



## **Submission to DBCDE**

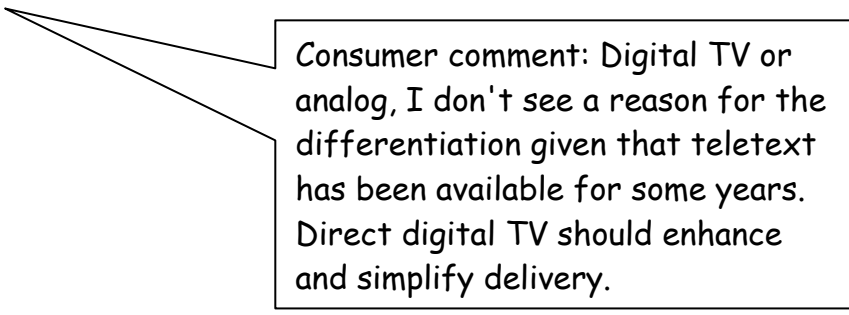
# **Content and access: The future of program standards and captioning requirements on digital television multichannels**

**January 2010**

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Consumer comment: Digital TV or analog, I don't see a reason for the differentiation given that teletext has been available for some years. Direct digital TV should enhance and simplify delivery.

## 1. Introduction

Currently, **one in six** Australians has some form of hearing impairment, and this is projected to increase to one in four by 2050<sup>1</sup>. As the Department of Broadband, Communications and the Digital Economy (DBCDE) themselves have written:

“Electronic media, such as television ... are invaluable sources of information and entertainment for all Australians.”<sup>2</sup>

Australians who are Deaf or have a hearing impairment are keenly interested in the switchover to digital television and what it may mean for their viewing habits and access to information and entertainment.

It is commonly accepted that Australia should be moving towards 100% access for all Australians. What is more obviously under dispute is the timeframe for achieving this.

Consumer comment:  
We believe that the program standards and captioning requirements should apply to the digital multi channels also.

### 1.1. About the Deafness Forum

Deafness Forum is the peak body for deafness in Australia. Established in early 1993 at the instigation of the Federal government, the Deafness Forum now represents all interests and viewpoints of the Deaf and hearing impaired communities of Australia (including those people who have a chronic disorder of the ear and those who are Deafblind).

The Deafness Forum exists to improve the quality of life for Australians who are Deaf, Deafblind, have a hearing impairment or a chronic disorder of the ear by:

- advocating for government policy change and development
- making input into policy and legislation
- generating public awareness
- providing a forum for information sharing and
- creating better understanding between all areas of deafness.

### 1.2. Our consultation process

Deafness Forum has consulted with members in all states of Australia to gather feedback on this topic. Some specific consumer comments have been included

<sup>1</sup> Access Economics: *Listen Hear! The economic impact and cost of hearing loss in Australia*, February 2006, pp.42

<sup>2</sup> Access to Electronic Media for the Hearing and Vision Impaired – Approaches for Consideration – Discussion Report 2009 Department of Broadband, Communications and the Digital Economy page 5

throughout the paper to illustrate particular points. Our responses are representative of a large number of comments received from individuals and organisations in the deafness sector, combined with our own deductions (from our Board members and our Telecommunications Issues Advisory Panel) and based on our continuing engagement with our members.

Deafness Forum members, whose views are incorporated into this submission, include:

- Numerous Better Hearing Australia branches, including Better Hearing Australia (National)
- Most State-based Deaf societies
- SHHH Australia (Self Help for Hard of Hearing People)
- CICADA groups (Cochlear implants)
- Deafness Councils
- Deafness Foundation
- Many service provider associations such as Deaf Children Australia, Audiology Australia, and Australian Communication Exchange.

## **2. Our comments**

### **2.1. Audio description**

Our comments relate solely to captioning as defined in the *Broadcasting Services Act 1992* (the Act) however all access features including Audio Description (AD) should be considered as vital.

### **2.2. Background**

We understand that the discussion paper covers the captioning requirements (along with children's content and Australian content) for multi-channels and is not a review of the existing substantive requirements for broadcasters to provide captioning.

We also understand that the Minister, Senator Conroy, is required to report to Parliament about this review.

