



COMMUNITY
BROADCASTING
ASSOCIATION OF
AUSTRALIA

February 2024

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

Dear Committee Secretary

***Communications Legislation Amendment
(Prominence and Anti-Siphoning) Bill 2023 (the Bill) and draft Regulations (the Regulations).***

Thank you for the opportunity to provide this supplementary submission.

As outlined in our 25 January 2024 submission, we are very supportive of the introduction of this legislation as a critical step in protecting Australians' access to vital local content.

Our comments below address several areas of the prominence framework which require adjustment to ensure its effectiveness, including our request for community television BVOD to be included as a listed service.

We also support the extension of this legislation to Australia free-to-air radio services, which have a similarly urgent need for protection.

This submission covers:

1. Comments on the Regulations
2. Additional observations on the Broadcast Video Demand Services (BVOD) provided by community television
3. The need for prominence protections in the Regulations and Bill to be extended to radio.

1. Comments on the Regulations

We welcome the minimum requirements provided for in the Regulations, subject to the need for the following matters to be addressed to ensure appropriate prominence protections:

- o **Findability** – the Regulations need to make clear that regulated television services apps are visible on the primary interface without scrolling, and both the Bill and Regulations should ensure they are available on the electronic program guide and through search functionality.
- o **Timing** – as noted in our submission, the 18-month commencement should be removed from the Bill and a more appropriate timeframe included in the Regulations, based on expert advice such as that obtained by Free TV Australia and referred to in their submission.

2. Additional observations on community TV BVOD

Section 6 of the Regulations address minimum requirements for BVOD services. As outlined in our 25 January 2024 submission, unlike other listed broadcast services, community television BVOD is not automatically protected and will be reliant on a Ministerial determination to receive the protections of the prominence framework. In our submission we raised several issues arising from the potential uncertainty and costs if Ministerial directions were to vary with a change of Minister or government.

We further note that the cost of building device capability is also a very significant one for community television broadcasters and requires certainty. Having invested significantly in the development of a BVOD content platform, community television is also investing in the capability to have their BVOD app displayed on different televisions. Due to differing technical requirements of different device manufacturers, this requires substantial additional investment to ensure that the app will be available from later this year on a majority of devices sold in Australia, to meet audience expectations.

For the reasons outlined in our 25 January 2024 submission and here, we again ask the Committee to consider and recommend that community television BVOD be included as a listed service in section 130ZZJ(b) through the simple amendment in suggested in our earlier submission. In a scenario where a Ministerial Direction is withdrawn and later reinstated due to a change of Minister would impose unreasonable (and potentially futile) costs on community broadcasters, which already operate within limited budgets, so this relatively small amendment will have a big impact.

3. Extending prominence protections to radio

The Bill and Regulations present an opportunity to expeditiously protect access to valuable radio services, including community radio.

Importance of community radio to Australians

As noted in our earlier submission, the National Cultural Policy Revive: *a place for every story, a story for every place* recognises community broadcasting as a vital part of the Australian media landscape, providing a voice for underrepresented and underserved communities. Produced by more than 18,500 volunteers and 833 employees across Australia and accessed by almost 5 million Australians per week, community radio is lifeline for diverse Australian communities, by providing a platform for and reflecting underrepresented and underserved Australians including:

- First Nations people
- culturally and linguistically diverse communities;
- faith-based communities;
- people with disability;
- LGBTQIA+;
- youth; and
- seniors.

Community radio is an established launchpad and training ground for the Australian media industry.

For Australians living in regional and remote communities, community radio is a critical lifeline in emergencies, and more broadly is a key source of local news and community engagement:

- 158 community radio services are operated by 51 First Nations organisations across Australia;
- Australians from Aboriginal and Torres Strait Islander background are 37% more likely than the general population to listen to community radio;¹
- 77% of licensees are based in regional and remote areas;
- news and information is the number one ranked reason listeners tune in to community radio²
- 36% of listeners say the main reason they listen is to hear Australian music;³
- Community radio broadcasts in over 110 different languages; and.
- 1.35 million Culturally and Linguistically Diverse (CALD) people listen to community radio (27% of total audience) for an average 16.5 hours per week.⁴

As recognised in the Royal Commission into National Natural Disaster Arrangements, community radio stations “offer an important source of information during emergencies, particularly for Australians living

¹ Community Radio Listener Survey – Dec 2023.

² Community Radio Listener Survey – Dec 2023.

³ Ibid

⁴ Ibid

in remote communities...” and have been able to provide “...information to isolated and rural communities when they are unable to receive landline or mobile phone communication, use the internet or watch television”⁵

For these reasons, a portable radio is number one item listed on the NSW State Emergency Services emergency kit contents, for example⁶.

There are numerous case studies of how community radio has served as a lifeline in emergencies - see the CBAA's *Beyond Broadcasting* report.⁷ It is imperative that Australians do not lose ready access to these much-needed services.

Proposals to amend the Bill and Regulations to include radio

It is now a well-accepted principle (as reflected in the objectives of the Bill) that Australian free-to-air broadcast services should be readily discoverable on connected devices, free of charge and without alteration.

The policy reasons for television prominence protection apply equally to radio, with equivalent urgency. The considerable work done to develop a scheme for protecting free-to-air prominence on television can now be easily translated to the radio environment.

Having regard to this, we support the proposal put forward by Commercial Radio and Audio Australia in their Submission and Supplementary Submission for the Bill and Regulations to be amended by the addition of their suggested radio prominence provisions modelled on the UK's Media Bill.

This is a simple amendment that provides a timely, realistic and staged process that appropriately balances the requirements on device manufacturers against the urgent need for Australians to not lose ready access to vital services, particularly in regional and remote areas. It retains the flexibility for the Minister to review and extend the Regulations with the benefit of further consultation, while ensuring that the protections are not unduly delayed.

We look forward to discussing our earlier submission and the above matters at the upcoming Committee hearings.

Sincerely,

Jon Bisset
Chief Executive Officer
CBAA

Shane Dunlop
President, ACTA

⁵ <https://naturaldisaster.royalcommission.gov.au>

⁶ <https://www.ses.nsw.gov.au/storm-resources/before-a-storm/put-together-an-emergency-kit/>

⁷ https://www.cbaa.org.au/sites/default/files/media/CBAA_BeyondBroadcasting.pdf