

EXPOSURE DRAFT



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Broadcasting Services (Minimum Prominence Requirements) Regulations 2024

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2024

David Hurley
Governor-General

By His Excellency's Command

Michelle Rowland [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Communications

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Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

This instrument is the *Broadcasting Services (Minimum Prominence Requirements) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Schedule 1 to the <i>Communications Legislation Amendment (Prominence and Anti-siphoning) Act 2024</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Broadcasting Services Act 1992*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) broadcasting services bands;
- (b) broadcasting video on demand service;
- (c) primary user interface;
- (d) regulated television device;
- (e) regulated television service.

In this instrument:

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Part 1 Preliminary

Section 4

Act means the *Broadcasting Services Act 1992*.

Part 2—Minimum prominence requirements

5 Purpose of this Part

This Part:

- (a) is made for the purposes of section 130ZZO of the Act; and
- (b) prescribes the minimum prominence requirements with which a regulated television device must comply.

Note 1: Under subsections 130ZZN(1) and (2) of the Act, a manufacturer of a regulated television device, or a related body corporate of the manufacturer, may be liable to a civil penalty if they:

- (a) supply the device, and the device does not comply with the minimum prominence requirements prescribed by this Part; or
- (b) do not take reasonable steps to ensure that the device continues to comply with those requirements after the device is supplied.

Note 2: There are also additional obligations on such manufacturers and related bodies corporate: see subsections 130ZZN(3) (no fee or charge for compliance with the minimum prominence requirements) and (4) (no altering of audiovisual content).

6 Minimum prominence requirements

Scope

- (1) This section applies in relation to all regulated television devices.

Minimum prominence requirements

- (2) The device must comply with the requirements set out in subsection (3) in relation to each application that is designed for the purpose of providing access to:
 - (a) a broadcasting video on demand service mentioned in paragraph 130ZZJ(1)(b) of the Act; or
 - (b) a service prescribed by the Minister under subsection 130ZZJ(2) of the Act, if that service is a broadcasting video on demand service.
- (3) The requirements are all of the following:
 - (a) the application is either installed on the device before the device is supplied or will be installed when the device connects to the internet for the first time after the device is supplied;
 - (b) the application must be able to be updated when an update is made available by or on behalf of the provider of the regulated television service;
 - (c) the application must be visible on the primary user interface of the device;
 - (d) the application must be of a similar size and shape to other applications that:
 - (i) are displayed on the primary user interface of the device; and
 - (ii) are designed for the purposes of providing access to a service (other than a regulated television service) that makes audiovisual content available using a listed carriage service;

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Part 2 Minimum prominence requirements

Section 7

- (e) the application must be located in the same area of the primary user interface as those other applications.

7 Additional minimum prominence requirements for certain devices

Scope

- (1) This section applies in relation to a regulated television device if the device is capable of receiving a television broadcasting service that:
 - (a) uses the broadcasting services bands; and
 - (b) is either:
 - (i) mentioned in paragraph 130ZZJ(1)(a) of the Act; or
 - (ii) prescribed by the Minister under subsection 130ZZJ(2) of the Act.

Additional minimum prominence requirements for certain devices in relation to linear television broadcasting services

- (2) In addition to the requirements of section 6, the device must also comply with all of the following requirements:
 - (a) a user of the device must be able to access:
 - (i) national television broadcasting services provided by the Australian Broadcasting Corporation; and
 - (ii) national television broadcasting services provided by the Special Broadcasting Service Corporation; and
 - (iii) if, at a particular time, a broadcasting service covered by subparagraph 130ZZJ(1)(a)(iii) or (iv) or paragraph 130ZZJ(1)(c) of the Act is transmitted in the licence area in which the device is located and is authorised by a licence to be so transmitted—each such service;
 - (b) each of those services must be identified and accessible on the device using the service's logical channel number;
 - (c) the user must be able to access each of those services on the device by selecting a single icon or visual representation;
 - (d) the single icon or visual representation must be visible on the primary user interface of the device;
 - (e) the single icon or visual representation must be of a similar size and shape to applications that:
 - (i) are displayed on the primary user interface of the device; and
 - (ii) are designed for the purposes of providing access to a service (other than a regulated television service) that makes audiovisual content available using a listed carriage service.

Additional minimum prominence requirements—electronic program guides

- (3) In addition to the requirements of section 6 and subsection (2) of this section, if there is an electronic program guide on the device, the device must also comply with each of the following requirements:
 - (a) the guide must be readily accessible on the device;
 - (b) a user of the device must be able to use the guide to access each of the following services:

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- (i) national television broadcasting services provided by the Australian Broadcasting Corporation;
 - (ii) national television broadcasting services provided by the Special Broadcasting Service Corporation;
 - (iii) if, at a particular time, a broadcasting service covered by subparagraph 130ZZJ(1)(a)(iii) or (iv) or paragraph 130ZZJ(1)(c) of the Act is transmitted in the licence area in which the device is located and is authorised by a licence to be so transmitted—each such service;
- (c) each of those services must be identified in the guide using the service’s logical channel number;
- (d) a user of the device at a particular time must be able to view a television program (a *live television program*) that is being broadcast on each such service, at that time, by selecting the program in the guide;
- (e) the guide must be capable of accurately displaying, at a particular time, the information listed in subsection (4) about each of the following:
- (i) the live television program that is being broadcast on each such service at that time;
 - (ii) the television program that will be broadcast on each such service immediately after the live television program;
 - (iii) each television program that will be broadcast on each such service during the period of 7 days beginning from that time.
- (4) For the purposes of paragraph (3)(e), the information is:
- (a) the name of the television program; and
 - (b) the start and finish time of the television program; and
 - (c) a brief description of the television program; and
 - (d) a detailed description of the television program; and
 - (e) the classification information of the television program.

Exceptions

- (5) The requirements in paragraphs (2)(b) and (3)(c) do not apply in relation to a regulated television device that is not capable of displaying a television program without being connected to other equipment.
- (6) The requirements in paragraphs (3)(d) and (e) do not apply in relation to a television program that is advertising or sponsorship matter (other than a television program that is broadcast on a television broadcasting service that exclusively broadcasts advertising or sponsorship matter).

Continuity of programs

- (7) For the purposes of paragraphs (3)(d) and (e), any break during the transmission of a television program for the purposes of the transmission of other matter is taken not to affect the continuity of the program.