an electronic program guide for linear broadcasting services; • not alter or interfere with the audiovisual content provided by a regulated television service. For example, device manufacturers would be prevented from inserting their own advertising into a broadcasting video-on-demand service provided by a commercial television broadcasting licensee. 	

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Measure	Provision	Function	Comment
Provisions requiring change to support the prominence framework			
Application timeframe	Part 2 – Section 24	<p>Delays the application of the provisions, including the must carry obligations and compliance with the minimum prominence requirements, by 18 months.</p> <p>Connects the timeframe for application with date of manufacture and supply.</p>	<p>The 18-month delay is unjustified. Many of the obligations could be implemented within one month, with all obligations in effect by 6 months, of date of Royal Assent.</p> <p>This 18-month timeframe:</p> <ul style="list-style-type: none"> - disproportionately places weight on the business preferences of manufacturers; - overlooks what is technically possible and feasible, as set out in the Expert Report; - fails to acknowledge that some obligations can be met earlier than others; and - adversely impacts the interests of millions of Australians, who will not see the benefits for many years to come. <p>Instead, Government should:</p> <ul style="list-style-type: none"> - remove the application timeframe from the Bill; - include in s 130ZZN a power for the regulations to prescribe timeframes by which the prominence requirements apply. (See section 8.1 for proposed drafting); - in the regulations, include a table setting out specific prominence requirements that apply within one month and those that apply within 6 months; and - make the specified timeframes run from the date of Royal Assent.
Currently existing devices	S 130ZZN Part 2 – Section 24	Limits the obligations to only those devices manufactured and supplied after a particular date (new devices).	<p>Limiting the minimum prominence requirements to new devices:</p> <ul style="list-style-type: none"> - denies the benefits of prominence to millions of Australians who will not purchase a new TV for 8-10 years to come, or longer; and - overlooks that many prominence requirements can be achieved by server configurations and updates which are done for many currently existing devices, including those manufactured in the last 2-3 years.

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Measure	Provision	Function	Comment
			<p>Instead, Government should amend s 130ZZN to extend the Must Carry obligations to manufacturers who provide software updates.</p> <p>(See section 8.1 for proposed drafting)</p>
Search functionality	S 130ZZO Regulations	Omit search functionality from the regulation making powers.	<p>Omitting search from the prominence framework:</p> <ul style="list-style-type: none"> - denies a critical component of discoverability; - overlooks the way in which Australian viewers find content; - is inconsistent with ACCC Digital Platforms Inquiry findings indicating concerns about self-preferencing; - risks viewers being given the impression they need to pay for content that is available for free; and - risks viewers being led away from the FTA Services they are seeking to find. <p>Instead, Government should:</p> <ul style="list-style-type: none"> - amend s 130ZZO to include a power to make regulations with respect to search and discoverability functionality (see Section 8.1 of the Submission for proposed drafting); and - make a regulation requiring manufacturers to include FTA Services content in search results.
EPGs	S 130ZZO Regulations	Creates a regulation making power for EPGs that extends to “any electronic program guide on the device that provides information about or access to regulated television services” but does not include a power to do so with respect to other EPGs, such as those provided by the manufacturer.	<p>A power to make regulations with respect to EPGs is welcome, and while the second reading speech foreshadows making a regulation to present FTA Services in logical channel number on an EPG where it “includes an electronic program guide for linear broadcasting services”, in order to achieve the goals of prominence it must go further.</p> <p>There must be a requirement for manufacturers to include FTA Services on any EPG that is on the device, including EPGs of the manufacturers, and must give prominence to FTA primary channels and multi-channels</p>

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Measure	Provision	Function	Comment
			<p>“Above-the-Fold”. In the absence of this expansion to the prominence requirements:</p> <ul style="list-style-type: none"> - viewers will not locate FTA Services; and - viewers may be misled into choosing a channel that is not the FTA Service they were seeking. <p>Instead, Government should:</p> <ul style="list-style-type: none"> - amend s 130ZZO(1)(f) to include a power to make regulations with respect to any EPG on the device (see Section 8.1 of the Submission for proposed drafting.); and - make a regulation requiring manufacturers to give prominence to FTA Broadcasters’ primary channels and multi-channels, requiring them to be placed ahead of other channels and “Above-the-Fold”.

Free TV Australia - Submission regarding the Communications Legislation Amendment

(Prominence and Anti-siphoning) Bill 2023

Attachment B
Expert Report of Stephen Cleary

Prominence In Connected TVs in Australia

Stephen A. Cleary

22nd January 2024

Prominence in Connected TVs in Australia

1 Introduction

Prominence in Smart TVs has become a touch stone topic in Australia for the TV related industry, especially since the Media Policy statement published in February 2022 [1] and Prominence Framework for Connected Television devices – Proposal Paper [2]. On 30 November 2023, the government introduced the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023 and has referred it to the Environment and Communications Legislation Committee for inquiry and report [3].

In the Second Reading Speech to the Bill, the Government foreshadowed that the prominence framework will, in summary, involve the following “prominence requirements”:

1. TVs give the user access to certain TV services ('regulated TV services')
2. Pre-installation or auto-installation of the regulated TV services on the TVs and automatic updates
3. Include a tile, tab or link (referred to as 'icon' throughout in this report) on the home page (or 'primary user interface') titled 'Live Television', providing access to linear broadcasts for the regulated TV services (for TVs that have a radiofrequency tuner)
4. Include an icon for each of the regulated TV service's BVOD channels (to be similar size and format of those for the other services on the device)
5. Present the regulated TV services in their logical channel number on the electronic program guide (EPG) (for TVs that have a radiofrequency tuner).



Figure 1 - Home Screen Layout on Hisense TV [8]

Prominence in Connected TVs in Australia

1.1 Executive Summary

Below is an executive summary of the conclusions reached in this report.

How it can be achieved:

- All the prominence requirements (PRs) can be done by server configuration changes or software implementation.
- None of the PRs require hardware, system-on-a-chip, mechanical or physical changes.
- Some PRs can be done by server configuration but some may require software implementation.

How long it will take:

- PRs that can be done by server configuration can be done within 1 month. This includes adding BVOD apps to the currently existing row of apps, placing them on home page positions and auto-installing BVOD apps.
- PRs that require software implementation can be done within 6 months, if prioritised. These include new design or layout of home screen, including additional rows of apps, new user interface design or home screen layout, and if not already implemented installing a “Live TV” tile for linear broadcast services and ordering linear broadcast services in channel number on the EPG.

Why these timelines apply:

- Server configurations require 1 month to allow for additional quality assurance of the BVOD apps, technical discussions between manufacturers and app owners (disregarding commercial considerations such as contracts). This applies to new TVs, as well as those in the market over the last number of years (estimates last 2-3 years) that still get software updates.
- Software implementation of each PR typically requires 2-3 months of focussed effort to allow for user interface layout and redesign, and each software aspect to be specified, implemented and tested. Given that a manufacturer will need to deploy one or more PRs across multiple chassis, a 6-month timeline is achievable to ensure quality.
- While manufacturers prefer to bundle all requirements together for efficiency purposes, and the manufacturing software requirement process typically commences in January of each calendar year, highest priority regulation, or market issue, related requirements can be implemented much more quickly. Manufacturers tend to prefer 12-18 months for convenience, but if a manufacturer is obliged to implement a requirement due to regulation, or face the prospect of being unable to import devices to a particular country, manufacturers can re-adjust priorities, such that they can implement within 6 months.

Prominence in Connected TVs in Australia

1.2 My Background

As someone who has been working on the consumer side of the digital broadcast TV industry since 1995, I feel I have a valuable contribution to make to this discussion of prominence in connected TVs in Australia.

I joined Sony Europe in 2008 working on TV specification and standards relating to the European market. I have led teams in the development and design of TVs for the Pan Asia region, including Australia, since I moved to Malaysia in 2013.

While I was based in a design and manufacturing centre in Malaysia, I was proactively involved in digital TV standardization in the region, frequently working together with other TV manufactures on standards development for the region. I have collaborated with other manufacturers and industry representatives in countries such as Australia, Malaysia, Thailand, Indonesia, Singapore, Vietnam, New Zealand, U.A.E., The Philippines, Ghana & South Africa.

In July 2023 I was appointed chair of the sub-working group for Multimedia Broadcast Receiver for Malaysian Technical Standards Forum Berhad (MTSFB) by my industry peers. Not only have I worked with all the main TV Manufacturers across the region, I have also had technical discussions with each of the Australian free to air broadcasters.

Until October 2023 I was head of the Software R&D division in Sony, Malaysia, which consisted of Broadcast, IPTV, User Experience, and Automation Departments where we developed the software for Connected TVs for the worldwide market, but we also had a regional responsibility for the markets covering Asia Pacific, Middle East and Africa.

Prominence in Connected TVs in Australia

2 TV life cycle overview

Before going into the specifics of prominence in connected TVs, it is beneficial to take a step back and look at how TV manufacturers design, manufacture and ship their products into the Australian market, and eventually to an individual customer.

