

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

2 April 2024

Dear Committee Members,

LEGISLATION AMENDMENT (PROMINENCE AND ANTI-SIPHONING) BILL 2023

CESA wants to ensure that inaccuracies in relation to the following points from the Free TV/ABC/SBS response to Questions on Notice dated 6 March 2024 are corrected and understood ahead of your report.

Free TV/ABC/SBS propose that search and recommendations be included in the list of matters the Minister is empowered to make regulations on for the following reasons. However, these reasons are (as detailed below) flawed and inaccurate.

- **Free TV reason 1:** *“Otherwise, there will be a significant legislative gap, particularly in light of the contention from CESA and others that user interfaces will move away from presenting apps and towards presenting individual pieces of content from those apps **curated by that TV manufacturer or user interface developer.**”*
 - **CESA correction:** The above bold italicised part is incorrect. CESA has always stated that the trend towards content (vs BVOD apps) in future user interfaces is towards AI generated content based on consumer viewing habits and preferences **NOT towards content curated by the TV manufacturer and NOT towards content based on commercial arrangements** between manufacturers and app provider.
- **Free TV reason 2:** *“We also note that manufacturers are **currently able to control search results which support commercial agreements to prioritise certain content**”*
 - **CESA correction:** This statement is simply not true for CESA members. Some of our large manufacturer members do not even offer cross app search functionality (given backend support by all app providers is not feasible for them) so they are **not even able** to control search results to prioritise any content. For other members, even if they are able, they do not control search results to support commercial arrangements and content search results are typically a function of the **closest match to what a consumers has searched (and therefore NOT manufacturer controlled).**

In light of this flawed reasoning, and for the further reasons outlined in CESA’s previous submissions, this prominence regime should not cover search and recommendation. Accordingly, no regulation making power should be given to the Minister in relation to search and recommendation either.

Yours sincerely

Evelyn Soud
Chief Executive Officer