The notification of this review was received by us in the late afternoon of 4 December 2009, with the request for submissions by 31 December 2009. We immediately contacted the Minister's Office and the Department to advise that this timeframe was unrealistic and did not allow us to consult with our members and construct a reasonable response.

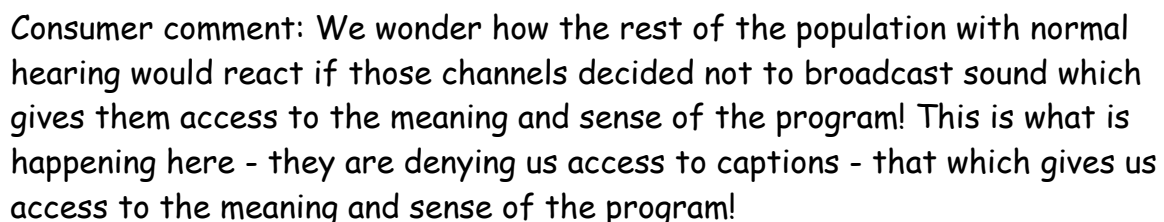
We appreciated confirmation from the Minister's office that our submission could be made in January 2010.

**We trust that this does not mean that our views on behalf of our membership, covering over 3.55 million Australians, will be excluded from the report to Parliament.**

### **2.3. Switchover to digital: more choice for whom?**

The range of multi-channels now offered includes ABC2, ABC3, SBS Two, the Seven Network's 7TWO, the Ten Network's ONE and the Nine Network's GO!. All these multi-channels are offered in addition to the simultaneous digital broadcast, or simulcast, of the analog television channel that each broadcaster is required to transmit under the Act prior to digital switchover taking effect in a particular area.<sup>3</sup>

The program standards and captioning requirements that currently apply to each analog television channel are automatically replicated on its digital simulcast, but digital multi-channels are currently exempt from these requirements. Once digital switchover is completed in a particular licence area, all digital multi-channels provided to that area will need to comply with program standards and captioning requirements.<sup>4</sup>

A callout box with a black border and a white background. A thin black line extends from the top-left corner of the box, pointing towards the text above. The text inside the box is a consumer comment.

*Consumer comment: We wonder how the rest of the population with normal hearing would react if those channels decided not to broadcast sound which gives them access to the meaning and sense of the program! This is what is happening here - they are denying us access to captions - that which gives us access to the meaning and sense of the program!*

The switchover to digital is being promoted by the government as providing better choice for consumers:

*“Digital television technology not only provides a superior viewing experience with better pictures and better sound, ... This means many viewers are enjoying an unprecedented level of choice when it comes to deciding what to watch free-to-air.”<sup>5</sup>*

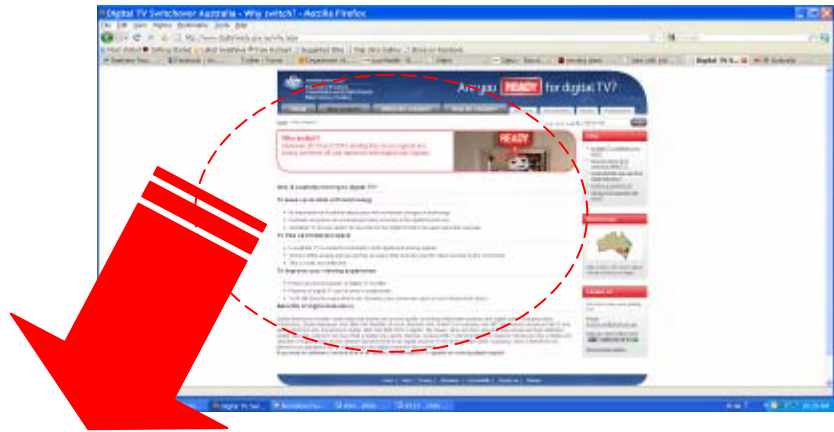
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<sup>3</sup> Ibid, page 1