2.1 Common Hardware & Software design

Typically, each of the main TV manufacturers will offer a range of TV marketing categories which they will sell as part of their line up in a given year. While the panels and mechanical aspects of each TV will typically have variation per model, TVs are designed for maximum reuse of both main electrical hardware and software design. That is, the same main hardware and software can be placed in various TV frames with various panel, power and mechanical components. This reusable electrical hardware and software design is typically called a “chassis”. The electrical hardware would typically be the main motherboard, including SoC, along with memory, audio or video input or outputs. Given the SoC is common, the software will also be common.

Consider Figure 2, below, where each colour is a different chassis. Each chassis is reused for multiple models in a given year, and then the same basic chassis will be reused in subsequent years. Manufacturers might typically design one or two new chassis per year, but will also reuse previous years’ chassis framework to create each year’s TV lineup.

A TV lineup for Australia is the range of TVs that each manufacturer sells for a particular year. The manufacturer would split the lineup into different categories for marketing purposes, but these categories may or may not align with the chassis definition.

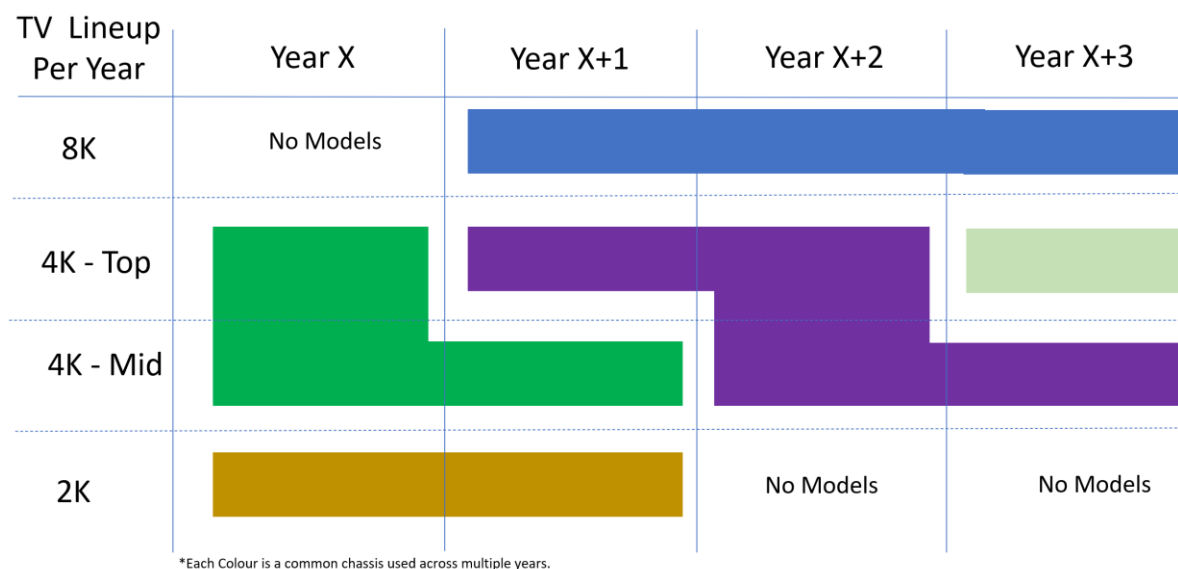


Figure 2 - Sample Chassis Line Up for Australian Market across 4 years

Each manufacturer will have a slightly different definition of what they consider a chassis. Some manufacturers prefer a broader definition of chassis, such as where the software code base before compilation is common. Some manufacturers may have a narrower definition, such as the TVs having common memory configurations or partitions. But the “chassis” concept is generally common across manufacturers.

Prominence in Connected TVs in Australia

2.2 Common Software per chassis

For the purposes of this discussion, one of the key points to a chassis is having the same SoC. As the chassis has the same SoC, they can have a “common software binary image”, or at least, have a “common software code base”.

A SoC is basically where most of the electronic components of a circuit are centrally located together on an integrated circuit. The electronic components located on the chip generally include all the transistors, memory interfaces, and the central processing unit and graphic processing unit.¹ A SoC is essentially an embedded computer, which needs a set of instructions to run, consisting of ‘1’s and ‘0’s. These instructions are the “binary software image”. If two binary images are different, the instructions can be considered to be different.

From a software perspective, one of the main costs is the quality assurance of the software. Having one common software binary image (or common software code base) for as many models in the lineup as is possible, is extremely beneficial in reducing software development cost. Reusing the software base across a chassis over multiple years, also has a benefit in reducing both maintenance and software quality assurance costs.

2.3 Country Variations

Each manufacturer wants to minimize country specific software differences, as this minimizes the quality assurance processes they are required to undertake. However, as there is no common worldwide broadcast or television standard, country specific implementation and testing is required. One example of this in Australia is the parental rating system (also known as the parental lock standard) [4]. Each manufacturer needs to implement and test this for Australia specifically. Other examples of unique Australian requirements which must be uniquely implemented and tested are the sorting of Logical Channel numbers, Audio Reference Levels & 7MHz television channels.

2.3.1 Destination in Factory

Once a TV is powered on for the first time by a customer, there are different indicators for a TV to know that it is physically located in Australia. When a TV is assembled on the production line, it is normal that a destination variable is written to the TV’s software that indicates the destination region of the TV. For example, TVs shipped to Australia may have a destination region including both Australia and New Zealand. This is the only country (or regional) variation which can be certain from a manufacturer perspective, as it is written during production. If, for example, a manufacturer had to make a royalty payment based on feature availability, then they could use a destination region to control the royalty feature. This would be true for TVs which support Hybrid Broadcast Broadband TV (“HbbTV”). HbbTV being enabled, or not, could be based on the destination variable written in the factory. If a TV was originally shipped to Indonesia, it would have a different destination variable written, which disabled HbbTV. If that person moved to Australia and brought the TV with them, the TV would not support HbbTV, even if the same TVs sold in Australia had HbbTV enabled.

At production time, the final destination is not always guaranteed. For example, if shipments to New Zealand are routed via Australia, there would be benefit to the manufacturer to have a common destination variable, if possible. That is, such TVs would be designed to carry features common to both New Zealand and Australia. Also, this would give the manufacturer flexibility towards end of life of the product regarding where to ship units.

Prominence in Connected TVs in Australia

2.3.2 Country selection during Initial Setup

On first initial setup, the user will typically be asked to select the country they are in. This country selection by the user is used to control many of the basic country unique features, such as the parental rating as required in Australia, or the sorting of Terrestrial Digital Broadcasting services. If the TV is connected to the internet by the user, then potentially this step might be skipped, in preference to IP Geolocation.

2.3.3 IP Geolocation

For Internet related functionality, IP (Internet Protocol) geolocation, or variant, is very commonly used. This means that a user's location, which is connected to their IP address, can automatically synchronise to the TV without the user entering their country of location. Time zone information across the world is not as constant as one might think [5], and time zone related settings are also typically based on IP based geolocation for connected receivers.

Using IP geolocation, the home screen design and layout can be country dependent. Also, the default applications (“apps”) installed are typically IP geolocation-based. We will discuss more about this in a future section.

2.3.4 Location-based Use case examples

Let us imagine that a manufacturer has a particular chassis that they are selling across the Pan Asia region. The manufacturer will typically endeavour that each unit will have a common software binary image across the region. For example, that the same software binary image is written to units shipped to Australia, New Zealand, Indonesia, Vietnam, Singapore and Malaysia.

So, let us compare TV units assembled in Vietnam for both Indonesia and for Australia. There will be differences between the TVs, with one of the obvious ones being the different plug types. As such, there will be different assembly lines to manufacture TVs using those different components. Hence, it is likely that during assembly different destination variable are written to the unit’s non-volatile memory. However, the manufacturers will typically write the same binary software to both units.

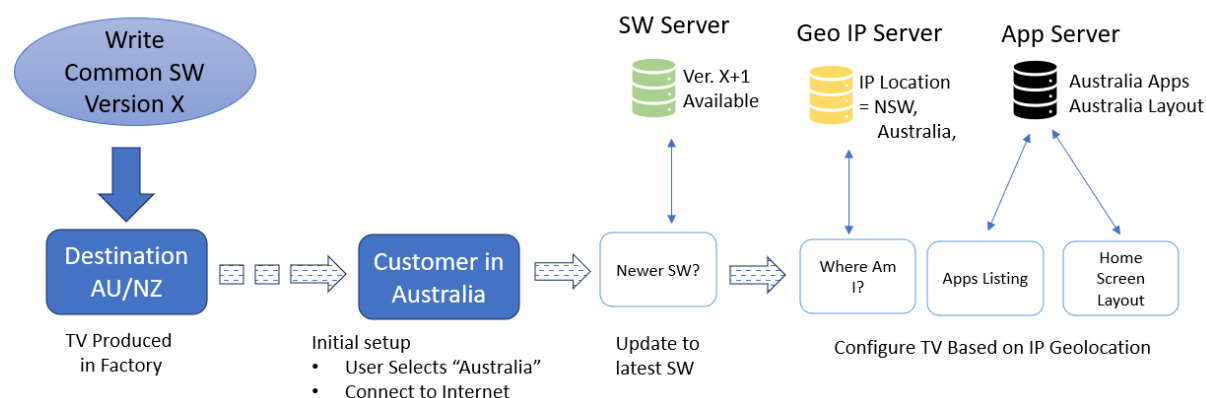


Figure 3 - Location based Use Case Example of TV Shipped to Australia

Consider the example as described in Figure 3. Once the TV arrives in an Australian home and the customer turns the unit on, they proceed to start the initial setup process. Typically, one of the first

Prominence in Connected TVs in Australia

questions the user is asked is to choose their location, such as country, and in the case of Australia, their State or Territory.

