

1 November 2021

## A Captioning Scheme for Subscription Television: Issues Paper Response

### Introduction

ViacomCBS appreciates the opportunity to respond to the Australian Government issues paper, 'A Captioning Scheme for Subscription Television' ('**Issues Paper**') dated October 2021.

ViacomCBS welcomes the proposals in the Issues Paper. We strongly support a simpler approach to captioning, which will see subscription television broadcasting ('STV') continue to provide significant television captioning services while also being fairer to STV channel providers and more transparent and predictable to viewers.

### About ViacomCBS and our experience with captioning

ViacomCBS is a leading global media and entertainment company that creates premium content and experiences for audiences worldwide. Our iconic brands here and abroad include Network 10, CBS Television (USA), Channel 5 (UK), SHOWTIME, Paramount Pictures, Nickelodeon, MTV, Comedy Central, BET and subscription streaming service Paramount+.

In Australia, ViacomCBS (through VIMN Australia Pty Limited), has been entertaining audiences for more than 20 years with MTV, Nickelodeon and Nick Jr. firmly established as leading multiplatform entertainment brands for youth and kids.

VIMN Australia Pty Limited is a channel supplier to Foxtel and Fetch TV. The following table lists the channels and annual captioning targets for 2021-22:

Channel	Category	STV Licensee	2021-22 Captioning Target
MTV	General Entertainment	Foxtel, Fetch TV	90%
Nickelodeon	General Entertainment	Foxtel, Fetch TV	90%
Nick Jnr	General Entertainment	Foxtel, Fetch TV	80%
Club MTV	Music	Foxtel, Fetch TV	40%
Country Music Television (CMT)	Music	Foxtel, Fetch TV	40%
MTV Classic	Music	Foxtel, Fetch TV	40%
MTV Hits	Music	Foxtel, Fetch TV	40%
Nick Music	Music	Foxtel, Fetch TV	40%
Comedy Central	General Entertainment	Fetch TV	80%

Due to the impact of the COVID-19 pandemic, VIMN Australia's company revenue across its consolidated portfolio has been challenged by a range of factors, including:

- Advertising budget cuts with large advertisers (primarily in the tourism and events sector) being significantly impacted;
- Affiliate channel supply partners having their commercial subscribers request concessions/rebates on their subscriptions;
- Cancellation or delay of local events and activities; and
- Consumer products revenue falling due to lower consumer confidence.



Given this commercial context, the increasing captioning requirements under the current STV regime may become so significant that it is no longer commercially viable to supply certain channels to STV licensees, with regard to the low audiences for some channels.

### The reform proposals



ViacomCBS welcomes a number of the reform proposals outlined in the Issues Paper, which we submit should be implemented as a package. The package of reforms we support will ensure that the STV industry remains a leading television source of captioning for deaf and hearing-impaired Australians but through a simplified and fairer approach.



#### (1) Removing the annual 5% increase on each genre's captioning target.

We strongly support the proposal to introduce a cap on each genre's captioning target, rather than progress to the current ultimate 100% requirement.

Successive 5% year-on-year increases means that the compliance burden on our business is continually increasing and there is a real cost associated with this. As such we strongly support the proposal to remove the 5% annual increases.



Our view is that STV captioning targets should be capped across all genres at no greater than the average of the FY22 targets if the movies and general entertainment categories are collapsed, (or no greater than the current FY22 rates if genres not collapsed).



We submit that the FY22 captioning levels already provide an extremely high level of captioning. Any higher means that technical compliance becomes a significant challenge, and the captioning costs may become so significant that it is no longer commercially viable to supply the channel to STV licensees, particularly given the low audiences for certain channels.



#### (2) Introducing a low audience share exemption.



We support a low audience share exemption which applies where viewership of one of our channels is below 0.1% (one tenth of 1%) of the average annual national audience share (across both FTA and STV in all homes). This proposal ensures that STV captioning obligations are appropriately targeted to the channels with a reasonable level of viewers.

This exemption is consistent with the regulatory policy of the BSA, which states that different levels of regulation should be applied to services "according to the degree of influence" those services have on the Australian community.

For example, some of the music channels supplied by VIMN Australia have a limited number of viewers and a low share of viewing and so the ability to offset the high cost of captioning is challenging.

Introducing an objective test for exemptions based on well-known metrics will ensure that captioning is targeted at channels with a reasonable audience share.

#### (3) Collapsing the Movies and General Entertainment (GE) genre categories.

The STV captioning rules are currently confusing from both a regulatory and viewer perspective. The Movies and GE genre categories are divided into three subcategories per genre, each with their own separate captioning targets. It is up to each STV licensee to nominate the applicable Movies or GE subcategory for each channel. This means that under the current rules, Movies and GE channels that sit on multiple STV platforms may have different captioning obligations per platform.

Collapsing the category splits in the Movies and GE genre categories will create a simpler captioning regime for the whole of the industry, enabling channel providers to more clearly identify their captioning obligations and ensure that channels are captioned at the same rate regardless of which STV platform they are distributed on.

#### (4) Exemptions and Target Reduction Orders.



**play**

**BOLD**

**Peach**

**SHAKE**

**speaks )))**

In 2020-21, the Australian Communications & Media Authority granted a target reduction order to Foxtel for the CMT channel supplied by VIMN Australia. Significant and unexpected practical and technical difficulties prevented us from fulfilling the contractual obligation to meet the prescribed captioning target FY21.

While CMT would fall within the proposed low audience share exemption, we consider that exemptions and target reduction orders should remain scope for STV licensees to apply for exemptions and target reduction orders for channels that are not able to meet their captioning target.

In conclusion, ViacomCBS strongly supports the package of reforms outlined in the Issues Paper. These proposals will ensure that captioning is appropriately targeted at channels with a reasonable audience share and will also assist in simplifying the regime for the whole of the STV industry.

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*Paramount+*



**COMEDY CENTRAL**

**Spike**

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**nickelodeon**

**nickjr**