

CESA RESPONSE TO QUESTIONS ON NOTICE
TAKEN AT THE PARLIAMENTARY HEARING HELD ON FRIDAY, 23 FEBRUARY 2024

1. **Questions from Senator Cadell** on the feasibility and timeframe for implementation of the option of pinning the BVOD apps at the top of the App store:

"TV manufacturers will forgo income by putting a share of revenue - if we go and put it prominently on the app store or the app selection list, we pin it there and it can't be deleted, they'll lose income they currently have. Your members are comfortable with that?"

"Having the apps as pinned or undeletable from the first line of the app store or the app selection menu. I included a community one, but you've added the kids one. Would that be able to be delivered in a faster time frame, for manufacturers, than the home screen inclusion?"

CESA Response:

In order to avoid consumer impacts, futureproof this legislation and deliver an outcome which is better for the free to air broadcasters, TV manufacturers suggest that the legislation include alternative options around positioning, with the TV manufacturer able to select whether to implement via the current proposal or one of the further options noted in CESA's submissions. The reason being is that whilst one option may be feasible for a manufacturer it may not be for another.

One of the further options would see the current 5 proposed free to air BVOD apps appear first in the top row of the App Store page as an alternative to the current auto-download/positioning requirement. It should be clarified, in relation to the wording of Senator Cadell's question, that this alternative option is for the current 5 proposed free to air BVOD apps to be positioned at the top of the App Store.

In proposing this alternative, and for those manufacturers who are able to implement this option, they are comfortable that it is both feasible and can be implemented in the 18 month timeframe currently proposed.

However, manufacturers who do not control the App Store (e.g. those who utilise the Google Play Store) are unable to implement the App Store option and would require a 2 year timeframe to implement any of the homescreen positioning options. This timeframe will also (a) allow the ACMA time to develop guidelines and (b) avoid disruption in supply whilst manufacturers transition from 2025 to 2026 range of televisions noting that typically new models releases occur in March to May each year.

Fundamentally, TV manufacturers require flexibility in design of the homescreen. The regulations as drafted are too prescriptive requiring that free to air BVOD apps must be the same size, same shape and positioned in the same area as other streaming apps. This is simply not feasible as there isn't enough room to accommodate all of the free to air BVOD apps in this area on homescreen for all manufacturers given current commercial arrangements.

It should also be noted that the alternative options put forward by CESA in its submission are superior to the current prescriptive positioning proposal for all stakeholders because they:

- **avoid consumer impacts** - in particular fewer models with latest UI's for Australians and increased costs for models that do come here (see Consumer Impacts** below for more detail).
- **futureproof for a world where there are no (or many less) apps on homescreens.** Note here we are increasingly seeing content not apps on homescreens with devices like Firestick, Foxtel Hubble and the development of Smart AI based user interfaces.
- **superior for our 5 free to airs** in delivering permanent priority positioning in the Apps store not subject to user re-ordering/deletion of apps off homescreens or a convenient

easy to locate area on the homescreen where consumer can access free to air television services.

2. Questions from Senator Pocock

"I'm guessing that your manufacturers aren't sending the same user interface to the US, the UK, Australia and every other country. My understanding is that the UK has its own prominence legislation framework and so TVs that go there are customised for the UK. TVs that go to the US are customised for the US. Why shouldn't TVs that come to Australia be customised for Australia?..."

I would like to press you on this a little bit more, because it cannot be that much more expensive to have a few parameters around the size of apps if you're creating a whole new user interface. So you're telling me that, because Australia has got to be more prescriptive, you're still going to have to do a UI, which you're doing for other markets, and somehow this is now going to be incredibly expensive in Australia. I find it hard to believe.

CESA Response:

There are two parts to this:

1. **The extent of customisation** required to meet this Australian positioning requirement and why this is much more than just re-sizing apps and out of line with what currently happens globally, and
2. **Costs issues.** These are related to extent of customisation, but there are also customisation costs that will occur for each separate model irrespective of the extent of customisation.