If the purchaser chooses to connect the TV to the Internet, at this point the TV will connect to either the manufacturer's server or the platform server. Typically, the TV will inform the server the chassis to which it belongs, as well as possibly to which year's lineup it belongs. The servers have the information that the TV is based in Australia, through IP-based geolocation. The servers will then send information to the TV accordingly, regarding the steps necessary to complete the location-based setup.

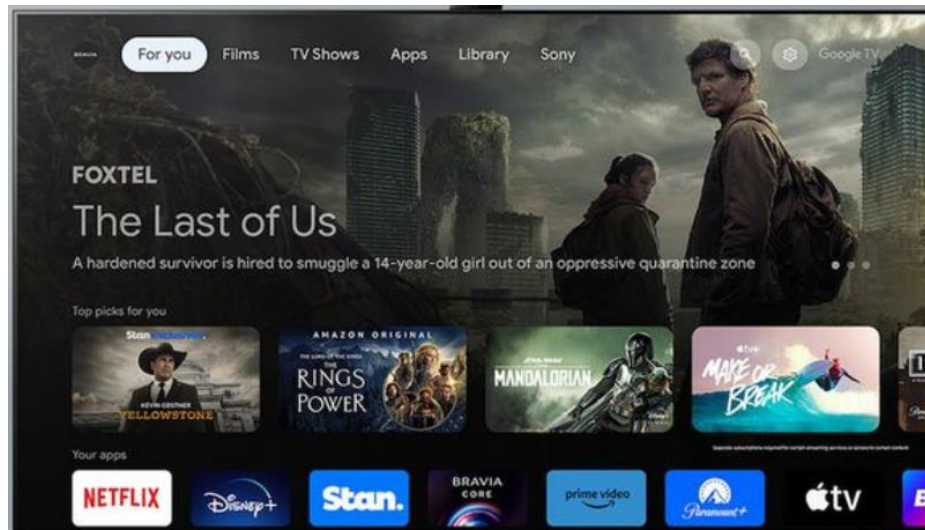


Figure 4 - Home Screen Layout on Sony TV [9]

The information from the servers can include simple information about the local time, Daylight Saving Time, or more varied information regarding how the Home Screen will be setup and laid out, as well as which country-specific apps are to be auto-downloaded.

Prominence in Connected TVs in Australia

2.4 Sample Timeline for a TV from factory to customer

The timeline for a TV set from the time it is manufactured to the time it arrives in a customer's house is another important consideration. Let us say we consider a TV manufactured in Indonesia or Vietnam.

Imagine a TV has just rolled off the production line. Typically, once a TV is produced, it is then moved to a warehouse ready for export until a shipping container is ready.

Once a sufficient quantity has been produced, the shipping containers will be packed and driven to a commercial port, stored in dockyard and then loaded onto a ship bound for Australia. Depending on the manufacturer and country, there may be varying steps required for export clearance, but assume this is minimal impact for now.

Let us assume this shipment is bound for Newcastle. Once it gets customs clearance on arrival, then typically the container will be transported to one of the manufacturer's sales company's local warehouses. If the manufacturer has sufficient sales volume with a home electronics store, such as JB Hi-Fi, it may send the shipping container directly to the warehouse of its partner.

A customer can typically buy a TV in two ways, by walking into a store in-person or by ordering online. Both in-person or online can be purchased directly from manufacturers' stores or via retail stores. Australia is a vast country, and TVs will be available earlier in major urban centres such as Sydney, compared with more isolated locations such as Alice Springs.

From my experience, the total minimum timeline from production of a TV unit to being in a customer's house can be less than two months in optimal conditions, but can be up to three months for some of the big-sized premium models. The timeline set out above assumes optimal conditions, where a TV unit is sold nearly immediately.

2.5 Different Categories of Changes

There are different categories of changes that could be done to TVs, and each of them have a different 'realistic' completion timeline.

2.5.1 System-on-Chip requirements.

Changes required for the System on a Chip (SoC) such as new video decoder would need to be flagged by as much as three or more years in advance. As you can see from Figure 2, chassis are normally designed to be used for multiple years.

As noted earlier in this report, there are no SoC changes necessary for the prominence requirements under consideration as part of the prominence framework, so a long lead time, such as years, for these types of requirements is not necessary.

2.5.2 Hardware Requirements

Hardware or mechanical changes, such as adding unique remote commander buttons, can take time and would potentially result in unique Australian remote commander design.

As noted earlier in this report, there are no such hardware changes necessary for the prominence framework, so a long lead time for these types of requirements is not necessary.

Prominence in Connected TVs in Australia

2.5.2.1 Remote Commander

While requirements for a unique Australian remote commander appear to be out of scope of the of the Second Reading speech relating to the Bill, [7], if there were a requirement conditional on a feature existing, then it would be a software change. For example, the following would require a software change:

- If there is a guide button on the remote commander, then that guide button shall, by default, open an electronic program guide for linear broadcast regulated TV services assuming that such services previously have been installed.

2.5.3 Software Requirements

The prominence framework, as described earlier in this document, is only considering requirements that would require either changes to software or changes to server configurations. Example of software requirements would be as follows:

- a new unique design or layout of the home screen, such as having two rows of apps where previously there was only one row of apps.
- Applying a User Interface (UI) design or layout of the home screen, that has already been implemented for another region such as the UK or Germany, to Australia. Software development may be required to make an existing regional layout more generic, and applicable for additional countries.

Typically, the worldwide software requirements would be in the process of being collected by each manufacturer during January of calendar year X for the lineup released in Australia during the autumn/winter of calendar year X+1. As a business preference, manufacturers tend not to implement software changes for individual software requirements, as doing so would be to undertake a requirement in isolation. Rather, for convenience they prefer to bundle all the requirements together, and in doing so, would typically take 1 year to 18 months.

However, in reality, if a manufacturer was required by law to implement a specific software requirement, they could generally do so within 6 months across all chassis. Within this time frame, it is feasible to specify, implement and test high priority software requirements in isolation.

2.5.4 Server Configuration Requirements

Server configuration requirements are where no change is required to the software on TV in production, or available via an Over-The-Air (OTA) download. But rather, a configuration change is made on a manufacturer's server or the platform server for a particular chassis or year model. The TV units in the market read the server configuration information and update their behaviour accordingly.

Examples of server configuration changes would be as follows:

- Where the Australian BVOD apps would be added to the list of the app, which would be auto downloaded during initial setup.
- Indicating which apps are displayed on the home screen, by default.

From a technical perspective, server configuration changes can happen within a short lead time, and the effect of the change would be immediate.

Prominence in Connected TVs in Australia

During the lead time, the manufacturer may want to do some initial quality assurance to guarantee the quality of the apps that are being added to the home screen. Also, there may need to be some technical discussions between the manufacturers and app owner to confirm technical issues such as memory usage or cybersecurity of the apps and TVs.

If a new TV unit is doing its first initial setup 1 minute after a server configuration change has been made, then that TV unit will use the new server configuration.

From a technical perspective, I would consider a month to be sufficient to resolve any procedural issues. However, this lead time would exclude any existing contractual issues that the manufacturers or platform providers might have with 3rd parties. If you consider the scenario where a manufacturer already has a commercial agreement for all the slots on its home screen, then considerations other than technical ones may affect the manufacturer's timeline.

2.6 Applications and how they are managed.

Each of the main TV platforms has a Platform App Store, such as the Samsung Smart Hub, the LG Content Store & Google TV App Store. Third party developers need to get access to the relevant Software Development Kit (SDK), develop the app, and submit the app for approval to be on the Platform App Store. Once the app is on the relevant Platform App Store, then the user can search for the app and download it to their own device.

Please note that some of the manufacturers play a dual role where they both operate the platform app store and are a manufacturer. However, in the case of GoogleTV, the apps store operator and manufacturers are currently differently entities.