<sup>4</sup> Ibid, page 1-2

<sup>5</sup> Ibid, page 1

From <http://www.digitalready.gov.au/why.aspx>



To improve your viewing experience  
Picture and sound quality on digital TV is better  
Pictures on digital TV can be seen in widescreen  
**You'll still have the same free to air channels, plus some new ones, so you'll have more choice**  
Benefits of digital television:  
Digital television provides vastly improved picture and sound quality, including widescreen pictures and digital audio, including radio broadcasts. Digital television also offers the benefits of more channels and content. For example, the ABC has already introduced ABC2 and ABC3 which are only broadcast in digital. SBS has SBS TWO in digital. The Seven, Nine and Ten networks have introduced high definition digital channels. Network Ten launched a digital-only sports channel, named ONE, in March 2009. Nine Network introduced GO! a digital-only channel in August 2009. Seven Network launched free-to-air digital channel 7TWO in November 2009. Gradually, each of the free-to-air television broadcasters will be introducing new digital channels and content.

Nowhere does this government website state that this applies UNLESS you are deaf, have a hearing impairment, or otherwise rely on captions.

From [http://www.digitalready.gov.au/faqs\\_gen.aspx?id=21&group=1](http://www.digitalready.gov.au/faqs_gen.aspx?id=21&group=1)



Digital television provides vastly improved picture and sound quality, including widescreen pictures and digital audio, including radio broadcasts. **Digital television also offers the benefits of more channels and content.** For example, the ABC has already introduced ABC2 and ABC3 which are only broadcast in digital. SBS has SBS TWO in digital. The Seven, Nine and Ten networks have introduced high definition digital channels. Network Ten launched a digital-only sports channel, named ONE, in March 2009. Nine Network introduced GO! a digital-only channel in August 2009. Seven Network launched free-to-air digital channel 7TWO in November 2009. Gradually, each of the free-to-air television broadcasters will be introducing new digital channels and content

The government digital-ready websites are promoting the switchover to digital as providing better choice for consumers. However as arrangements currently stand, this is clearly not the case for some 3.55 million Australians with hearing loss.

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.

Access features (captions and AD) are also a powerful driver for take-up of digital receivers. There is nothing stopping 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.

## 2.4. Accessible design

Accessible design principles allow materials to be used by everyone, regardless of location, experience, or the type of technology used. We believe that these principles should be applied to broadcasting, including the digital multichannels.

Accessible design is most commonly discussed in relation to people with disabilities, because this group are most likely to be disadvantaged if the accessibility principles are not implemented. Failure to follow these principles can make it difficult or impossible for people with disabilities to access information.

Designing for accessible material (such as captioned programs) is similar to designing an accessible physical environment. It requires planning and attention to detail. There are two ways this access can be provided:

- a) Universal design (preferred) – the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.
- b) Specific accessibility features – it is well-known that building in accessibility features from the outset is more effective and efficient than adding them on afterwards.

Consumer comment: In my view the TV broadcasters, whether they be primary or secondary channels should be pushed for 100% captions 100% of the time. The technology is coming where the process can be just about automated.  
<<http://googleblog.blogspot.com/2009/11/automatic-captions-in-youtube.html>>  
It will only get better after that.

Accessible design features help to provide equal access for people with a disability; and to provide access more broadly, more cheaply and more quickly than is possible using other formats.

Equal access for people with a disability is required by the DDA where it can reasonably be provided.

Using these principles, captions should (for example) be easy to switch on and off and should be regarded as a mainstream service. For example, Qantas introduced captioned news services on its domestic flights a few years ago. Many travellers, especially business people, now prefer to use the captions rather than using the headphones. Captions are also useful when a noisy environment makes the sound and dialogue difficult to follow. Many people have use for captioning, for example people for whom English is their second language.

## 2.5. Social inclusion

The United Nations Convention on the Rights of Persons with Disabilities applies, specifically **Article 9** (identify and eliminate obstacles and barriers and ensure that persons with disabilities can access their environment, transportation, public facilities and services, and information and communications technologies.) and **Article 21**

(Countries are to promote access to information by providing information intended for the general public in accessible formats and technologies, by facilitating the use of Braille, sign language and other forms of communication and by encouraging the media and Internet providers to make on-line information available in accessible formats).