Extent of customisation

- TV homescreens are planned/designed globally and generally are not currently customised as optimal customer experiences worldwide cannot be changed for an individual market, particularly a small 1% market.
- Product development processes and sourcing arrangements vary for each manufacturer and in relation to which Australian TV suppliers have very limited or no control. Australian TV suppliers source products from overseas entities including from third party operating system providers or OEM manufacturers. These latter arrangements simply involve license agreements to use an operating system. Where televisions are sourced from OEM manufacturers, local TV suppliers utilise a reference design product and have no say in product or platform design.
- Global homescreen design is a big process involving many teams for a product that goes to millions or billions of consumers. It is geared for consumer optimisation not individual markets and even matters such as app size are considered carefully and tested in terms of user experience i.e you can't just make apps smaller to meet the prescriptive Australian market requirement.
- The [UK Media Bill](#) has not yet been enacted, so customisation has not been implemented there yet. Even when it is, the UK Bill is a principles- based approach and in no way prescribes a homescreen positioning let alone that a certain number of apps must appear in a certain area with a certain size on the homescreen (like Australia).
- That is, the proposed legislation in Australia is novel and goes far further than anywhere else in the world. It is in fact the only jurisdiction that will require homescreen customisation by manufacturers (noting that German requirements focus on content).
- The additional complexities and reasons that the current Australian requirements will require a far more radical reconfiguration than just shrinking app size (which is of itself not a simple exercise) is:
 - 2026 homescreens (the first to which this regulation will apply) are likely to have far fewer or no BVOD apps (international or local), so the current app menu based software may be gone. Reinserting 5 or more apps on top of new global standard Smart UI experiences (such as connection to internet of things devices and majority AI base

content offerings personal to the consumer) is both a space and technical issue (the technical issue being an app menu may no longer be there and so a redesign and software reconfiguration to re-insert one becomes a major and costly exercise). That is, it is not a reconfiguration of the current 2024 standard app menu homescreen that will be occurring, it is the reconfiguration of a much different UI.

- Australian TV suppliers have very limited or no control over their global manufacturers, particularly for those suppliers who source their operating systems from third party providers under licence and distribution agreements. In this case, the local TV suppliers have no say in product or platform design.

Costs issues

- No matter how small the customisation, it involves a separate process for each and every model to get software teams back in (and pulled off other projects) to reconfigure each and every model. There are additional costs for design, development, testing and ongoing maintenance for customisation of each model.
- As explained in more detail in Consumer Impacts below**, the larger the deviation from the standard global homescreen the higher the cost for Australian TV suppliers and the greater the impact for consumers (both in reducing the number of models here and increasing the price for those that do come).
The trend towards Smart content based UI's (with NO or fewer apps, international or otherwise) will mean this Australian app based requirement (especially one that sees 5 or more apps) is a radical reconfiguration from the global standard which accordingly carries high costs and flow on Consumer Impacts**
- Even if it was (wrongly) assumed that 2026 homescreens would look like current 2024 ones, making room for 5-7 new apps would involve the following costs, which would be passed through to Australian consumers (or, as explained below), result in a certain model not being released here:
 1. lost revenue from certain popular apps currently appearing and
 2. the per model reconfiguration costs explained above.

It is because of these homescreen trends, costs issues and Consumer Impacts that CESA members have suggested alternative positioning options (including the one referenced in response to questions from Senator Cadell above but others also). This is critical and why manufacturers are seeking a less prescriptive, more principles-based approach like the UK.

****Consumer impacts of current proposal:**

By way of further detail on how the price impacts of the current legislative proposal will flow through to lesser models/latest UIs for Australians and higher prices for those models that do come here:

- any deviation from a standard global homescreen design involves a cost-including redesigning, reconfiguring software and testing for each and every model.
- the greater the deviation from the standard, and the smaller the market to share it over (noting Australia is only 1% of the global market), the higher the cost for the manufacturer.
- as the world heads towards Smart UI's which are content based and NOT app based this becomes particularly relevant. This is because the current proposal to put 5 apps on the homescreen will involve a much greater deviation from the standard global homescreen and (as per above) involves a much greater cost to implement.
- this greater cost must be passed on to consumers (here Australian consumers).
- since manufacturers know consumers will not bear this greater cost for all models, especially lower price point models, they will only incur this cost of reconfiguring for select and most likely high end - models.
- this means many Australians won't have the opportunity to experience all latest models and Smart UIs because manufacturers (knowing the above and needing to comply) will have to ship older models with older UIs.
- for those models that do come here they will (in line with the above) carry higher price points.