



**Submission to DBCDE's investigation into  
Access to Electronic Media for the Hearing and Vision  
Impaired**

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## 1. RECOMMENDATIONS

The following recommendations are specific actions that MAA believes should be undertaken and should be read in the context of the overall submission and the detail provided in the relevant section. The recommendations are framed under subject headings for ease of reading.

### General (across all media)

- 1.1. Any implementation strategy should avoid specifying methods used to deliver access and focus on outcomes. New technologies and techniques are emerging all of the time.
- 1.2. A targeted strategy for making non-entertainment material accessible needs to be developed and this should be undertaken in consultation with stakeholders, including the education sector, governments and MAA.
- 1.3. A priority needs to be given to audio description as it is barely addressed by Australian media, with a few exceptions, and significant access increases are achievable.
- 1.4. When looking at costs of access services, international benchmarks should be used in helping determine what is a fair balance between consumer needs and the impact on industry.
- 1.5. For more marginal cases, such as non-entertainment product or a small customer base (e.g. a single screen regional cinema), some form of Government support should be investigated.
- 1.6. The Government should lead by example and makes its audio-visual material accessible, including on downloads.
- 1.7. As a last resort the Government should draft special access legislation covering any issues that are not addressed through other recommended means (eg *Media Access Act 2008*)

### Convergence

- 1.8. In dealing with access issues, all stakeholders should agree, as a starting point, that once content is made accessible then it should be accessible on all subsequent versions and formats (including making every effort to secure access files from overseas and other organisations).
- 1.9. When making download content accessible in line with the previous recommendation, if a suitable streaming/closed access system is not available, open-captioned and audio described versions should be provided alongside non-accessible versions.

### Television (free-to-air and subscription)

- 1.10. ACMA's role should be broadened to provide a publicly accountable, open regulatory regime for access, including the mandatory publication of access compliance for broadcasters. This role should be modelled on the Ofcom approach to access and include proactive dealing with access issues rather than a reactive, complaint-driven regime.
- 1.11. Subscription Television and free-to-air television access should be covered by the *Broadcasting Services Act*, including quotas, exemptions, multi-channels, mobile channels and reporting requirements. There is also a need to have definitions of "captioning" and "audio description".
- 1.12. Issues such as quality standards for captioning and audio description; convergence of content from television to other media (particularly DVD and downloads) should be covered by an industry code.

- 1.13. Given the Federal Government's strong financial support for ground-breaking caption developments since the early 1980s, there is a strong case for similar support to kickstart audio description services on ABC and SBS television.
- 1.14. Any industry codes should be clear, definite and designed to achieve the outcome with any exceptions being a last resort (i.e. avoiding phrases such as "best endeavours" and "where practicable").
- 1.15. Access to emergency announcements should be covered by strong policies/regulations that meet international benchmarks.
- 1.16. Caption decoding, display and recording (for recording devices) should be mandatory for any digital television equipment receiving a "HD tick", or any form of endorsement as part of the rollout of digital television coordinated by the Digital Television Taskforce.
- 1.17. Audio description decoding, playback and recording standards for equipment should be developed as a priority and included in any review of the technical standards for broadcast television.

### **Quality Standards**

- 1.18. Captioning standards should be mandated and focussed on outcomes, but have as the minimum requirements: all audio content to be captioned, live captioning techniques to be used only as a last resort, accuracy in punctuation and spelling.
- 1.19. Audio description standards should be mandated and focussed on outcomes, but have as minimum requirements: AD is timed to avoid dialogue and other important audio elements; all scenes to be AD; descriptions should use clear, simple language and should be neutral, avoiding value judgements.

### **DVD and cinema**

- 1.20. HREOC should play a role in brokering temporary exemption arrangements for the cinema and DVD industries.
- 1.21. DVD access should be covered by a temporary exemption to the *DDA* and include: any targets for captioning and audio description; labelling of DVD covers to show access features; inclusion of access information in publicity material; other issues, such as the provision of audio menus on AD DVDs.
- 1.22. Cinema access should be covered by a temporary exemption to the *DDA* and include: any targets for numbers of accessible cinemas; screening times/frequency of screenings; promotion/marketing issues and review processes.

