



**Submission to the  
Department of Broadband, Communications and the Digital Economy  
on the  
Content and access:  
the future of program standards and captioning requirements  
on digital television multi-channels  
discussion paper**

**About Deaf Australia**

Deaf Australia, established in 1986, is the national peak body managed by Deaf people that represents, promotes, preserves, and informs the development of, the Australian Deaf community, its language and cultural heritage. It provides an information and advocacy service for Deaf people who use Auslan (Australian Sign Language).

Deaf Australia is the Australian national member of the World Federation of the Deaf, is a founding member of Australian Federation of Disability Organisations (AFDO), and works cooperatively with many organisations to achieve a better quality of life for Deaf people.

**Timeframe for comments**

Deaf Australia received information about this discussion paper in early December 2009, with a deadline for comment by 31<sup>st</sup> December 2009. It was not possible for us to meet this deadline so we requested and received an extension of time to mid January 2010.

We are therefore providing this response in good faith with the understanding that our comments will be given the same consideration that they would have received if they had been sent by 31<sup>st</sup> December 2009.

**Captioning issues covered by the discussion paper**

The discussion paper covers the captioning requirements (along with children's content and Australian content) for digital television multi-channels. We understand that Minister Conroy must undertake a statutory review and report to Parliament about his decision/proposal for what he is going to do in regards to multi-channels.

Our comments in this response refer only to the captioning issues, not the children's content and Australian content.

It is our understanding that because of the way the regulations are currently written, if Minister Conroy does nothing then when Analog TV transmission is switched off, all digital channels must comply with the captioning requirements currently set out in the *Broadcasting Services Act* (BSA).

That is, they must caption all prime time (6pm – 10.30pm) and all news and current affairs programs.

The agreement between the television broadcasters and the Australian Human Rights Commission which requires the free to air TV channels to increase their captioning of all programs between 6.00am and 12 midnight is a separate but significant issue and is not covered by this discussion paper.

The basic issue raised in the discussion paper is that the switch-off of analog is a progressive one. It starts in Mildura on 30 June 2010 and regional South Australia later that year and is completed by the end of 2013. As Mildura will be digital-only from 30 June 2010, any digital channels there must meet the captioning requirement, but that only applies to Mildura, and thence to each region as the switchover is rolled out region by region. The question is whether it is fair that some regional areas will have different rules to other areas in Australia during the switchover rollout.

### **Captioning available on multi-channels now**

It is our understanding that the only digital multi-channels currently available in Australia are national channels (such as One HD, Go!, 7Two) or HD versions of the “main channels”. As such, they are produced in capital cities and then syndicated to different license areas in a similar arrangement to the programming that appears on regional stations such as Prime or WIN which are essentially Network Seven and Nine Network content.

Broadcasters in the regional areas can provide their own unique channels if they wish, but this is highly unlikely given the costs of setting up a new channel for a relatively small regional audience area.

Under the current *BSA* regulations any simulcasts with the main channels (i.e. a digital version of the main channel) must include the captioning, and any programs that have previously been shown on the main channel with captions must be captioned on the digital multi-channel.

One HD has basically no captioning as it is a unique channel that rarely has repeated material or simulcast. 7Two shows some repeated captioning and some new episodes of programs that are no longer on the main channel (such as *Heroes* and *Lost*). GO! shows some repeated programs with captions. Deaf people therefore already feel the multichannels are discriminating against them by having such limited captioned programming.

### **Arguments suggested for changing the rules, and our views on these**

The basic arguments put forward in the discussion paper for considering a change of rules are:

1. It is difficult for regional areas to caption programs, especially live programs.

#### **Our comments:**

In reality the channels are not regional channels, but syndicated national channels that are already captioning (in two cases) and show programs that are no different to anything else on television that is captioned.

2. It is an unfair burden on regional areas that they should have to caption a channel that does not have to be captioned in other areas.

#### **Our comments:**

Again, they are national channels and could be captioned (and already are) at point of origin so that each region complies with the regulations as analog is switched off.

3. Any new channels would have an expensive regulatory burden (i.e. the need to provide captions) at start up and this makes them uncommercial.

**Our comments:**

The regulations are part of the commercial decision that a potential channel must make in whether it is viable or not and this includes the need to provide captions. The cost of captioning would depend on whether the programming is unique, new or repeated programs and whether there was any news or current affairs programs.

