

# Response to the Media Reform Green Paper, Modernising television regulation in Australia by the Centre for Culture and Technology Curtin University

Submission made by [the Centre for Culture and Technology](#) (CCAT) prepared by Centre Director Professor Katie Ellis

## About The Centre for Culture and Technology

CCAT brings together the study of culture (symbolic meanings, practices, social relationships, and identities) with digital technologies and digital media platforms. CCAT researchers and projects examine questions around how cultural practices are changing in relation to digital technologies and platforms in areas such as accessibility, intimacy, social life, entertainment, popular culture, advertising, research and knowledge production, commerce, politics, and activism. We are also concerned with mapping new opportunities and challenges that arise from the rapid integration of digital technologies and media platforms into everyday life and culture for specific social groups and identities. CCAT researchers are concerned with disability digital inclusion, Indigenous cultures, children and youth, gender, and sexuality.

To understand complex social change, and the global and local dynamics involved in contemporary studies of culture and technology, CCAT researchers engage in interdisciplinary and new methods of digital research, drawing together textual, discursive, and philosophical analysis, ethnographic and visual research methods, and larger-scale analysis of digital and visual cultural practices.

Under the directorship of Professor Katie Ellis the Centre has focused research on Digital Inclusion and Media Access. This research priority brings together researchers working on understanding the potential of digital media in the context of redesigning and reimagining a more inclusive world. We promote the redesigning of our digital systems so that they work for all potential users, including users with disabilities, varying language needs and diverse cultural preferences.

## Our submission

This submission should be read in collaboration with the following position paper and research reports

- [Audio Description and Australian Television](#)
- [Accessing Subscription Video on Demand](#)
- [Audio Description in Australia](#)
- [Live Caption Monitoring on Australian Free-to-Air Television](#)

Access to television is a human right according to Article 30 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).<sup>1</sup> Australia ratified this convention in 2006. As an audio-visual medium television can be inaccessible to people with a number of disabilities. However, table 1 outlines a number of accessibility features that can be made available to make television more accessible.

**Table 1. Definitions of accessibility features**

<b>Accessibility feature</b>	<b>Explanation</b>
Audio Description	A track of narration which describes important visual elements of a television show, movie or performance
Closed captions	A presentation of the audio component of audiovisual content as text on screen
Lip-reading avatars	An animated talking face for lip readers
Signing avatars	Animated hands providing sign language interpretation
Spoken subtitles	A reading aloud of interlingual subtitles. Can be generated as a separate audio track by the broadcaster or created by the receiver using text to speech software
Clean audio	A provision of the speech without any background music or other sounds

Internationally, captions and audio description (AD) are the most commonly available and used accessibility features on television. In Australia, the provision of captions is mandated by an amendment to the *Broadcasting Services Act* (1992) and falls within the scope of the *Disability Discrimination Act* (1992). As a result, captioned content must be available on 100% content aired on the primary digital channels between 6am and midnight. The multichannels and on demand platforms however are exempt.<sup>2</sup> Research shows that in the absence of legislation such as the case with the multichannels and on demand, captions are not available in Australia.<sup>3</sup>

The provision of audio description however is not legislated in Australia and instead governments have made progress towards achieving article 30 of the CRPD for Australia's blind and low vision community by establishing an Audio Description Working Group (ADWG) in 2017.<sup>4</sup> While the ADWG recommended three options for the provision of AD on Australia television, to date it has only been made available by the public broadcasters the ABC and SBS via a government grant in 2020. With uncertainty around continued funding, Australia is at a crucial point in its progress towards Article 30.