## **2. SUMMARY OF EACH SECTION**

The following is a “key points” summary of each section in the submission. For greater detail and explanation, please refer to each section.

### **About MAA**

- MAA is an expert in media access, combining long experience of captioning and audio description production, industry knowledge and international contacts.
- MAA focuses on practical implementation and achieving access to media in an equitable way, balancing consumer desires with cost, distribution issues, equipment development, convergence and regulation.

### **Access users in Australia**

- There are more than 3.5m people in Australia with significant hearing loss and this is growing with the ageing population.
- Hearing loss affects all levels of society, but does skew to older people.
- There are more than 550,000 people in Australia with significant vision loss and this is also growing with the ageing population.
- Captions are used by people who are not deaf, typically in situations where the sound is not accessible, such as busy public places, on airplanes and late at night.
- Audio description is used by people who have reading difficulties, and people with dyslexia are one of the largest user groups of such services.
- Providing access has a multiplier effect as blind and deaf people do not access media alone. Thus an accessible cinema allows them to share social/family experiences with others who do not need the access, but go to access sessions with the disabled friend/family member.

### **Background to access services**

- Television captioning has been provided in Australia for over 25 years and live captioning has been provided since 1990.
- Free-to-air television has a mixed captioning regime of legislation and a now expired HREOC temporary exemption.
- The deaf consumer groups have just rejected a new temporary exemption application via HREOC from FreeTV on the grounds that it has no expansion of quotas and that the industry is not negotiating in good faith.
- The subscription television industry has a HREOC agreement in place leading to 25% captioning on some channels.
- Offline captioning is produced for pre-recorded programs and is either done from scratch or by reformatting an existing caption file.
- Online captioning is used for live programs and uses either stenocaptioning or voice captioning (using speech recognition software).
- Audio description is very underdeveloped in Australia and is limited to some DVDs and live theatre performances.

### **Current captioning levels**

- Analysis of recent levels of captioning show that the free-to-air networks are captioning between 71% and 92% of programming from 6.00am – Midnight

and are maintaining levels above the previous 70% quota negotiated via HREOC.

- Although HD channels are exempt from captioning requirements (except repeated captioned programs from the main channel), some HD programs are being captioned.
- ABC2 is captioning approximately 54% of its output, including some unique programming.
- Some subscription television channels are captioning at up to 98% of output, although the range is considerable.
- There is a 14 percentage point gap between the availability of mainstream entertainment DVDs with captioning in Australia compared to the UK and US releases.
- A recent survey by MAA showed that around 61% of television series released on DVD have captions on the DVD release (all are captioned for broadcast). The pattern of release is uneven, with some seasons of shows being released with captions and others not.
- There has been no increase in the number of captioned cinemas since 2005 when it was increased to 10 locations following an MAA cost saving initiative of introducing the DTS access system.
- Very little education material is captioned, excepting 150 hours per annum provided by a FaHSCIA grant, administered by MAA.

### **Current audio description levels**

- There is no audio description on television
- Three times as many UK DVDs are released with audio description than in Australia and Australian distributors source most of their product components from the UK.
- Some Australian television series are being audio described for DVD release, mainly due to the efforts of Roadshow Entertainment.
- The only audio description in cinemas is ad hoc festival viewings.
- 70% of the movies shown with captions in the 10 Australian cinemas have audio description on the access disk, but the AD module of the DTS system has not been installed.
- Effectively no education material is audio described.

### **Costs of captioning and audio description**

- Some media are looking at access in terms of revenue potential, rather than a cost that must be borne. This is evident in both the DVD and subscription television industries.
- A business case analysis of the DVD industry conducted by MAA shows that for most entertainment titles, providing access makes business sense.
- The general trends in access costs are downwards and have more than halved in the last decade due to better market knowledge, economies of scale, supplier rationalisation, convergence and technological developments.
- Access costs in Australia are roughly on par with the UK and USA (allowing for currency fluctuations).
- Australian free-to-air television networks are spending on average around 0.22% of turnover on access. This compares to international benchmarks of 1-2%.
- Although current captioning levels on free-to-air television is about 55% of a 24-hour day, it would not cost double the current costs to achieve 100% captioning due to the type of programming that is not yet captioned.



