



Australian Federation of Disability Organisations

Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100, Parliament House
Canberra ACT 2600
Via email: ec.sen@aph.gov.au

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The Australian Federation of Disability Organisations (AFDO) welcomes the opportunity to provide comment to the *Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014*. AFDO is the primary national voice to Government that fully represents the interests of people with disability in Australia. AFDO and our member organisations are governed and operated by people with disability for people with disability. Our member organisations are individual consumer peak bodies representing a range of disabilities.

This submission has been prepared by AFDO in close collaboration with consumer member organisations Deaf Australia and Deafness Forum of Australia who have made their own submissions in response to this Bill. AFDO has chosen not to comment on all of the amendments listed in the Bill but to focus only on those areas which are of most concern. AFDO also recommends Media Access Australia's submission to the Senate Committee to inform decisions regarding the Bill.

Recommendations

After careful reading of the Bill, it is AFDO's recommendation that the Bill is **not passed**. In its place, AFDO recommends that the amendments proposed and their impact on the community would be more effectively assessed as part of the Australian Communications and Media Authority statutory review of the operation of the captioning requirements under the Act which is scheduled to commence in 2015.

Our considerations

AFDO recognises that there are number of regulations in the current captioning framework which would benefit from refinement to strike the right balance between

the needs of the millions of Australians who are reliant on captioning to live an ordinary life and industry who are required to deliver an efficient service and meet their licencing requirements.

Our reading of the Bill is that this balance has not been struck, with greater emphasis on removing protections that safeguard consumers in accessing a quality service in favour of changes which would overwhelmingly benefit broadcasters. This Bill, as it is currently written, presents no advantage or benefit to people with disability who captioning is primarily intended for, which includes people who are Deaf, hard of hearing or hearing impaired, people with auditory processing difficulties and older Australians who may not have a disability but benefit from captioning. Deafness Forum of Australia report that 1 in 6 Australians experience hearing loss, which is projected to increase to 1 in 4 by 2050 according to research by Access Economics.

While AFDO has a number of concerns regarding the proposals in the Bill and does not endorse its adoption, a particular concern includes the proposal to move to a complaints based mechanism. This approach would require individual consumers to lodge their own complaints of inadequate or poor captioning; a proposal which has been recommended in place of refinement of the current regulatory framework and the identification and removal of genuine 'red tape' as identified by both consumers and industry. People with disability from their own experience of the Disability Discrimination Act (1992) (Cth) have firsthand knowledge that a complaints approach is ineffective, places the burden of cost on the individual to resolve discrimination and does not drive systemic reform or change. This is evident in feedback gathered by Deaf Australia which has been provided in their submission.

Further, elements of the Bill appear to be unnecessarily complex such as the proposed captioning requirements specific to sports channels. As noted by Media Access Australia, this can potentially lead to adverse outcomes for individual consumers of paid services "...where the consumer has no ability to make the purchase decision with full knowledge of the level of captioning...Instead it is subject to the whim of the channel provider after the fact".

The Bill, in its current form, also gives no consideration to current failures in captioning provision and how the Act can be strengthened to address areas that have been identified by both consumers and providers as requiring improvement. This includes consistency in captioning requirements between free to air television and subscription television; addressing multi-channel quotas and addressing issues in the quality of live captioning as a distinct issue to recorded programming to name a few.

AFDO believes that these issues, and others, would be most appropriately considered in the Australian Communications and Media Authority (ACMA) review which is scheduled for 2015. Contrary to the statements in the explanatory memorandum, AFDO maintains that the repeal process (the Bill) is not a substitute

for a statutory review. To date, there has been no public consultation on the proposed amendments outlined in the Bill; no discussion with Disabled Persons Organisations or disability consumer representatives to inform the development of the Bill and no opportunity to examine the full range of issues which would be within the purview of the ACMA review.

The ACMA review provides the much needed opportunity to review our regulatory mechanism to ensure that we are adopting best practice approaches and progressing with a consistent approach which not only fosters efficiency but also inclusion. The review

- Stipulates the inclusion of open and public consultation mechanisms to review the current regulatory system, which can identify potential changes and their possible effect, and investigate identified issues and emerging issues
- Enables an independent and transparent review of captioning regulation and other related issues, including objective analysis of changes proposed by stakeholders and the benefits and risks associated with those changes for both consumers and industry
- Enables the investigation of a wider breath of issues which have not been given due, or any, consideration in the tabled Bill (some of which have been outlined above)
- Guarantees greater accountability and transparency, with a report to be provided to the Minister by 30 June 2016, with the review report to be tabled in Parliament within 15 sitting days
- Provides the opportunity to take a forward looking approach to captioning which considers the dynamic nature of the industry, future challenges and opportunities

AFDO would welcome the opportunity to discuss the content of this submission further or to provide additional information on request.

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AFDO's mission is to champion the rights of people with disability in Australia and help them participate fully in Australian life. To achieve our mission and vision, AFDO provides policy advice and representation to the Australian Government on matters that impact on the lives of people with disability. AFDO also works to inform and educate the general community about disability, support disability organisations and people with disability and undertake and support joint and collective campaigns towards elimination of structural and attitudinal barriers for people with disability.