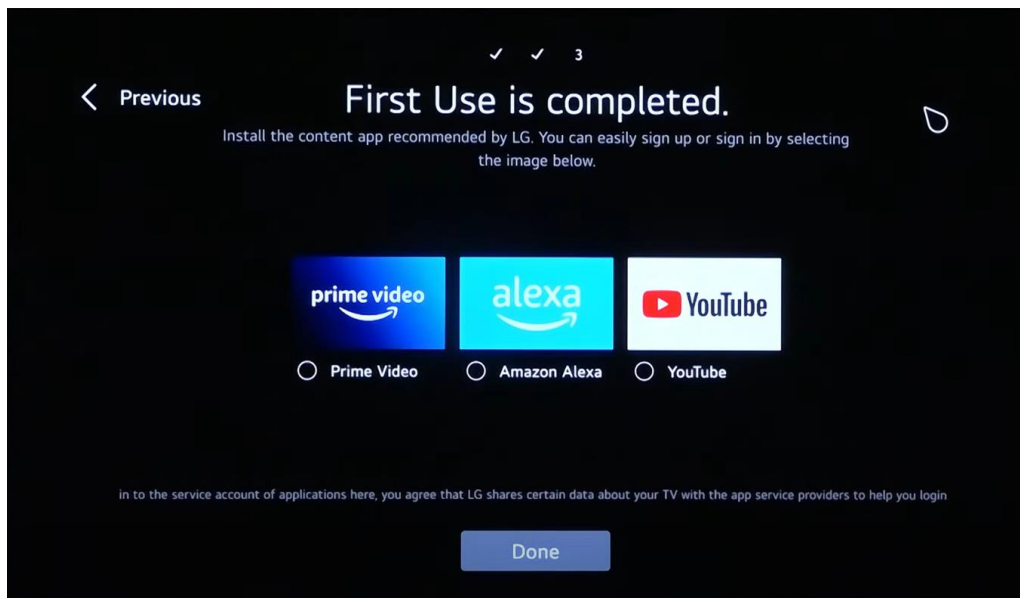


Figure 5 - App Suggestion at Completion of Initial setup on LG TV [10]

Assuming that there is already an app available for consumers to download from the Platforms App Store, then it is typically relatively straight forward to set these up as auto installed apps from a technical perspective. Even if an app is pre-installed, it will still use the Platform App Store to update to subsequent versions of the app.

Prominence in Connected TVs in Australia

There are different options to auto-install or pre-install apps existing in the market, which do not necessarily all comply with the current proposed prominence framework. They are listed below:

1. Include a version of the apps in the TV software binary image itself. This means that for a new TV, the app would already be downloaded and ready to open on the home screen. This would be applicable to both software written in the factory or software downloaded via Over-the-Air (OTA). If the app is to be a system application which a user would not be able to delete then typically it would have to be included in the software binary image. If Australian BVOD apps were included in the TV software binary, then this would have an impact that the software build would need to be Australia-unique.
2. To download the app based on server configuration tool. This means that for a new TV the app would be auto-downloaded during initial setup and ready to open on the home screen. Each of the main manufacturers already have server tools to configure what apps should be downloaded at first installation based on a country selection. Auto-downloading of apps on a country specific basis has both a commercial and customer value, and each of the manufacturers already has this capability and is already doing. One negative aspect of this is TV setup time is longer.

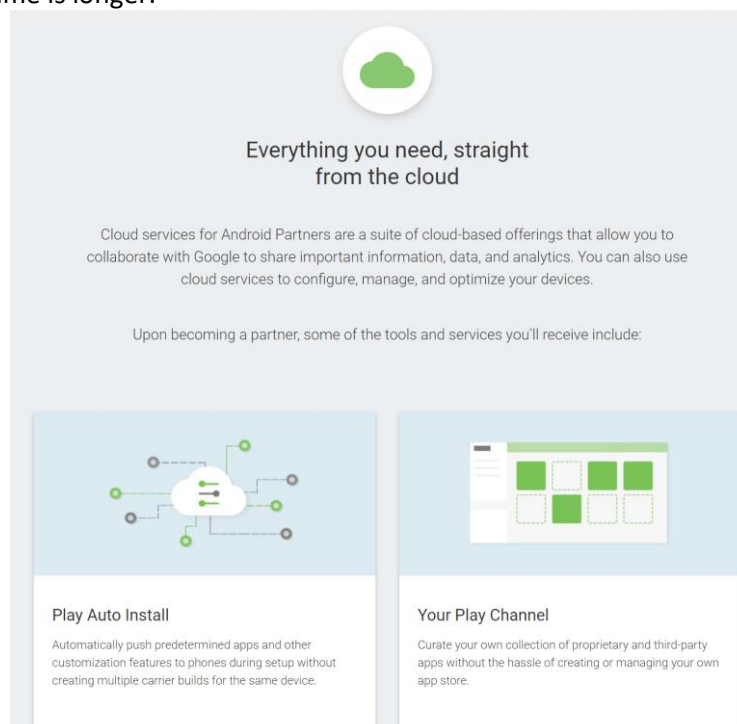


Figure 6 - Play Auto Install offered by Android [15]

3. Another server configuration-based option is that the user is given a curated list of optional apps to install, in addition to list of Apps which will be auto-installed. In such a list, the Manufacturer, or Platform, curates both default lists. Offering the user the option of downloading a regulated service BVOD app would not appear to comply with the current proposed prominence framework.

Prominence in Connected TVs in Australia

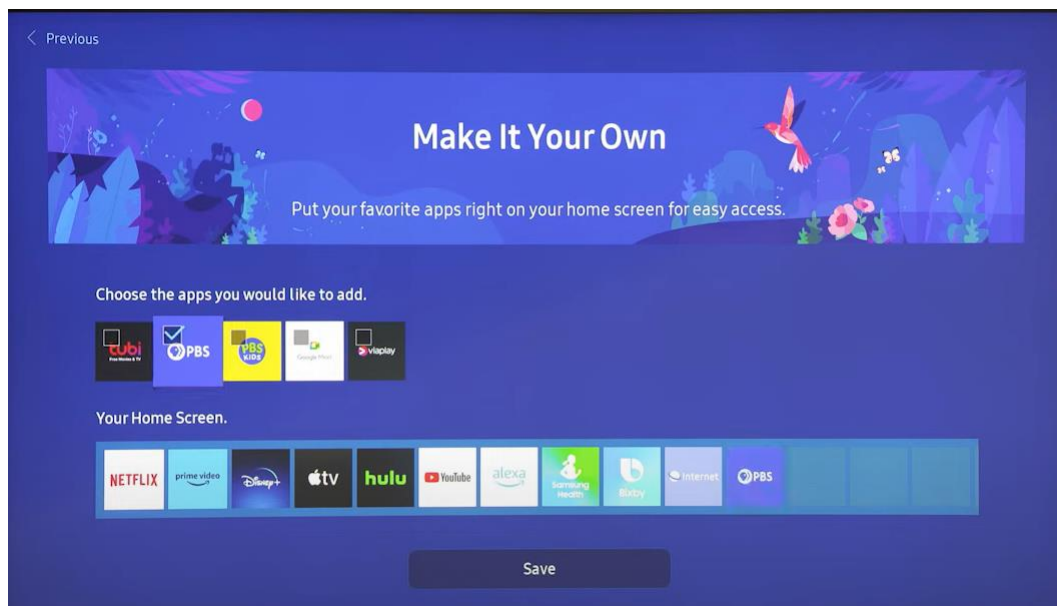


Figure 7 - Application selection during initial Setup on Samsung TV [6]

- Another option is where the platform can make the app icon, or tile, available to the user, and when the user selects the icon for the first time the app is downloaded at that time. This would also be configurable by manufacturer via server configurations tools. This option would appear to meet the current proposed prominence framework. There is a variation of this option, where when the user selects the icon for the first time that a link to the App store is opened, where the user is given the option to install the icon's app. This variation may comply with the current proposed prominence framework, depending on the definition of link in 'tile, tab or link'.

When a customer gets a new TV or an existing customer does a factory reset on a TV in use then the server configuration will always be checked, assuming the device is connected to the internet.

2.6.1 Existing TVs in the market

For existing TVs in customers' homes checking of servers is done on a periodic basis, and it is generally technically possible to download apps automatically, or alternatively provide a notification to the user that there are new apps available to download.

For models that have been introduced over the last 3 years or so, there will be still software updates provided by the manufacturer. This might include security patch updates, operating system updates, feature updates or market quality. This is typically a good time to auto download apps in the market, as needed, or even to update the home screen layout.

If a model has been released in the last 3 years, and the user does a factory reset, then it is definitely feasible to auto-download apps automatically during the initialisation phase of the TV.

Prominence in Connected TVs in Australia

2.7 Realistic Software implementation schedule

The Second Reading Speech to the Bill [7] proposes a time schedule that is based on manufacture date:

"... is manufactured 18 months after the commencement of the framework, and is supplied on or after this date"

The manufacture date is not a date which ACMA or another regulator can monitor themselves, but rather it would be up to the manufacturer to declare.

