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Online Safety, Media and Platforms Division
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

To the Director,

Prominence framework for connected TV devices – Proposals Paper

Community Broadcasting Association of Australia (CBAA) is the peak body and national representative for 450+ not-for-profit community radio broadcasters across Australia, delivering 500+ radio services. Our organisation works closely and shares goals with the community television sector and supports measures that will effectively maintain the prominence of community broadcasting services for the benefit of all Australians.

As recognised in the National Cultural Policy *Revive: a place for every story, a story for every place*, community broadcasting is a vital part of the Australian media landscape, providing a voice for underrepresented and underserved communities including First Nations people, culturally and linguistically diverse communities, educational services, faith-based communities, people with disability, youth and seniors. Community broadcasting is also recognised for its key role in emergency resilience, local engagement and as a platform for original Australian content and music. In many areas across regional and remote Australia, community broadcasts are the only local media source.

While this Proposals Paper focuses solely on the issue of prominence for connected TV devices, it also raises issues and proposals in common with those being considered to support radio prominence, including proposals for future regulatory frameworks.

As a general principle, CBAA supports the introduction of new regulatory measures to ensure free, easy and universal access to the important services provided by Australia's free-to-air broadcasting sectors, in order to protect the current diversity of important services and accessibility of locally produced broadcast content for Australian audiences.

To achieve this, any new regulation must ensure that:

1. Australian free-to-air broadcasters are easily discoverable on connected devices;
2. Devices are prohibited from restricting or charging for access to Australian free-to-air stations;
3. Platform operators must not be able to mandate particular adtech solutions, nor insert advertising around Australian broadcast content, without the consent of the relevant broadcaster.

In this context CBAA supports a “must-promote” regime founded on “must-carry” obligations (Proposal 8.4), delivered through a combination of industry codes and legislative amendments (Proposal 9.3).

This approach is comparable to a framework developed through the collaboration of Commercial Radio Association, CBAA, SBS and ABC to ensure that free-to-air radio maintains prominence on connected radio devices.

We also support the early consideration of radio prominence in parallel with television prominence, to ensure that issues and appropriate solutions are considered and developed in the most appropriate and timely way to meet the urgent concerns of both sectors.

This submission responds to Part 1 of the Proposals Paper with reference to the public policy functions of free-to-air broadcasting shared by both television and radio, and then addresses the series of proposals for key elements of a legislated prominence framework in Part 2.

PART 1 - Public policy functions of FTA broadcasting

Part 1 of the Proposals Paper broadly covers many of the important public policy functions of free-to-air broadcasting, including news, emergency broadcasting and cultural content, all of which are a central part of community broadcasting.

We particularly agree with the observations on page 15 about the effectiveness of radio and television broadcasting for “communicating important information to large groups of people before, during and after emergency situations,” and the resilience of broadcasts signals vs other technologies.

CBAA’s *Beyond Broadcasting: Community Media Response to Emergencies*¹ gives numerous examples of this work in action, through both community radio and television.

In relation to its role in supporting Australian stories and voices (page 16), community broadcasting provides an important platform for hyperlocal content creation, reflecting the stories, traditions and faces of communities. Community TV content is created by more than 1000 volunteers from diverse communities across Australia. Together, Melbourne and Adelaide community TV produce around 120 local programs and are a training ground for broadcast and content industries, accommodating 70 internships annually. Overall, community TV stations broadcast around 90-95% Australian content and their Community TV+ app offers 100% Australian content.

PART 2 – FRAMEWORK PROPOSALS

Chapter 5 – local TV services

As outlined on page 28 of the Proposals Paper, “local TV services” will need to be defined to address the Government’s commitment to legislate for prominence and will, at a minimum, include national, commercial and community broadcasting services.

CBAA supports **Option 5.2**, which includes linear free-to-air broadcasts and broadcaster video-on-demand applications. For community broadcasters, this will include both the broadcasts and the presence on connected TVs of the CTV+ app, which supports the changing viewing habits of Australian audiences² by making a diverse range of content available on demand.

CBAA has concerns about Proposal 5.3, which would include in the prominence framework a broad range of services that “provide, and invest significantly, in Australian content”. As a result of recent policy announcements in the National Cultural Policy, there are soon to be new Australian content requirements for streaming services. As a result, the Proposal 3 category would likely grow to include a significant number of additional services, creating even greater competition for positioning and discoverability of terrestrial services on connected TVs.

While it is a positive development that there will be greater investment in Australian content on these services, it will remain a small proportion of the offerings of those services, and the Australian content will not necessarily be prominently positioned within their offerings. Streaming services also do not provide any of the other public policy benefits delivered by free-to-air broadcasting (such as news, local content, emergency information) which would justify inclusion in a prominence framework.