- The issues for subscription television are similar to free-to-air television, although the current spend on captioning is much lower due to lower quota requirements.
- The cost of captioning a movie is similar to DVD/television costs.
- The capital cost of access equipment varies from \$3,000 - \$20,000 depending on the set up. This was subsidised as part of a major rollout in the UK.
- Cinema operators tend to argue against expanded access on the grounds of “opportunity cost”, however the experience in Australia has shown that cinema operators are unwilling to niche market access services, unlike NZ where such a strategy has been overwhelmingly successful. There are no opportunity cost issues with AD in cinema.
- Australian distributors do not have to pay for access costs for the movies as these are either imported or covered by the FFC (in the case of Australian features).
- Although DVD captioning costs are on par with television captioning costs, it costs around 2-3 times the hourly rate to audio describe DVDs.
- The costs of audio describing television would be similar to the DVD cost.

### **Future targets for captioning and audio description**

- MAA agrees that progression to 100% access in a structured, considered way is essential but consumers should voice what interim targets are appropriate.
- There is considerable value in looking at how other countries approach access targets
- Once content is made accessible then it should be provided with access on all subsequent versions.
- The UK and USA treat free-to-air and subscription television in essentially the same way, with captioning trending to 100% and audio description in the UK currently capped at 10%.
- The overseas models use a simple annual quota determined from a commencement date (which could be from the start of digital broadcast).
- An example of adapting the UK model to Australia is shown.
- Although Australian television is currently incapable of providing a closed audio description service, multi-channeling and timeshifted channels provide opportunities to broadcast some open audio description.
- Given the Government’s long history of support for captioning developments on television (such as the first live programming and ABC/SBS news grants), there is a strong case for similar support to commence an audio description service on ABC and SBS television.
- Cinema negotiations have been protracted and have resulted in consumers pursuing other mechanisms such as HREOC complaints. Consumers are seeking another 70 accessible locations, which puts Australia on a fairer comparison with international benchmarks.
- It should be noted that the levels of access to entertainment DVDs could be increased significantly if overseas access components were sourced (particularly from the UK), including the use of convergent media (such as movie files, television files).

### **Captioning and audio description of advertising**

- About 37% of Australian television commercials are captioned and none are audio described.
- All Australian governments have captioning policies in place for government-produced commercials and (in some cases) other audio-visual material.

- A Canadian High Court decision imposed the captioning of all television commercials on a Canadian network.
- The policies/regulations on access to Australian emergency announcements are very weak compared to international benchmarks.

### **Captioning and audio description on internet content**

- There are mixed experiences in making content accessible on the internet with a range of developments in the UK and USA.
- Much of the lack of access of precaptioned and pre audio described programming is blamed on streaming and delivery format issues.
- It is expected that many of these issues will be resolved in the next 12 months.
- In Australia there are a growing number of programs being offered in download format. None of these are accessible (although all of the television programs appearing as downloads were captioned for broadcast).
- An easy-to-implement solution would be to provide “open access” versions of content alongside the non-accessible versions. People who use access features do not have a need to turn them “off” and data storage costs are very low.
- Australia has recognised the importance of access to broadband and the needs of all people to be able to access services. MAA has developed an Accessible Broadband for All Australians guide with ACE and CTN.

### **Caption and Audio Description standards**

- The UK has formalised captioning standards, whereas the US has never specified standards which is one reason why captions vary so much in quality in that country.
- Australia does not have a formal captioning standard, but does have a de facto standard created by Deafness Forum and used by the broadcasters in one form or another.
- Caption standards are important in ensuring that there is a level-playing field, suppliers know what is expected of them and that Australian caption files are able to be traded worldwide.
- Standards should not be proscriptive, but cover outcomes such as ensuring that all material is captioned, live captioning should be restricted to live programming and that spelling and punctuation should be accurate.
- Audio description is a much newer service and there has been less worldwide debate about standards. Ofcom provides AD standards for UK broadcasters and again the US does not specify any.
- MAA believes that AD standards are necessary and should again focus on outcomes rather than techniques.

### **HREOC and ACMA**

- There is currently a mixed regime of access regulation which has led to inconsistencies such as free-to-air television being covered by both organisations and subscription television not being covered by the broadcasting regulator.
- ACMA should be responsible for dealing with access to broadcasting (and any content controlled by broadcasters) in a transparent, public policy driven way, more similar to the role undertaken by Ofcom.