As can be seen in Figure 3, it is standard procedure for connected smart TVs to update software on first installation. When a TV is initially produced, the software written to the TV on the production line has had the offline functionality prioritised. Even though customers are buying Smart TVs, many do not connect their Smart TV to the internet. Even after mass production has started, TV manufacturers will continue to work on an "Over-The-Air" release version of the software, which prioritises connected and additional features. When a user is doing their first initial update, the TV will automatically check for a software update and, if available, will download it, after confirmation by the user.

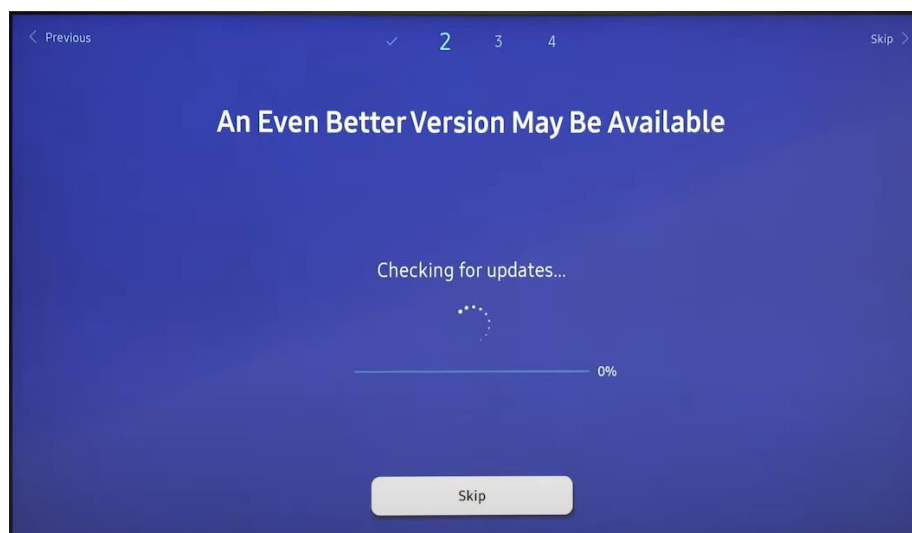


Figure 8 - Checking for Over the Air Software Updates on Samsung TV [6]

The above operating procedure, of TV software being updated at first installation, removes the necessity for the regulation to be based on the manufacturer date. In other jurisdictions, TV regulation is typically based on "point of import" or at "point of sale".

Point of sale as a compliance date can be very challenging for manufacturers, as they would need to clear the stock in all stores across the country. It is also challenging for regulators to enforce. Point of import tends to be more popular in Asia, and easier to enforce. For example, in countries such as Vietnam the relevant documentation, including software and hardware test reports, are checked by customs officials, as part of import clearance.

I would suggest it would make sense to split the schedule for implementation of the requirements as follows:

1. Server configuration-based requirements schedule:

Prominence in Connected TVs in Australia

- a. apply to regulated TV devices one month after commencement and “supplied” on or after that day.
2. Software development-based requirements schedule:
 - a. apply to regulated TV devices that are manufactured on or after the day that is 6 months after commencement and “supplied” on or after that day.

2.8 Linear and Live Streaming Services

Live streaming services are becoming more prevalent on Smart TVs. These are sometimes referred to as “Free Ad-supported Streaming TV” service, or FAST TV services. It is worth noting that there is no specific reference to FAST TV services in the current reading of the Bill.

The extract below of the wording of Second Reading of Bill, [7], appears to preclude that FAST TV services are permitted to be accessible from the same “live television tile, tab or link”:

“...present a ‘live television’ tile, tab or link to provide access to linear broadcast regulated television services on regulated television devices that contain a radiofrequency tuner...”

Even if there is a “Live TV” icon to access linear broadcast regulated TV service, Smart TV may be promoting FAST services. The above wording does not give any specific prominence to linear broadcast regulated TV services. There is no explicit requirement to include an icon to access on the primary user interface of the device.

Typically, a user may press the “Live TV” key on their remote command to view linear broadcast services. Given the second reading of the Bill is excluding remote control requirements, then Smart TV manufacturers will be able to direct the “Live TV” key to open FAST Services.

In the additional, while FAST services will be auto-installed by the Smart TV, there is no requirement for devices with applicable radiofrequency tuners to give the user the option of performing a scan, or installation, during initial setup.

2.8.1 Electronic Programme Guide for Live and FAST TV Services

Both Free Ad-supported Streaming (FAST) TV service, and linear broadcast regulated TV service have guides.

The extract of the wording of second reading of Bill, [7], precludes that FAST services are permitted to be accessible via the “Traditional” Electronic Programme Guide as they do not have a logical channel number:

“...present regulated television services in logical channel number order on the electronic program guide of the regulated television services where the device contains a radiofrequency tuner and includes an electronic program guide for linear broadcasting services....”

Prominence in Connected TVs in Australia

However, a Smart TV manufacturer, or platform, could have multiple different program guides available. Consider the scenario where there are three different guide apps available but only the FAST TV guide is on the Home Screen of the device:

1. Linear broadcast regulated TV services only
2. FAST TV services only
3. Linear broadcast regulated TV & Fast TV Services combined in one guide.

The second reading of the Bill does not give any specific prominence to the electronic program guide for linear broadcast regulated TV services. There is no explicit requirement to include an icon to access the guide on the primary user interface of the device.

Typically, a user will press the 'Guide' key on their remote command to open the Electronic Programme Guide. Given that the current reading of the Bill is excluding remote control requirements, then Smart TV Manufacturers will be able to direct the 'Guide' key to open any of the above guides.

Prominence in Connected TVs in Australia

3 Prominence Regulation

3.1 Auto installation Australian BVOD apps

Assuming that there are already BVOD apps available for consumers to download from the manufacturers "App Store" such as on the Samsung Smart Hub or the LG Content Store, then it should typically be straightforward to set these up as auto installed apps, as described in Section 0.

Manufacturers should already be doing quality checking of their TVs with BVOD apps for the Australian market given the BVOD app popularity. If the BVOD apps are to change to be auto-installed then I expect the Manufacturer would need to do an additional quality assurance activity.

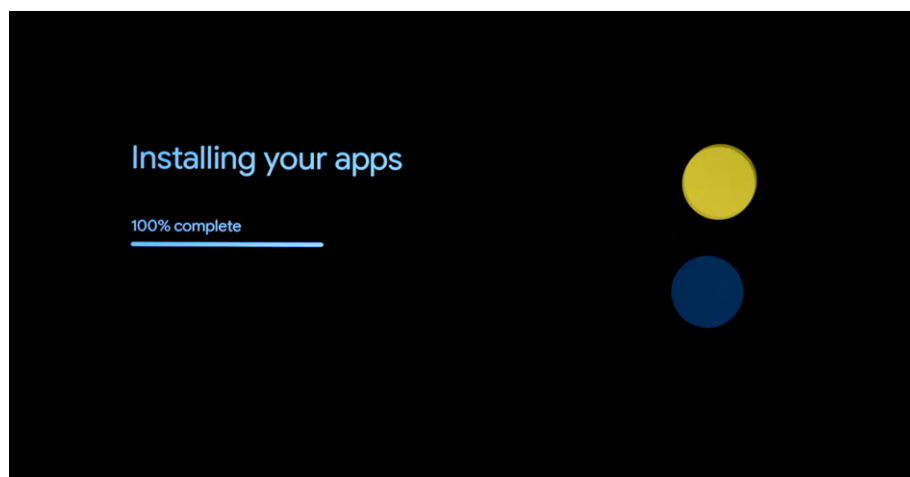


Figure 9 - Applications being Auto Installed on Sony TV [11].

If manufacturers change to auto install BVOD apps, then manufacturers should be able to complete the above steps in a month, and this change would be applicable for any new model immediately.

For models that have been introduced over the last two or three years, there will be still software updates provided by the manufacturer. This would typically include one or more of security patch updates, operating system updates, feature updates or market quality updates. This is typically a good time to auto download apps in the market.

Prominence in Connected TVs in Australia

3.2 BVOD Apps on the primary user interface

The apps on the home page of a TV are controlled by the manufacturer, or platform provider, on a country-by-country basis via server configuration. How the apps are controlled may be on a chassis-basis, or possibly on a yearly sales lineup-basis. The apps on a home page are central to users' experience and potentially revenue-generating for manufacturers.