Australia has commitments under this UN Convention to do all it can to progressively achieve compliance with its Articles. Any action that would reduce captioning or stop progress towards achieving compliance could be a breach of the Convention and as a result Government may find itself subject to a complaint.

## 2.6. Regional rollout

It has been suggested that it is difficult for regional areas to caption programs, especially live programs. Also, that it is an unfair burden on regional areas that they have to caption a channel that does not have to be captioned in other areas.

The reality is that the channels are **not** regional channels, but national channels that are already captioning (in two cases) and present programming that is no different to anything else on television that is captioned. They are national channels and could be captioned (and already are) at point of origin so that each market complies with the regulations as analog is switched off.

“Apart from advertising and some local news and other material, the programming that regional broadcasters provide is often identical to that of metropolitan commercial broadcasters”<sup>6</sup>

At the moment, the only digital multi-channels 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. The regional areas can provide their own unique channels if they want to, but this is highly unlikely given the costs of setting up a new channels for a relatively small audience area.

## 2.7. Cost

Time after time we hear the same tired arguments from broadcasters about the cost of captioning.

Perhaps if these people were deaf themselves they would understand the day-to-day costs of having to purchase additional products and services for everyday life. On top of that, to be socially excluded from activities that others take for granted, such as watching television at any time during a 24 hour day period.

Consumer comment: Broadcasters will argue that the cost of the captions is a factor but if they all had to do it they're all liable for the cost and that cost will be recouped from advertising, and ultimately the consumer, anyway.

<sup>6</sup> Ibid Page 10

Experience has shown that industry is always claiming that improved access will be difficult in financial and technical terms. The DBCDE Discussion Paper shows no evidence of the Department actually vigorously assessing such claims. Industry has an obligation under the DDA to remove barriers unless unjustifiable hardship and Government needs to closely assess whether or not industries claims meet that test. Similarly there is no evidence presented in the discussion paper to allow for a reasonable assessment of the actual effect of the status quo on broadcasters. For some who are simply repeating most programs on multi channels the effect will be negligible, for others it may be more significant. The point is any change in requirements must assess individual situations and not apply a 'one rule fits all'.

Digital television has been on the way for some time. Broadcasters should have included access costs in their business plans at the rate of around 2% of revenue per channel (similar to US and UK examples) as a cost of doing business, in the same way as budgeting for the procurement of other goods and services to deliver your product to market.

Realistically these costs will be passed on anyway to advertisers and thus to consumers.

The argument that any new channels would have an expensive regulatory burden at start up (i.e. the need to caption) and this makes them “uncommercial” is **rubbish**. 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. For example the ABC provides substantial captioning on its multi-channels (ABC2 and ABC3) and has done from the start.

“Under a worst case scenario, some smaller regional commercial broadcasters may choose not to introduce new digital multi-channels provided in larger metropolitan and regional license areas, or cease providing those they already provide, to avoid the cost of complying with program standards and captioning requirements”<sup>7</sup>.

If this occurs, so be it. Better than further entrenching social exclusion, and this will be a business decision made by the broadcaster for a range of reasons.

The overseas examples of US and UK where a percentage of revenue or turnover is spent on access (eg 2% is a good model). In other words, caption everything up to a 2% of revenue limit.

Any costs incurred will be offset by the increase in viewing audience (potentially 3.55 million currently, and increasing with the ageing population), and that

Consumer comment:  
Service providers are, in the process, denying themselves access to a significant number of people in the population - 3.55 million!!

<sup>7</sup> Ibid page 11

is only the Deaf and hearing impaired. There is also a large English as a Second Language group who would also benefit.

## 2.8. Ease of captioning

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 detail how different types of programming such as music, sports and news should be captioned.

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.

Consumer comment: "it is difficult to understand why the program standards and captioning requirements do not apply to digital multi channels."

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 that the same result cannot be achieved on GO! and 7Two.

Experience has shown that industry is always claiming that improved access will be difficult in financial and technical terms. The DBCDE Discussion Paper shows no evidence of the Department actually vigorously assessing such claims. Industry has an obligation under the DDA to remove barriers unless unjustifiable hardship and Government needs to closely assess whether or not industries claims meet that test. Similarly there is no evidence presented in the discussion paper to allow for a reasonable assessment of the actual effect of the status quo on broadcasters. For some who are simply repeating most programs on multi channels the effect will be negligible, for others it may be more significant. The point is any change in requirements must assess individual situations and not apply a 'one rule fits all'.