- HREOC has been used to achieve successful outcomes by consumers where the market has not delivered. There is still a role for HREOC agreements where the medium is relatively unregulated. This is outlined in more detail in the next section.

### **Changes to regulatory requirements**

- Convergence is a major issue for regulation of access issues, but consumers reasonably expect that once content has been made accessible, it should be accessible in all subsequent forms.
- The regulatory process needs to be simplified and regulate like with like (i.e. free-to-air television and subscription television should be covered by the *BSA*).
- There are a range of options to cover regulatory requirements ranging from the *BSA* to the *Trade Practices Act* to special access-specific legislation.
- Free-to-air and subscription television issues are best covered by the *BSA*, including strong industry codes to cover quality standards, downloads and content going to DVD.
- The cinema and DVD industries are best covered by temporary exemptions under the *DDA*.
- When considering the mix of options, it should be remembered that the practical outcomes of different regulation types should deliver access on converged media content.

### **Transmission and receiver standards**

- The Australian Standard 4933 covers caption decoding and display but does not cover recording and playback.
- A problem with this standard is that it is not mandatory.
- The best way of dealing with these issues is via the Digital Television Taskforce, but should include mandatory captioning display and recording as part of the HD Tick requirements.
- There are no audio description standards, but this needs to be reviewed.

### 3. ABOUT MAA

#### 3.1. Who is MAA?

Media Access Australia (MAA) is a not-for-profit, public benevolent institution and Australia's primary media access organisation. Our role is to be a catalyst for the provision of access to media for disadvantaged people through the use of technological solutions.

MAA was originally a captioning and audio description supplier known as the Australian Caption Centre, which was founded in 1982. This part of the organisation was divested in 2006. As the ACC, we provided captioning services for all the Australian television networks, as well as the captioning of television commercials, live theatre, videos and DVDs, and pioneered the audio description of DVDs in Australia in 2005. MAA no longer provides commercial access services.

MAA is a national organisation based in Sydney and works in collaboration with consumer organisations, Government and industry across the country and internationally. We also provide a comprehensive free information service (including two websites:

[www.mediaaccess.org.au](http://www.mediaaccess.org.au) and [www.audiodescription.com.au](http://www.audiodescription.com.au)) and assist thousands of people with everyday access issues, as well as helping organisations provide more access. We also publish the quarterly *Media Access Report*, providing factual topical information on media access issues from around the world.

#### 3.2. MAA's objects (from the MAA Constitution)

The objects for which the Company (Media Access Australia) is established are:

- To establish and maintain an organisation for the provision and promotion of information services principally but not exclusively for the benefit of people who suffer disability for health, education, social, financial or similar reasons;
- To establish and maintain an organisation for the provision and promotion of media access services for the benefit of individuals with impaired capacity to access such services.

#### 3.3. How does MAA operate?

MAA brings a unique perspective to the world of access and appears to be the only organisation in the world operating in this way. MAA operates as a catalyst for change. We want to see more access to media in Australia and the world. Therefore our starting point is how do you make more access possible? We frame this approach in the context of considering consumer desires, costs, distribution channels, supply techniques, equipment, convergence and regulation.

The question of what the most appropriate level of access should be at a particular time should be answered by the consumers. Our role is to help in getting to that level of access, especially looking at implementation issues,

including cost-effective approaches and drawing on successes from other places.

Our approach to this discussion paper is to provide a fair appraisal of what has happened, what has worked and what could be done to achieve more access. We believe that the purpose of this investigation is to look at how more access can be provided in Australia, whilst balancing that with practical implementation, costs, regulatory issues and revenue opportunities. Our submission is intended to:

- Provide accurate and timely information on access issues.
- Provide analysis of why situations may have occurred.
- Analyse different regimes and how they have treated particular issues.
- Take a practical approach to the provision of access, including implementation issues (which are often downplayed or ignored in the arguments about percentages and quotas).
- Use our experience and knowledge as a recent past supplier of access services to ensure that clear information is provided about the costs and possibilities of providing access services
- Use our worldwide network of contacts and partnerships to keep up-to-date with access issues and to inform stakeholders in Australia about those issues and look at strategies for introducing new technologies and developments in access.