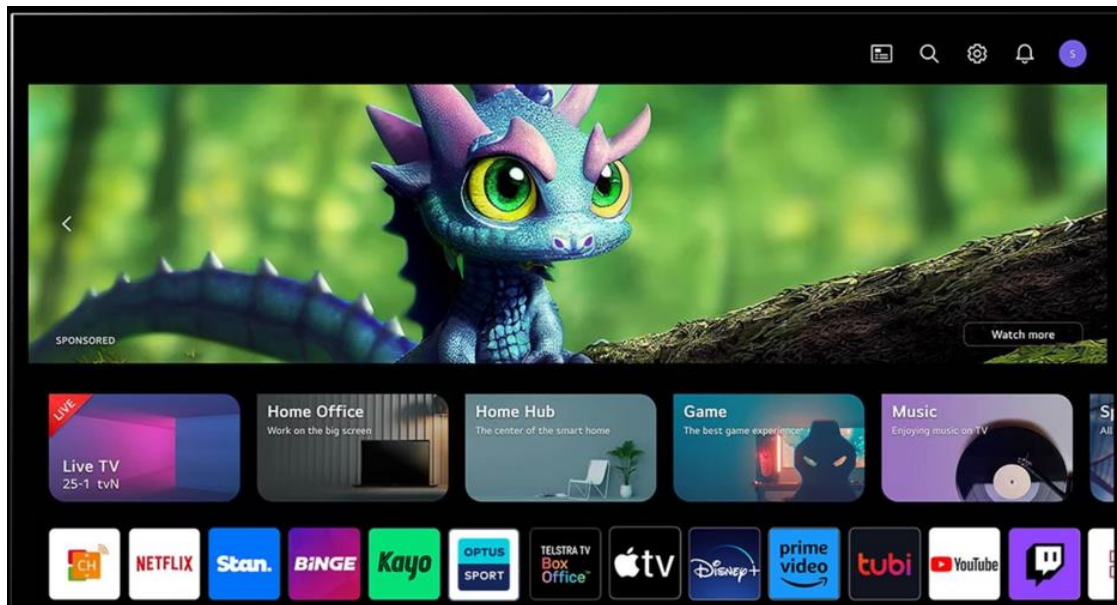


Figure 10 - Home Screen Layout on LG TV [13]

Within the homepage, normally users will have the flexibility to reorganise their apps, as they deem fit, after initial setup. However, for commercial reasons, manufacturers may hardcode certain apps to fixed positions. Where users have themselves organised the icons into a preferred order, manufacturers generally avoid disrupting that order, until it comes time to implement an OTA update with home screen re-design. When that occurs, the whole look of the interface changes for the user, and re-ordering icons again is not unexpected by the user.

One important factor to note is that the home page layout itself is typically controllable via server. i.e. different countries such as the UK or Germany might have a different home screen layout compared to Australia.

As per above, any changes that are controlled via server configuration, can be done relatively easily by manufacturers. However, if a unique user interface layout and redesign is necessary, this change would be treated as a software design requirement compared to server configuration requirement.

3.2.1 Non-Technical Considerations

A non-technical issue is that there are five Australian BVOD apps in addition to a TV app. This is six spots of "real estate" on the home screen. Manufacturers may have existing worldwide contracts with some of the global streamers, where these contracts stipulate inclusion of the global apps on the primary user interface.

Prominence in Connected TVs in Australia

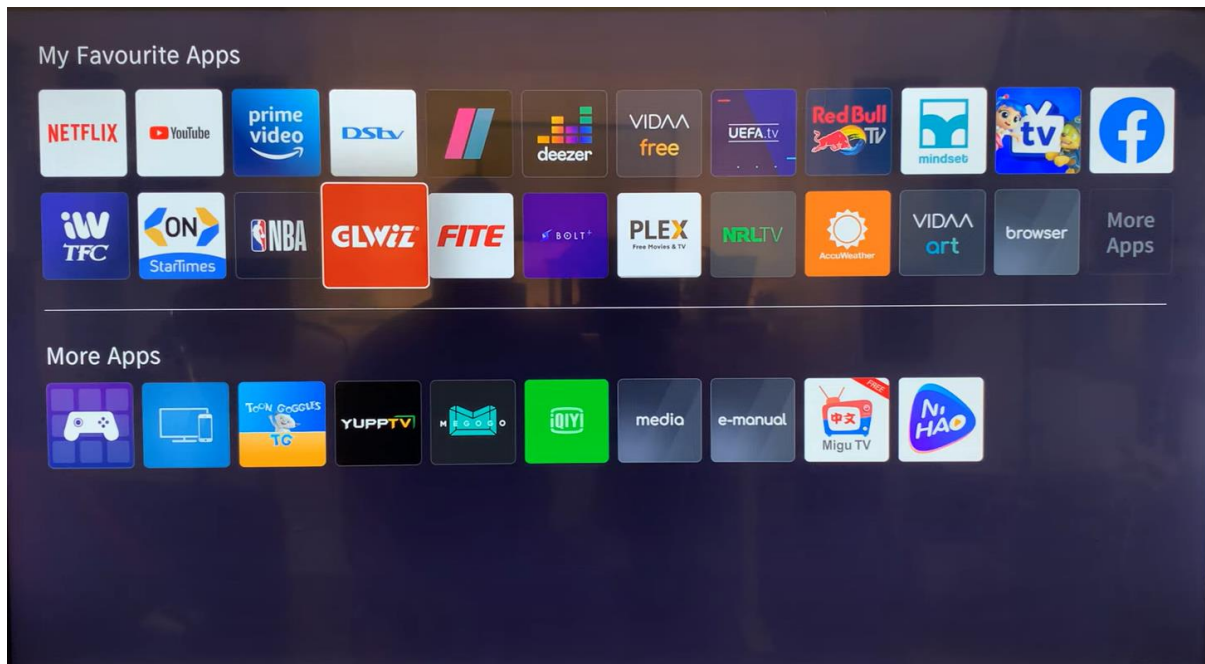


Figure 11 – My Favourite Apps listing on Hisense TV [12]

Let us say there are fourteen app slots on the primary user interface with eight slots being immediately visible via the home screen, another 6 slots are “on” the home screen, but only visible if the user scrolls right along the app row. The remaining apps would then be only visible by additional action such as selecting the “More Apps” icon, or possibly selecting an “Apps” button on the Remote Commander. Above details will of course be dependent on each manufacturers’ user interface.

It can be a challenging decision for a manufacturer, or platform provider, to decide on how to divide apps across these slots. However, that decision is typically a commercial or regulatory one and not a technical decision.

Prominence in Connected TVs in Australia

3.3 Access to linear broadcast services

Assuming a device has a DVB-T compatible tuner, then it safe to assume that there will be a built-in app or function to access linear broadcast services.



Figure 12 - Enabling Digital Tuner during Initial Setup on LG TV [10]

During initial installation of the TV, it is standard for the user to be given the option to do autotuning of the linear broadcast services.

The extract below of the wording of 2nd reading of Bill, [7], does not require the “live television tile, tab or link” be accessible from the Home Screen.

“...present a 'live television' tile, tab or link to provide access to linear broadcast regulated television services on regulated television devices that contain a radiofrequency tuner...”

Prominence in Connected TVs in Australia

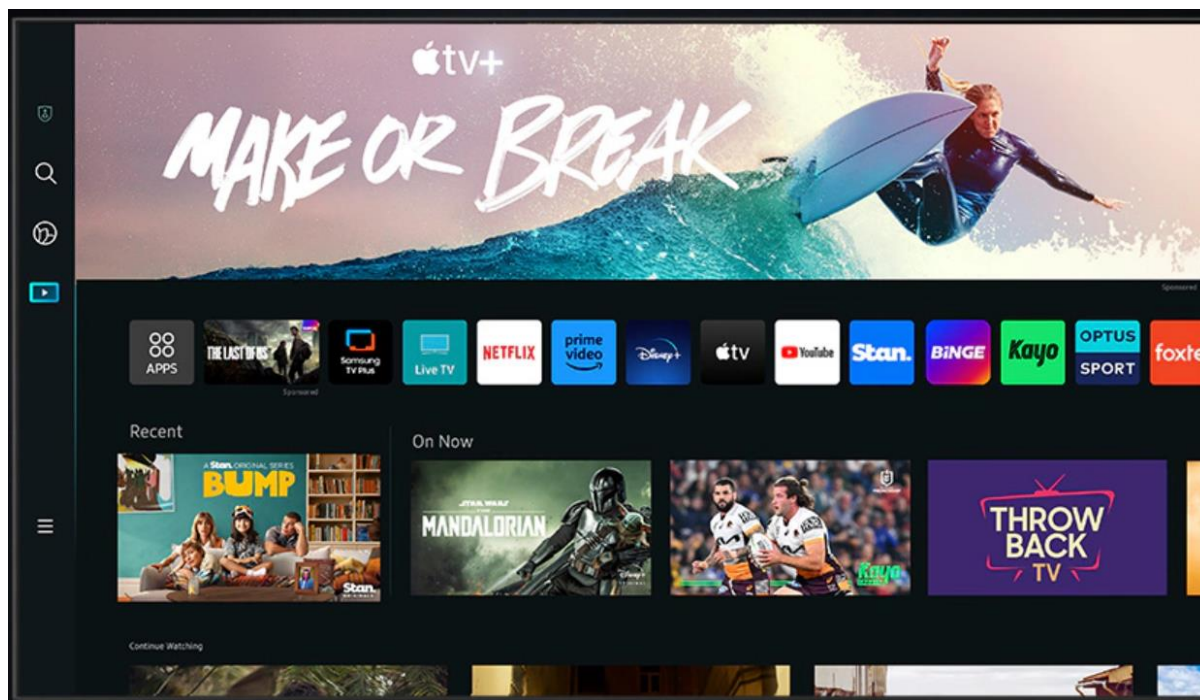


Figure 13 - Live TV Tile on Home Screen of Samsung TV [13]

If the Bill were to give prominence to linear broadcast regulated TV services by adding a tile or tab to the home screen, then it is a server configuration update. This is a relatively easy confirmation change, given the existing layout already exists. As such I would consider a 1-month time frame would be an acceptable implementation timeline.

