



**Submission to the  
Department of Broadband, Communications and the Digital  
Economy's Review of Program Standards and Captioning  
Requirements on Digital Multi-channels**

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## Introduction

Media Access Australia (MAA) welcomes the opportunity to respond to the DBCDE's *Content and access: The future of program standards and captioning requirements on digital television multi-channels discussion paper*. Whilst the paper considers program standards for Australian content and children's programming, MAA will confine its discussion and comments to the captioning requirements.

## Analysis

This paper considers a number of issues surrounding the captioning regulations for digital channels, but essentially there are four main issues that need to be considered. They are:

1. whether multi-channels are inherently different to core channels and therefore require different regulation;
2. whether there are any impacts from a progressive switch off of analog that provide an undue burden for a digital-only licensee;
3. the commercial realities of the provision of digital channels, including the current multi-channels; and
4. how the Government's policy goals are affected by the captioning requirements.

MAA undertook an analysis of the program guides of the multi-channels from 28 November to 4 December to estimate the level of existing captioning on those multi-channels. In that period, 7Two provided captions on 14% of its programming (mix of first-run and repeats); GO! provided 13% captioning (all repeats) and One HD provided no captioning.

## Discussion of main issues

### **1. Is a multi-channel different to core channels and therefore require different regulation?**

Existing regulations have been clear for a long period of time that when analog switches off the captioning requirements apply to digital multi-channels. These regulations have been a strong signal to broadcasters and consumers that once a region is digital only, channels are to be treated and regulated the same way. There is no doubt that broadcasters and consumers are now well aware of the requirements.

Consumers have, therefore, had a long-held expectation that these services would be captioned once analog was switched off. Freeview and FreeTV have upheld these expectations by promoting these multi-channels as an important part of the digital product offering rather than promoting them as secondary or inferior offerings.

Once analog is switched off the concept of a "core" broadcast service is no longer relevant. The broadcasters will provide a range of channels limited by spectrum and financial capacity. On this basis consumers will no longer distinguish between core and multi-channel services. This has been reinforced by the introduction of One HD and GO! which are branded quite separately from the Ten Network and the Nine Network. From a consumer perspective there will simply be channels, each with different names, and each channel will stand alone.

These new digital channels are showing the same range of programming that is shown on existing channels and it is all able to be captioned, including multiple sports broadcasts and any other live programming. There are no technical, logistical or other impediments to compliance with the captioning regulations.

Unlike program standards, captioning is content-neutral. It can be applied to the full range of programming on all channels to give people access to a channel and a choice between all channels.

Already, the captioning on 7Two includes new programming, which goes beyond the current regulations requiring only repeated and simulcast programming to be captioned. This is behaviour that is consistent with a channel that is properly preparing for the next stage of regulations that take effect on 30 June 2010 and also one that is recognising that captioning is an important component of a digital product offering.

7Two and GO! are already captioning around 14% and 13% respectively, which is close to the current captioning requirement of 18.75% of a 24-hour day that prime time comprises. Although not part of the review, it should be noted that ABC2 and ABC3 are both already captioning far in excess of any contemplated regulatory requirements. This behaviour is not only demonstrating a ramping up to the digital-only captioning requirement levels but also the real-world, commercial and technical feasibility of meeting current captioning requirements.

## **2. Are there any impacts from a progressive switch off of analog that provide an undue burden for a digital-only licensee?**

The current multi-channels are not produced by the regional broadcasters. They are broadcast effectively as national channels, with content, current captioning and all other production originating from a common source.

There is no special content that has to be produced and it is already in the case of GO! and 7Two captioned to levels close to compliance with captioning requirements, after the expiry of the current exemption. There is also no specialised programming produced by regional stations that needs captioning. Therefore, there will be no undue burden on digital-only licensees, post-switchoff.

## **3. What are the commercial realities of the provision of digital channels, including the current multi-channels?**

Digital channels are produced and marketed as national channels. There is already captioned content which is close to the required level being broadcast now.

Commercial arrangements could easily be made to ensure that the current multi-channels are captioned during prime time to cover the progressive switch off of analog. The content providers have commercial incentives to ensure that these channels are available in all locations and attractive to as many viewers as possible (including users of captions).

The costs associated with captioning requirements have been known for a considerable period of time and a proper commercial business evaluation would have included these requirements. Particular groups of consumers should not be left out as a result of poor business planning.