#### **3.4. The next step**

We thank the Federal Government through Minister Conroy for what we consider to be a timely and open process in reviewing what is happening in access to electronic media and the situation in Australia compared to the rest of the world. We look forward to assisting in the process of implementing any outcomes from this review and achieving more access for consumers and more revenue opportunities for media.

## 4. ACCESS USERS IN AUSTRALIA

### 4.1. Deaf and hearing impaired

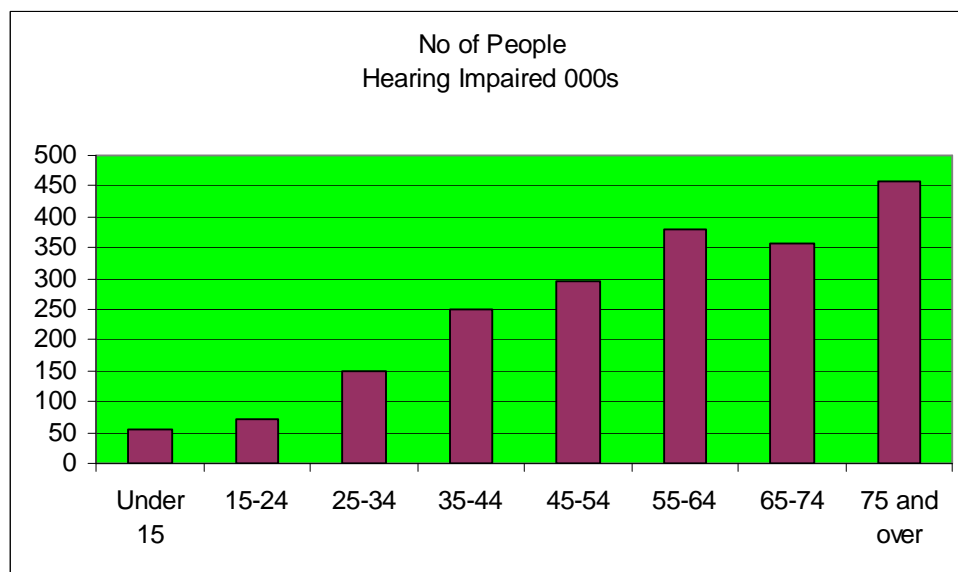
#### *Deaf*

Deaf people have been separated from hearing impaired as they see themselves as quite distinct and generally regard themselves as being “not disabled but a separate cultural group”. However, they do acknowledge that in a world where everything is not translated into sign language, they do have to use alternative access technology, such as captioning.

Most Deaf people belong to families that have hearing members and not all people born Deaf are part of the Deaf community or learn Auslan (sign language). The latest studies show that there are around 6,000 Deaf people in Australia (0.03% of the population) and perhaps another 10-15,000 people that understand sign language, mainly professional interpreters and family members.