3.4 Access to Electronic Programme Guide

Assuming a device has a DVB UHF compatible tuner, then it safe to assume that there will be a built-in app or function to access the electronic program guide for linear broadcast services.

This requirement is already implemented on all connected TVs, as far as I am aware. There is some complexity added due to devices supporting Freeview, which will have both a Freeview TV guide [16], as well as a native EPG implemented by the manufacturer or platform.

The extract of the wording of 2nd reading of Bill, [7], does not give any prominence to the EPG for linear broadcast regulated TV services:

“...present regulated television services in logical channel number order on the electronic program guide of the regulated television services where the device contains a radiofrequency tuner and includes an electronic program guide for linear broadcasting services....”

If the requirement were to give prominence to EPG for linear broadcast regulated TV services by adding a tile or tab to the home screen, then it is a server configuration update. This is a relatively easy confirmation change, given the existing layout already exists. As such I would consider a 1-month time frame would be an acceptable implementation timeline.

Prominence in Connected TVs in Australia

4 Conclusion

Prominence in Smart TVs is being discussed across the world, and I am delighted to use my experience to provide a balanced view on how these changes can impact the industry in Australia.

While I have covered multiple topics in this report, the primary point I would like to highlight is that the schedule should be split into one which can be controlled by a server configuration and those which require software modifications.

- All the prominence requirements under current consideration can be delivered by either server configuration changes or by software implementation. They do not require hardware changes, SoC (System-on-Chip) changes, mechanical changes or physical changes.
- The prominence requirements should be split into two separate groups, those that can be done by server configuration or those that can be done by software implementation:
 - o The Server Configuration requirements can be implemented within 1 month of the commencement of the regulation.
 - o The Software Implementation requirements can be implemented within 6 months of the commencement of the regulation, based on import timing to Australia.

For a more detailed conclusion please refer to Section 1.1, Executive Summary.

Any further questions or queries I can be contacted as below.

Stephen Anthony Cleary

Prominence in Connected TVs in Australia

5 References

[1]	https://www.infrastructure.gov.au/sites/default/files/documents/media-policy-statement.pdf
[2]	https://www.infrastructure.gov.au/media-communications-arts/television/prominence-connected-tv-devices
[3]	https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/ProminenceAntiSiphoning
[4]	https://www.acma.gov.au/technical-standards#parental-lock-standards
[5]	https://www.timeanddate.com/news/time/
[6]	https://www.youtube.com/watch?v=C3Fi7qlcMNo
[7]	https://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansardr/27183/0009/hansard_frag.pdf;fileType=application%2Fpdf
[8]	https://www.youtube.com/watch?v=HPK-4htc57s
[9]	https://store.sony.com.au/television-OLED/XR83A80L.html
[10]	https://www.youtube.com/watch?v=Ndir5MbQbbM
[11]	https://www.youtube.com/watch?v=jtBnNhxq2XM
[12]	https://hisense.com.au/product/65-uled-mini-led-pro-series-u8kau/
[13]	https://www.samsung.com/au/tvs/oled-tv/s95c-65-inch-oled-4k-smart-tv-qa65s95cawxy/
[14]	https://www.lg.com/au/tvs-soundbars/lq-65qned81sra
[15]	https://partner-android.appspot.com/home
[16]	https://freeview.com.au/tv-guide
[17]	https://www.infrastructure.gov.au/sites/default/files/documents/TV%20Consumer%20Survey%202022%20-%20Final%20Report.pdf

Prominence in Connected TVs in Australia

6 Contents

1	Introduction	2
1.1	Executive Summary	3
1.2	My Background	4
2	TV life cycle overview	5
2.1	Common Hardware & Software design.....	5
2.2	Common Software per chassis.....	6
2.3	Country Variations.....	6
2.3.1	Destination in Factory	6
2.3.2	Country selection during Initial Setup.....	7
2.3.3	IP Geolocation	7
2.3.4	Location-based Use case examples.....	7
2.4	Sample Timeline for a TV from factory to customer	9
2.5	Different Categories of Changes	9
2.5.1	System-on-Chip requirements.	9
2.5.2	Hardware Requirements	9
2.5.3	Software Requirements.....	10
2.5.4	Server Configuration Requirements.....	10
2.6	Applications and how they are managed.....	11
2.6.1	Existing TVs in the market	13
2.7	Realistic Software implementation schedule.....	14
2.8	Linear and Live Streaming Services.....	15
2.8.1	Electronic Programme Guide for Live and FAST TV Services.....	15
3	Prominence Regulation	17
3.1	Auto installation Australian BVOD apps.....	17
3.2	BVOD Apps on the primary user interface	18
3.2.1	Non-Technical Considerations.....	18
3.3	Access to linear broadcast services.....	20
3.4	Access to Electronic Programme Guide	21
4	Conclusion.....	22
5	References.....	23

Prominence in Connected TVs in Australia

Table of Figures

Figure 1 - Home Screen Layout on Hisense TV [8] 2
Figure 2 - Sample Chassis Line Up for Australian Market across 4 years 5
Figure 3 - Location based Use Case Example of TV Shipped to Australia 7
Figure 4 - Home Screen Layout on Sony TV [9] 8
Figure 5 - App Suggestion at Completion of Initial setup on LG TV [10] 11
Figure 6 - Play Auto Install offered by Android [15] 12
Figure 7 - Application selection during initial Setup on Samsung TV [6] 13
Figure 8 - Checking for Over the Air Software Updates on Samsung TV [6] 14
Figure 9 - Applications being Auto Installed on Sony TV [11]. 17
Figure 10 - Home Screen Layout on LG TV [13] 18
Figure 11 – My Favourite Apps listing on Hisense TV [12] 19
Figure 12 - Enabling Digital Tuner during Initial Setup on LG TV [10] 20
Figure 13 - Live TV Tile on Home Screen of Samsung TV [13] 21

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Attachment C

Anti-siphoning –drafting for proposed amendments

Proposed Amendments to the *Broadcasting Services Act 1992* (Cth) - Anti-Siphoning

We propose the following drafting for proposed s 146V (currently s 115 of the Broadcasting Services Act):

Section 146V – Minister may protect the free availability of certain types of programs

(2) The Minister may give notice, by legislative instrument, specifying an event, or events of a kind, which should, in the opinion of the Minister, be available free to the general public by means of a Specified Content Service.

(1A) The Minister may give notice, by legislative instrument, amending a notice under subsection (1) to specify an additional event, or events of a kind, which should, in the opinion of the Minister, be available free to the general public by means of a Specified Content Service.

(1AA) Subject to subsection (2), an event specified in a notice under subsection (1) is taken to be removed from the notice 4,368 hours before the start of the event, unless the Minister, by legislative instrument registered under the Legislation Act 2003 before that time, declares that the event continues to be specified in the notice after that time.

(1AB) The Minister may make a declaration under subsection (1AA) only if the Minister is satisfied that at least one commercial television broadcasting licensee or national broadcaster has not had a reasonable opportunity to acquire the right to make the event concerned available free to the general public by means of a Specified Content Service.

(1B) Subject to subsections (1AA) and (2), an event specified in a notice under subsection (1) is taken to be removed from the notice 168 hours after the end of the event, unless the Minister, by legislative instrument registered under the Legislation Act 2003 before that time, declares that the event continues to be specified in the notice after that time.

(2) The Minister may give notice, by legislative instrument, amending a notice under subsection (1) to remove an event from the notice.

We propose the following drafting for proposed s 146W (currently clause 10(1)(e) of Schedule 2 of the Broadcasting Services Act):

Section 115A - Restrictions on acquisition of rights to make available

(1) Subject to section 115A(2), no Content Service Provider may acquire the right to provide or make available to the public by means of any Content Service an event that is specified in a notice under subsection 115(1) (in whole or part) unless:

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

- (a) a national broadcaster has the right to make the event available on all of its Specified Content Services; or*
- (b) commercial television broadcasting licensees (other than licensees who hold licences allocated under section 38C or subsection 40(1)) have the right to make the event available on all of their Specified Content Services and those licensees cover more than 50% of the Australian population.*

(2) Section 115A(1) does not apply to the acquisition by:

- (a) a national broadcaster of the right to make any event that is specified in a notice under subsection 115(1) (in whole or part) available on all of its Specified Content Services; or to*
- (b) commercial television broadcasting licensees (other than licensees who hold licences allocated under section 38C or subsection 40(1)), or related bodies corporate of those licensees, of the right to make any event that is specified in a notice under subsection 115(1) (in whole or part) available on all of their Specified Content Services.*

The following new definitions would be required:

Definitions

Access has the same meaning as in Schedule 8 of the [Broadcasting Services] Act.