The channel providers have not presented any information that they do not intend to comply with the regulatory requirements or that they propose ceasing providing these services once the captioning requirements come into effect in order to avoid having to caption the channels. Any new channels that are being contemplated now, or in the future, would have the costs of caption access built into their business case analysis, as this forms part of the regulatory requirements and, in this regard, is no different to the provision of sound and vision to broadcast standards, compliance with censorship, advertising limits and other regulations.

MAA fully supports the rights of television broadcasters to make business decisions and they should not be compelled to provide channels if they don't make commercial sense. Captioning should not be considered in isolation, but as part of many requirements that inform commercial decisions to provide channels.

#### **4. What are the Government's policy goals that are affected by this?**

The role of the Digital Television Taskforce (DTT) is to ensure a timely and efficient switch off of analog and a take up of digital television by all consumers. The DTT has properly identified that people living in regional areas, disabled people, seniors and other vulnerable consumers are less likely to voluntarily switch to digital. Government decisions, including this review of the multi-channel captioning, should not have the effect of reducing access and incentives for these groups of people to take up digital.

The Government has provided a limited, valuable public good (spectrum) to the digital multi-channels and should expect social benefits such as captioning services to grow. These benefits supporting the most disadvantaged in society should not diminish over time.

These expectations are in line with the Government's strong social inclusion agenda, which includes access to entertainment, news and information via television services and captioning forms a part of that social inclusion strategy. These expectations are also in line with UN *Convention on the Rights of Persons with Disabilities* and its *Optional Protocol*, both of which Australia have ratified.

The review of *Access to Electronic Media for the Hearing and Vision Impaired Approaches for Consideration* currently being undertaken by the DBCDE is presumably aimed at improving access for Deaf and hearing impaired consumers as a policy goal. The current captioning requirements on multi-channels, as they come into effect, will support this policy goal to increase access.

Extending the current exemption to captioning requirements will force people with disabilities to resort to other mechanisms such as *Disability Discrimination Act* complaints to achieve equitable goals in the absence of clear policy goals.

## Conclusion: Issues for discussion

With reference to the above discussion points, MAA offers the following as a response to the specific questions raised in the discussion paper:

*Should the current captioning requirements apply to all commercial multi-channels immediately after switchover?*

There is no compelling reason to change the current regulations. There is a consumer expectation, based on clear and longstanding captioning requirements, that these channels will provide captions. Some channels are already providing captioning at levels close to those required after analog switch off. The broadcasters have had adequate notice to plan and prepare for meeting the regulations. The reality is that multi-channels are national channels produced centrally with common content across the country. The current requirements would not impose a specific burden on a regional license holder switching off analog in early stages.

*Should the commercial broadcasters receive exemptions on captioning requirements for certain multi-channels with specialised content? If so, how should these exemptions apply and what structure should they take?*

The regulations already allow for exemptions for content such as non-English language programming and music-only programming which would continue. All other forms of content, including live sport, can be readily captioned and are captioned in Australia (and internationally) as a matter of course. The access market is healthily competitive and well-resourced in Australia to cope with the levels of captioning contemplated in the current regulations. There are no technical, human-resource or other operational barriers to providing captions on any of these content genres. Therefore, there are no compelling arguments for providing some form of exemption based on content genre.

*Should the application of captioning requirements on commercial multi-channels be phased in over a period of time?*

Again, there are no compelling reasons for phasing in the captioning requirements. 7Two and GO! are very close to meeting captioning requirements already. The responses to the first *Access to Electronic Media for the Hearing and Vision Impaired Discussion Report* suggest that any phasing in would only be acceptable for increases to the current captioning regulations (with a trending to 100% captioning of all channels). In such a situation there are some arguments for using a time-based process, such as those used in the UK and USA and these are likely to be discussed as a response to the *Access to Electronic Media for the Hearing and Vision Impaired Approaches for Consideration Discussion Report*.

A phasing in of the current captioning regulations would be seen as a decrease in captioning from present levels by consumers. Finally, there are no operational reasons for phasing in the captioning requirements, even on a channel that offers considerable live programming (such as One HD). Australia has more than enough live captioning resources, and in fact has such excess capacity that Australian live captioners are used to caption programs in other markets. The widespread use of voice captioning and remote captioning makes the delivery of a service possible wherever it is broadcast.