



Australian Government

Department of Communications and the Arts



Senator James Paterson
Chair
Senate Environment and Communications Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Senator Paterson

On 5 May 2016, representatives from the Department of Communications and the Arts appeared as witnesses before the Senate Environment and Communications Legislation Committee. I wish to bring to your attention some additional information which clarifies advice given to the Committee in response to the questions asked about captioning on television.

Captioning exemptions

Both free-to-air (FTA) broadcasters and subscription television (STV) licensees may apply to the Australian Communications and Media Authority (ACMA) for an exemption from a captioning target obligation, or for a reduced captioning target, in relation to a specified service. The ACMA may only make an exemption or target reduction order if it is satisfied that not making the order would impose an unjustifiable hardship on the applicant. The *Broadcasting Services Act 1992* sets out matters the ACMA must have regard to in making its determination. Exemptions cannot be provided for individual programs.

In addition, STV licensees may nominate services in a particular genre category to be exempt from captioning obligations if the licensee provides more than a minimum number of services in the category.

New STV services are also automatically exempt from captioning requirements for at least one year, provided the service predominantly consists of programs not previously transmitted in Australia.

Monitoring and compliance

FTA broadcasters and STV licensees must provide annual captioning compliance reports to the ACMA within 90 days after the end of each financial year. The ACMA publishes these reports on its website.

Compliance with captioning obligations is a licence condition for commercial FTA broadcasters and STV licensees, and a legal requirement for national FTA broadcasters. The ACMA can investigate genuine captioning complaints and where it identifies issues of concern, including where it sees a systemic problem with the performance of a broadcaster or licensee, it will consider a range of responses to ensure compliance. Responses can include requiring commercial FTA broadcasters or STV licensees to implement additional procedures to improve quality, or formal measures such as enforceable undertakings, and remedial directions.

Consultation on captioning issues

In March 2015 the Parliament passed the *Broadcasting and Other Legislation Amendment (Deregulation) Act 2015* (Deregulation Act), which introduced a number of changes to the captioning regulatory framework designed to reduce the regulatory burden on FTA and STV broadcasters and improve the framework. More information about these changes can be found at www.communications.gov.au/what-we-do/television/accessible_television. While the Deregulation Act addressed some concerns raised by industry and media access stakeholders, other issues required further consideration.

In December 2015 the Department released a consultation paper on potential reforms to FTA and STV captioning arrangements. The consultation period closed on 29 January 2016 and eight submissions were received and published on the Department's website.

Yours sincerely

Angela Flannery
First Assistant Secretary Consumer
5 September 2016