BVOD Service means a broadcaster video on demand (BVOD) service provided by a holder of a commercial television broadcasting licence (or any related body corporate of such a holder) or a national broadcaster to the public for free that:

- (a) delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of an internet carriage service; or*
- (b) allows end-users to access content using an internet carriage service.*

Content Service means:

- (a) a service that delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of a carriage service; or*
- (b) a service that allows end-users to access content using a carriage service,*

where:

- (c) the service is provided to the public (whether on payment of a fee or otherwise); and*
- (d) any of the content accessible using the service, or delivered by the service, is accessible to, or delivered to, one or more end-users in Australia.*

Content Service Provider means a person who provides a Content Service provided to the public has the same meaning as in Schedule 8 of the [Broadcasting Services] Act.

Simulcast BVOD Service means a BVOD Service that simulcasts predominantly all of the program content (excluding advertising or sponsorship material, promotions of television programs or services, community information or promotional material or similar material):

- (a) a commercial television broadcasting service; or*
 - (b) a national broadcasting service that provides television programs;*
- and may also provide other content in addition to that simulcast content.*

Specified Content Service means:

- (a) a broadcasting service that delivers television programs; and*
- (b) a Simulcast BVOD Service.*

Free TV Australia - Submission regarding the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023

Attachment D

Sample of whirlpool conversations on the challenges in accessing broadcast TV with an aerial

» [Forums](#) » [Home theatre](#) » [Free-to-air](#) » No TV antenna socket in new rental?**shadow85** Whirlpool Forums Addict

Just moved to a new property and only realised now there is no plate TV antenna socket anywhere ^{O.P.} in the house.

So how does one watch Free to air tv?

reply

<https://whrl.pl/RfiXco>
posted 2019-Jan-26, 10:17 pm

exitguy Whirlpool Forums Addict

shadow85 writes...

So how does one watch Free to air tv?

Ask LL to install antenna

reply

<https://whrl.pl/RfiXc2>
posted 2019 Jan 26, 10:20 pm

Paul55 Whirlpool Forums Addict

shadow85 writes...

Just moved to a new property

How old is the property?

Hopefully (for you), you aren't in one of those totalitarian estates where you are left without basic rights and freedoms.

reply

<https://whrl.pl/RfiXdt>
posted 2019-Jan-26, 10:24 pm

NeoG Whirlpool Forums Addict

With an indoor antenna probably

reply

<https://whrl.pl/RfiXec>
posted 2019 Jan 26, 10:31 pm

the_other_guy Whirlpool Forums Addict

it would not be with one of the scam Antennas

<https://www.bunnings.com.au/our-range/lighting-electrical/electrical/tv-antennas-accessories/indoor-tv-antennas>

depending on signal strength

Antsig 14 x 26cm Black Indoor Digital Antenna

https://www.bunnings.com.au/antsig-14-x-26cm-black-indoor-digital-antenna_p4360108

bad signal strength

Antsig Indoor Digital Amplified Full HD Antenna

https://www.bunnings.com.au/antsig-indoor-digital-amplified-full-hd-antenna_p4360386

<https://www.freeview.com.au/>

Watch Live Online

Don't miss a thing! Discover, watch and plan your free-to-air TV with Freeview FV. Stream live TV or access on demand content now.

<https://whrl.pl/RfiXEZ>

posted 2019 Jan 27, 10:16 am

reply

Gummy bear Whirlpool Forums AddictPaul55 writes...

Hopefully (for you), you aren't in one of those totalitarian estates where you are left without basic rights and freedoms

what has this got to do with TV reception
Its not a basic right ?

<https://whrl.pl/RfiXL9>

posted 2019-Jan-27, 11:35 am

reply

NeoG Whirlpool Forums AddictGummy bear writes...

what has this got to do with TV reception
Its not a basic right ?

Only electricity, water and heating for cold areas is required. Everything else is by negotiation.

Edit: sorry I didn't see you said 'not' a basic right

<https://whrl.pl/RfiXMq>

posted 2019 Jan 27, 11:40 am (edited)

reply

Moderate This Whirlpool Forums Addictshadow85 writes...

So how does one watch Free to air tv?

Rabbit ears.

<https://whrl.pl/RfiXQc>

posted 2019-Jan-27, 12:21 pm

reply

Paul55 Whirlpool Forums AddictGummy bear writes...

what has this got to do with TV reception

It's hard to get a signal when you aren't allowed to have an aerial.

<https://whrl.pl/RfiYxY>

posted 2019 Jan 27, 8:00 pm

reply

Crispy81 Whirlpool Forums AddictRob J. Kanski writes...

Rabbit ears.

LOL – so archaic and medieval. Last century tech. Amazes me this still happens in this day and age.

First World problems :)

<https://whrl.pl/RfiYyj>

posted 2019 Jan 27, 8:04 pm

reply

shadow85 Whirlpool Forums Addict

Its an old flat of units 1971. But the entire unit has been freshly renovated in a good area. O.P.

So I have to ask the LL to install an antenna here or get one of those indoor ones from bunnings?

I have an LG OLED E6, that will work with an indoor antenna yeah I guess?

reply

<https://whrl.pl/Rfi6>
posted 2019-Jan-31, 5:00 pm

friesian Whirlpool Forums Addict**shadow85 writes...**

So I have to ask the LL to install an antenna here or get one of those indoor ones from bunnings?

Indoor antennas work best if you live in a strong signal area. How close are you to the television broadcast tower.

The only way you will know for sure if an indoor antenna will work is by purchasing one and trying it yourself.

How are the other tenants accessing FTA TV?

Edit: a 1971 unit block is not considered 'new'.

reply

<https://whrl.pl/Rfi6Bk>
posted 2019 Jan 31, 5:13 pm (edited)

NeoG Whirlpool Forums Addict

It's new for OP, I don't think it meant to indicate how old it is in general

reply

<https://whrl.pl/Rfi6BB>
posted 2019-Jan-31, 5:15 pm

friesian Whirlpool Forums Addict**NeoG writes...**

It's new for OP, I don't think it meant to indicate how old it is in general

I know what the OP means – now – but it was unclear in his first post. Readers may have assumed that it was a newly constructed residence and therefore may have not necessarily require an antenna (some estates get their FTA via cable). Just adds confusion.

It's redundant saying "I moved into a new house" – you could just say "I moved into a house". Does it really matter if it's new to you?

reply

<https://whrl.pl/Rfi6Fb>
posted 2019 Jan 31, 5:42 pm (edited)

Paul55 Whirlpool Forums Addict**shadow85 writes...**

Its an old flat of units 1971

Hard to believe there weren't TV points in a 1971 property – that, and radio, were the only show in town. What developer would be stupid enough to remove them during a reno? Maybe they watch too many of those inane TV reno shows.

reply

<https://whrl.pl/Rfi6Vg>
posted 2019-Jan-31, 7:45 pm

shadow85 Whirlpool Forums Addict

Lol I was not trying to say 1971 is new! Zomg how silly do you think I am. Obviously I meant a new place for me. O.P.

Anyways, I would have to ask why they would remove the Tv antenna line when they did reno, because the reno looks fairly modern and new inside why would they kill the tv antenna if it was there in the first place.

reply

<https://whrl.pl/Rfi7f8>
posted 2019-Jan-31, 10:53 pm

NeoG Whirlpool Forums Addictshadow85 writes...

Zomg how silly do you think I am.

Well you are a borderline millennial so it's hard to say

reply

<https://whrl.pl/Rfi7ga>
posted 2019 Jan 31, 10:55 pm

Muttley. Whirlpool Forums Addict

If you can wait a couple days for shipping, there are cheapie indoor antennas on ebay for less than \$10 shipped, or you can go to JB, Good Guys et al and pick one up for under \$30.

I've read that it doesn't really matter what one you get, so the expensive ones aren't necessarily better. Still, you have to be close to where the broadcast towers are.

I was living in the east of Brisbane, about 10k as the crow flies from the TV towers and got ABC on a good day. Then I moved to the west – I felt like I could touch the TV towers from my balcony and I got all channels but some would occasionally drop out, usually Channel Nine for some reason.

Or just get a good internet plan and stream live through the respective channels' apps.

reply

<https://whrl.pl/Rfi7hK>
posted 2019-Jan-31, 11:14 pm

Albinoni In the penalty box

Wonder how the previous tenants watched TV

reply

<https://whrl.pl/Rfi7I6>
posted 2019 Feb 1, 12:27 am

pedrov Whirlpool Forums Addictshadow85 writes...

1971

I would be extremely surprised if an antenna point is not there somewhere. Even with the reno. It may not look like a normal antenna point though. It may be one of the screw F type connections (looks similar to Foxtel connection). Maybe look one more time, or ask the neighbours where their antenna point is located to give you a hint where it might be.

reply

<https://whrl.pl/Rfi7DK>
posted 2019 Feb 1, 9:18 am (edited)

[Archive Version](#)