It should be noted that the ABC provides substantial captioning on its multi-channels (ABC2 and ABC3) and has done from the start.

**Deaf Australia's views on the issues**

1. Current captioning requirements should apply to all digital multi-channels immediately after the switchover. This should apply in each region as it completes analog switch off. The rules are clear and have been in place for many years and television stations have had plenty of time to plan for compliance.
2. Digital television has been widely promoted as bringing more content and more choice. These benefits should not be denied to people who rely upon captioning to view television after the completion of switchover in a region.
3. Access features (captions and audio) are a powerful driver for take-up of digital receivers. Broadcasters need to stop this nonsense about the Deaf and hard of hearing population being an expense burden and realise that it is a substantial market and it is in their interests to make their products accessible. The statistics are clear. One in six people in Australia have a hearing loss and benefit from captioning. It is nonsense to imply that one in six people are not a market large enough to make captioning worthwhile for broadcasters – and advertisers.
4. Government also has been widely extolling the importance and value of an inclusive society. To deny Deaf and hard of hearing people equal access to television content flies in the face of the principles of social inclusion.
5. Articles 9 and 21 of the UN Convention of the Rights of Persons with Disabilities apply in this case and since Australia has ratified the Convention, Government needs to be mindful of its responsibilities for ensuring that Australia complies with it. It is not acceptable for Government to sanction a reduction in access to products and services (even if this reduction is temporary) after it has ratified an international convention that requires it to increase access.
6. No channel, multi-channel or otherwise, should receive an exemption from captioning requirements – because all program content can be captioned. In Australia and overseas, captioning guidelines and standards provide detail on how different types of programming such as music, sports and news should be captioned.
7. There are no technical reasons why the current commercial multi-channels cannot caption to the level required by the current requirements on core channels.

- a. One HD shows sports programming. Given that both NBC in the US and Channel Seven in Australia captioned all of their coverage of the 2008 Beijing Olympics, there can be no case that captioning of sports should be given special treatment. The development of voice recognition software has made it easier for caption suppliers to caption extended hours of sports programming.
  - b. Both GO! and 7Two show a mix of programming much like a core commercial service (while some programs previously shown on a core service are now uncaptioned on multi-channels.) If programming on a core commercial service can be captioned, there is no reason why the same result cannot be achieved on GO! and 7Two.
8. While there is no case for exempting entire channels from captioning requirements, particular exemptions may be appropriate. The exemptions for captioning in Part 79.1 of the US Code of Federal Regulations and the UK Code on Television Access Services provide a guide to the kinds of exemptions that are appropriate.
  9. If captioning requirements on multi-channels are phased in over a period of time, the end target must be 100% of all programming hours (and not restricted to the time period of 6.00am to 12 midnight). The Ofcom Code on Television Access Services provides a model for this: <http://www.ofcom.org.uk/tv/ifi/codes/ctas/ctas.pdf>.
  10. Any new digital channels must comply with the captioning regulations from the start. The provision of sound/vision, compliance with censorship and other regulations are all part of the commercial decision process for creating a new channel. Why should captions be treated in any different way? Unlike Australian or children's content, captions are not a form of content; they are a means of access to existing programs.
  11. There is nothing preventing the national providers of the digital channels (eg OneHD, 7Two, GO!) providing a national captioning service from 30 June 2010. This provides a powerful incentive for people to switch to digital, including people who have been identified as potential late adopters, such as people with disabilities. This fulfills both commercial audience development and the Digital Television Taskforce objective of switching people to digital as early as possible.
  12. Deaf and hard of hearing people have the right to equal access to view programs broadcast on multichannels and are fed up with the ongoing discrimination against them by broadcasters. Captioning has now been around for over 25 years and broadcasters have had 25 years to work out how to include it in their budgets. There is no excuse for this ongoing discrimination.

### **Conclusion:**

Deaf Australia believes that current captioning requirements should apply to all digital multi-channel TV providers from the time of switchover to digital, in every region as it is rolled out. The rules are clear and have been in place for many years and television broadcasters have had plenty of time to plan for compliance. Deaf and hard of hearing people in Australia are tax-paying citizens and have every right to enjoy TV programs on an equal basis with hearing citizens.

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