It is important to ensure that digital TV has captions because the future involves more than delivery on TV sets in your lounge room. If captioning does not apply now to digital multichannels, **Deaf and hearing impaired Australians will continue to become more and more disadvantaged as new technologies, such as mobile digital TV, become available.**

For more information see the 5 January 2010 article in Los Angeles Times for information on mobile digital TV at <http://www.latimes.com/business/la-fi-mobiletv6-2010jan06,0,4139086.story> (some reproduced below).



A mobile digital television device on display at the Consumer Electronics Show in Las Vegas. Unlike pay subscription services now available, broadcasters this year will offer users free digital TV on the go. (Andrew Gombert / European Pressphoto Agency / January 5, 2010)

### **Networks serving up digital TV to go**

**Stations nationwide will begin broadcasting a new signal this year meant for mobile devices.**

By Alex Pham

January 5, 2010 | 6:25 p.m.

First there was digital television. Now comes mobile digital TV.

Designed to let viewers watch TV on the go, mobile DTV is the network television industry's answer to a generation that's often more likely to watch YouTube on their iPhones than the TV in their living rooms.

Since the first U.S. broadcast in 1928, TV signals largely have been limited to sets that sit still. This year, however, local stations across the country will begin transmitting a new type of signal that can be picked up by devices that travel, including laptops, smart phones, portable DVD players and mini-tablets -- all of which are to be showcased at the Consumer Electronics Show starting Thursday in Las Vegas.

## 2.9. Exemptions

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.

## 2.10. Timing

If captioning requirements on commercial multi-channels are phased in over a period of time, the long term target must be 100% of all programming hours. The Ofcom Code on Television Access Services provides a suitable model for this: <http://www.ofcom.org.uk/tv/ifi/codes/ctas/ctas.pdf>.

In this Discussion paper *Content and Access: The future of program standards and captioning requirements on digital television multi-channels*, a previous Deafness Forum recommendation is used as an example (from Deafness Forum's 2008 submission to the Media Access Review for people with vision or hearing impairments.)

This recommendation should not be taken in isolation. Our recommendations in conjunction with this recommendation included Recommendations 2 to 9 in our previous submission.

In other words, our original Recommendation 3 referring to 10%, increasing each year, (from Deafness Forum's submission to the Media Access Review) would apply only to those channels with all new material, that is not C or P, that has not been previously broadcast with captions, is measured over a 24 hour period, etc, as per the range of recommendations above.

Using Recommendation 3 on its own does not provide the full intent of that recommendation.

## 3. Recommendations

**The goal was, is and always will be 100% access.**

Any new digital channels must comply with the captioning regulations. 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.

Consumer comment: Frankly provision of captions should be a condition upon which the licence is granted - failure to provide should be a reason for the cancellation of the licence.

One option is a simple model where the licensees ensure a percentage of revenue/turnover is spent on access is reasonable and fair.

This model recognises that channels have different levels of funding.



## 4. Conclusion

Current captioning requirements should apply to all commercial 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.

Australia has commitments under the UN Convention on the Rights of People with Disabilities to do all it can to progressively achieve compliance with its Articles. Any action that would reduce captioning or stop progress towards achieving compliance could be a breach of the Convention and as a result Government may find itself subject to a complaint.

If Government does change the rules it must make it clear what the long term objective is, which must be **a progressive move towards full access** - any other objective again would leave government vulnerable to complaint in relation to the Convention.

Please stop further entrenching social exclusion, It is time to make a stand, and make Australia a fairer place.

Over 3.55 million Australians (with more on the way) are relying on the Minister to ensure that digital TV has captions because the future involves more than delivery on TV sets in your lounge room. If captioning does not apply now to digital multichannels, **Deaf and hearing impaired Australians will continue to become more and more disadvantaged as new technologies, such as mobile digital TV, become available.**

## 5. Contact

If you have any questions about the information contained in this submission, please contact

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