As a broader point, the sum dollar value of investments in commissioned content should not determine whether this policy intervention is justified. Community broadcasting, for example, provides a volume and diversity of local content for a tiny fraction of the budgets available to other services, but it is accessed by more than 5 million people across Australia each week. The impact and value for the Australian community, as recognised in the National Cultural Policy, warrants equal prominence with other free-to-air services.

¹ https://www.cbaa.org.au/sites/default/files/media/CBAA_BeyondBroadcasting.pdf

² See Chapter 3 and page 29 of the Proposals Paper

For these reasons, CBAA believes Option 5.2 is the most appropriate basis for determining inclusion in the prominence framework.

Chapter 6 – regulated TV devices

To ensure that the framework is future-proofed for new types of devices and to give Australians the broadest possible access to free-to-air broadcasting services, CBAA supports the suggestion in **Proposal 6.1** that the prominence framework be applied to all “TV devices” as described.

Chapter 8 – framework models

CBAA supports **Proposal 8.4** for a “must-promote” framework for connected TV, which incorporates “must-carry” obligations.

Importantly, this proposal can achieve prominence objectives without imposing further costs on free-to-air broadcasters, which should be a foundational principle of the framework. CBAA supports the prohibition on the alteration of local service applications, ensuring the integrity of existing services.

For the reasons mentioned above, service alterations and entry costs would otherwise have a significant negative impact on non-profit community broadcasting and may result in a loss of services currently available to Australian audiences. Proposal 8.4 is also consistent with the position CBAA has taken, along with other free-to-air radio broadcasters, on radio prominence.

While the Proposals Paper suggests that some or all compliance costs of Proposal 8.4 may be passed through to, and borne by, Australian consumers, this remains an assumption only, and further evidence should be considered. If the policy does take into account the potential financial costs to consumers, it should weigh these against the benefits to those consumers of having free and simple access to the offerings of the free-to-air broadcasters, which remain the predominant platform through which audiences access local Australian content, news and emergency information³.

CBAA does not support the other proposed framework models for the following reasons.

The reporting framework in Proposal 8.1 is clearly insufficient to ensure compliance. This proposal contains no recourse for aggrieved broadcasters whose services lose prominence. It contemplates regulator powers solely to compel the production of information but not the power to restore those services, nor a properly resourced complaints function for the regulator. CBAA agrees that this proposal will not give effect to the Government’s goal of ensuring that local TV services can be easily found on connected devices.

Proposal 8.2 is not acceptable for the community sector. Community broadcasters are non-profit organisations without the financial means to compete in a bargaining environment with the range of other services delivered on connected devices. This proposal would, more broadly, undermine the delivery of free-to-air services and potentially create a hierarchy dominated by well-resourced services rather than on public interest grounds. Further, there is no clear policy justification for imposing charges on broadcasters who are already under financial pressure in a changing media environment⁴, and particularly community broadcasters operating on already very small budgets supported by sponsors, subscribers and government funding provided through the Community Broadcasting Program or the National Indigenous Australian’s Agency (NIAA). The result of a bargaining process may be a reduction in the diversity of services currently available to Australian audiences.

For the same reasons, Proposal 8.3 is not workable for the community sector. While a “must carry” framework is a positive foundation for an appropriate framework, as the Proposal paper notes, it would not prevent device providers from seeking to generate revenue from premium positioning or promotion of applications or content. This may exclude or reduce the discoverability of community broadcasters, resulting in a loss for Australian audiences.

³ Chapter 3 of the Proposals Paper

⁴ Page 23 of the Proposals Paper

Chapter 9 – framework implementation

In line with our view on radio prominence regulation, CBAA supports **Proposal 9.3** for an industry code coupled with supporting legislation, delivered in a manner that supports the must carry/must promote framework in Proposal 8.4.

This approach broadly aligns with the proposal developed collaboratively by CRA, SBS, ABC and CBAA in relation to radio prominence in cars and on smart speakers and, if adopted, could form the basis of a consistent approach across broadcasting services.

CBAA agrees that the Code itself could be implemented relatively quickly. It would enable flexibility, both in terms of the content of the Code and the ability to review and update it regularly in response to technological, market or other developments without the need to amend primary legislation. CBAA would support appropriate amendments to the *Broadcasting Services Act* required to give effect to this.

CBAA welcomes the recent opportunity to join the Future of Television Working Group and looks forward to further contributing to the prominence framework as it is developed.

If you would like to discuss this submission, please do not hesitate to contact, CBAA's Head of Advocacy and Communications, Reece Kinnane at reece.kinnane@cbaa.org.au or via 02 9318 9621.

Best regards,



Jon Bisset
Chief Executive Officer