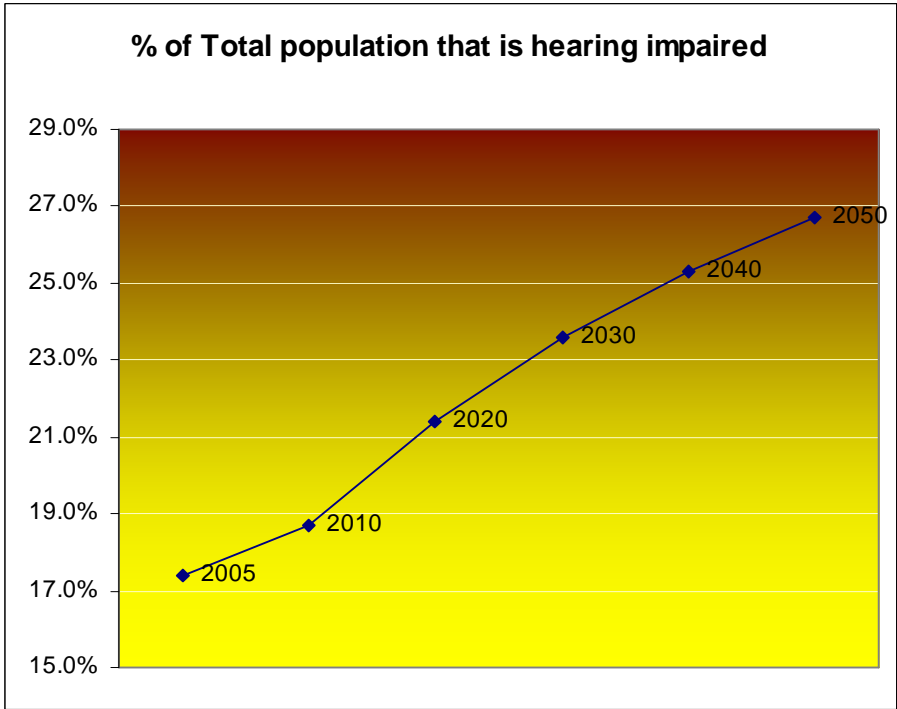
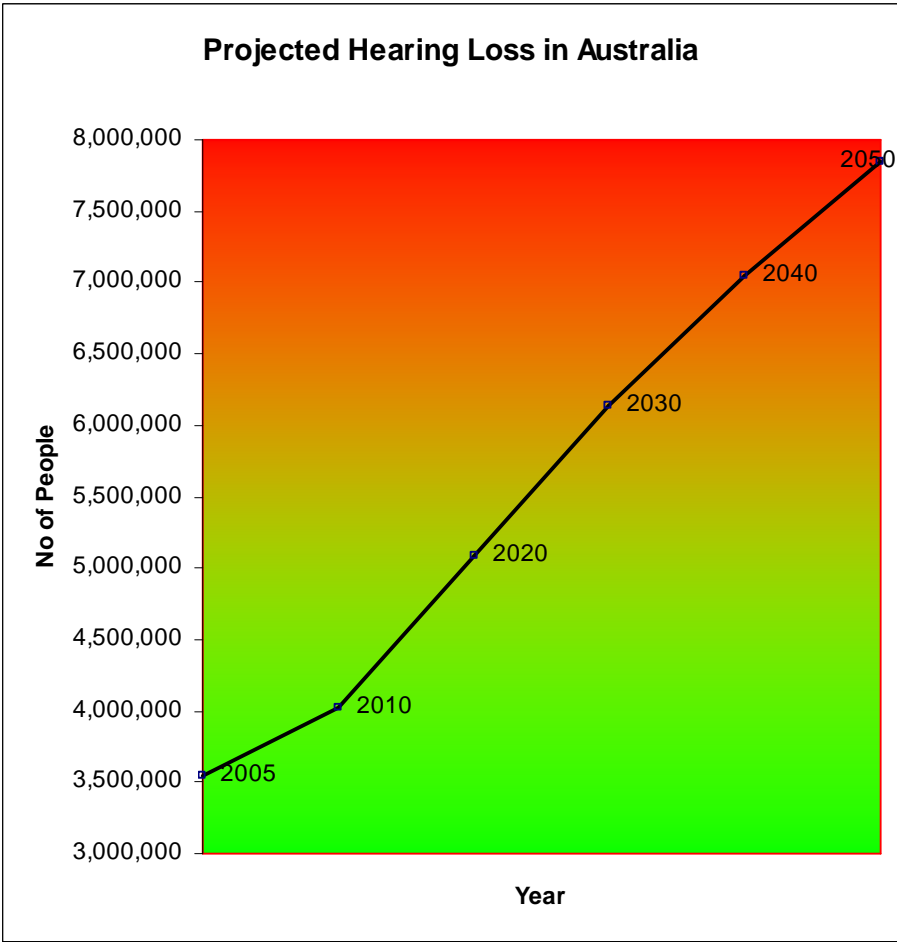
#### *Hearing Impaired*

Hearing impaired people form a significant proportion of the population (up to 17%) and are spread across Australia. They tend to skew to the older age groups as hearing loss is a characteristic of ageing.