Putting the interests of Australians with disability first, in response to the 'Modernising television regulation in Australia' Green Paper, **we propose that changes in the amount or type of frequency spectrum allocated to each channel should only take place if both captions and audio description are included in the broadcast experience.**

Australia has a duty of progressive realisation towards economic, social and cultural rights outlined in the CRPD, including to article 30 and access to television. This imposes two obligations on Australia with regard to accessible television. First that we move quickly and effectively towards the full realisation of this right and secondly that we do not engage in retrogressive measures. The continued availability of audio description is already in a precarious position with funding for the ABC and SBS unclear and no commitment as yet from the commercial broadcasters to introduce this feature. Now that progress towards audio description has taken place, going backward is "impermissible retrogression" of Australia's obligations under the CRPD. **The availability of captions and audio description must not be left to the goodwill of the commercial television industry.**

Indeed, in the ADWG final report, FreeTV stated that it was "the role of the Government to fund programs that address social inequities and maximise social welfare".<sup>5</sup> By positioning audio description as a social inequality issue for which the government is solely responsible, Free TV suggest they do not consider it their responsibility to make television available to Australia's blind and low vision community. Yet, as the Attorney General recognises, while the CRPD imposes obligations on

governments, the private sector also holds some responsibility to facilitate access for people with disability.<sup>6</sup> The patchy provision of captions on multichannels and on demand offerings illustrates that if left with the option of not providing accessibility options, the Australian commercial stations do not typically oblige.<sup>7</sup>

Aside from the human rights obligations outlined in this submission so far, the provision of captions and audio descriptions will make Australian free to air broadcasters more competitive in the international market in which it must now compete. As the Green Paper outlines, Netflix and similar SVOD platforms are posing a serious threat to Australian commercial stations. Yet these platforms are also held to and meet a higher standard of accessibility. Often captions and audio description are offered to enhance the consumer experience and are used by the nondisabled population too for ease and flexibility.<sup>8</sup> Ongoing research in the Centre for Culture and Technology suggests Netflix, the ABC and SBS are as popular amongst audiences with disability followed by newer platforms such as Amazon Prime, STAN, Disney +. The commercial broadcasters are least popular.<sup>9</sup> Although meeting their obligations under international accessibility legislations, the flexibility offered by digital accessibility and captions and audio options by international SVODs is attracting new audiences and innovation in storytelling.

Finally, this issue is vital to the inclusion of Australia's ageing population who are increasingly using access features such as captions and audio description as well as newer options such as clean audio as their vision and hearing deteriorate with age.<sup>10</sup> **Any new spectrum arrangements must ensue Australia's ageing and disabled population are catered for and fully included in television as a vital part of cultural life.**

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<sup>1</sup> United Nations. (2006). "Convention on the Rights of Persons with Disabilities." Retrieved 5 February, 2018, from <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

<sup>2</sup> Ellis, K. (2019). *Disability and Digital Television Cultures: Representation, Access, and Reception*. New York, Routledge.

<sup>3</sup> Ellis, K., M. Kent, K. Locke and N. Latter (2017). "Who is working on it? Captioning Australian catch-up television and subscription video on demand." *Media International Australia* 165(1): 131-145.

<sup>4</sup> Australian Government. (2018). "Australia's Combined Second and Third Periodic Report under the Convention on the Rights of Persons with Disabilities." Retrieved 23 August, 2018, from <https://www.ag.gov.au/Consultations/Documents/Convention-on-the-rights-of-persons-with-disabilities/Australias-draft-combined-second-and-third-periodic-report.pdf>.

<sup>5</sup> Department of Communications and the arts (2017). Audio Description Working Group – Final Report, Australian Government.

<sup>6</sup> Attorney General's Department. (n.d.). "Rights of People with Disabilities." Retrieved 15 December, 2017, from <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Documents/Rightsofpeoplewithdisability-guidancesheet.pdf>.

<sup>7</sup> Ellis, K., M. Kent, K. Locke and N. Latter (2017). "Who is working on it? Captioning Australian catch-up television and subscription video on demand." *Media International Australia* 165(1): 131-145.

<sup>8</sup> (2006). The joy of subtitles. *BBC*, Hood, B. (2015, 9 June). "Final Shots: Netflix's Audio Descriptions May Make 'Sense8' Easier to Follow." Retrieved 5 May, 2020, from <https://decider.com/2015/06/09/final-shots-netflixs-audio-descriptions-may-make-sense8-easier-to-follow/>.

<sup>9</sup> See Access On Demand [2020 ACCAN Grants projects announced](#)

<sup>10</sup> Ellis, K. (2019). *Disability and Digital Television Cultures: Representation, Access, and Reception*. New York, Routledge.