### 4.2. Projections

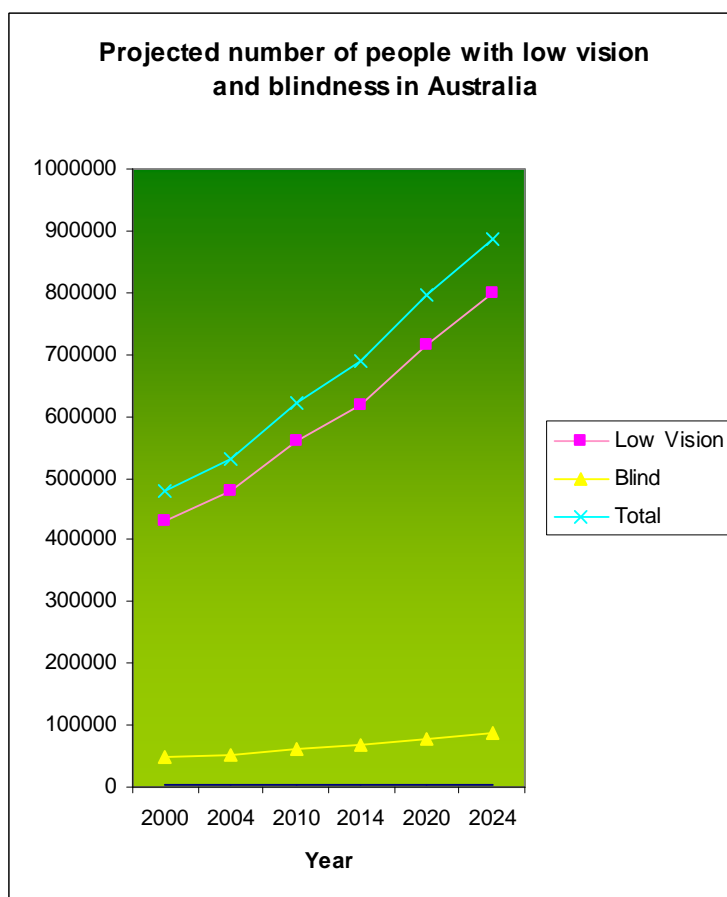
The significant issue with hearing impaired people is that the size of the market is growing with the ageing population. The chart below shows that even in the next 5 years (which is a viable timeframe for any medium being considered to be made accessible under this investigation) the number of hearing impaired will be more than 4 million. *Source: Based on Wilson (1997) and Australian Hearing (2005) reported in ListenHear! The economic impact and cost of hearing loss in Australia (2006)*



### 4.3. Blind and vision impaired

Although some 11 million people in Australia have some kind of vision problem (usually long or short sightedness), the vast majority do not seek any kind of assistance beyond wearing glasses or contact lenses. In the case of media, particularly electronic media, all but the most impaired use strategies such as buying a larger screen, sitting closer to the television or changing the lighting in a room to aid their viewing.

There are around 550,000 blind and vision impaired people in Australia. There is a similar skewing to older people, although not as pronounced as with hearing impairment. Again this population is growing and is expected to reach ¾ million people during the next 5-10 years (Source: *Vision Loss in Australia*, Hugh R Taylor, Jill E Keeffe, Hien T V Vu, Jie Jin Wang, Elena Rohtchina, M Lynne Pezzullo and Paul Mitchell, MJA 2005; 182 (11): 565-568)



### 4.4. Other users of access

The use of captions and audio description is not limited to deaf and blind people.

Captions can be used in situations of “temporary” deafness, such as watching televisions in public areas where the sound has been turned down (commonplace in America and starting to appear more in Australia).



Similarly, Qantas captions its in-flight news bulletin. This was originally as an experiment for Hearing Awareness Week, but soon migrated to being a service appreciated by high-yield business travellers who liked being able to glance up from their work and “read” the news.

A 2006 Ofcom study (*Television Access Services Review of the Code and Guidance*) found that more non-deaf people used captions than deaf people, including watching programs late at night with the sound turned down to avoid disturbing others.

Captioning is also used to enhance understanding and learning of English, either in a language school situation, or school-age children learning to read.

Audio description and other audio forms of printed material are used by people with reading difficulties. Libraries for talking books report that people with dyslexia make up significant percentages of new users of their services (Print Disability Conference keynote address 2007). Similarly, the now discontinued Sky Gnome, developed by Sky Television in the UK, allowed “ordinary” users to listen to the audio of the broadcast (including an audio description service) whilst sitting in the bath or pottering in the garden.

#### 4.5. **Multiplier effect of access**

A final point that needs to be made is that people who rely on access services do not consume media alone or solely with other disabled people. Audio describing a film allows a vision impaired teenager to join her sighted friends at the cinema for a girls’ night out. A captioned television news bulletin ensures that a hearing impaired man can watch and then discuss the day’s events with his family and friends. An accessible DVD can become the ideal Christmas present for the “blind man who has everything” and he seeks out more DVDs to rent at the local DVD store.

## 5. BACKGROUND TO ACCESS SERVICES

### 5.1. Introduction

Before we address the key issues identified in the discussion paper, we think it is important to understand the historical and environmental context of how access services developed in Australia. Included in this discussion is some explanation of how captioning and audio description methods have evolved.

### 5.2. History of television captioning in Australia

Captioning on Australian television began in Australia in 1982, when the Australian Caption Centre (ACC) commenced operations. The company was founded by Alexandra Hynes and Adam Salzer, who had lobbied the Fraser government for an initial grant to purchase equipment. The ACC was set up as a not-for-profit, public benevolent institution, and initially provided captioning services to the ABC, Nine and Ten networks. At the same time as ACC was commencing operations, the Seven Network set up their own internal captioning unit.

As there was no legislation covering captioning, it was up to the networks to decide which programs would be captioned (only the ABC had a regular amount for captioning included in its annual budget). The networks generally selected their highest rating programs for captioning.

The first news programs were captioned in 1990, when the ACC began to caption a 10-minute late-night ABC news bulletin. This was a nationwide bulletin produced in Sydney and was funded through a Federal grant.

Captioning in Australia was revolutionised by the *Broadcasting Services (Digital Conversion) Act 1998*, which came into effect on 1 January 2001. All stations broadcasting in digital were now required to caption all programs broadcast between 6 p.m. and 10.30 p.m., and all news and current affairs programs. This resulted in a significant increase in the amount of captioned programming on Australian TV.

Since then, increases in captioning on free-to-air TV have been driven by an agreement between the TV networks, Deafness Forum and the Australian Association of the Deaf (now Deaf Australia), brokered by the Human Rights and Equal Opportunity Commission (HREOC). This deal saw the networks commit to captioning 55% of programs broadcast between 6 p.m. and midnight by the end of December 2005, rising to 70% by the end of December 2007. It is up to the networks to decide which programs will be captioned to meet this figure.

This deal has now expired and a further temporary exemption for 6 months was rejected by Deaf Australia, WA Deafness Council and Deafness Forum who said that they wouldn't support it on the grounds that Free TV had offered no increases in response to the request for an exemption and that they were not negotiating in good faith. MAA understands that a number of complaints have been lodged with HREOC about the lack of captions on some programs. To date the level of captioning has not decreased on the channels affected by the expired agreement.

Due to another HREOC brokered agreement, captioning on subscription TV

commenced in 2004, with an initial 20 channels captioning at least 15% of programming, with these amounts increasing by 5% each year. The number of channels which had to show captioned programs under this agreement increased to 40 in 2007. FOXTEL programs, which are shared with AUSTAR, are captioned by AI Media and Red Bee Media.

Television commercials have been captioned in Australia since the 1980s. Both the AANA (Australian Association of National Advertisers) and the AFA (Advertising Federation of Australia) have released policies advising their respective members about the importance of captioning their TV commercials.

In 2006, Captioning and Subtitling International (CSI) became the first significant overseas commercial access company to win a major contract in Australia when it took over the captioning of all ABC programs. In the same year, the Australian Caption Centre sold its commercial captioning business to Red Bee Media (UK). This business was renamed Red Bee Media Australia, while the old Australian Caption Centre became Media Access Australia. Red Bee Media Australia took over captioning of all Seven Network programs in 2007.

### 5.3. Captioning methods

#### 5.3.1. *Offline captioning*

Offline refers to the captioning of programs that are available to be captioned, in tape or digital format, at least some hours ahead of broadcast. An offline captioner will then watch and listen to the program, pausing after each segment of dialogue, and creating fully timed, positioned and coloured captions. Most caption producers caption to a maximum word rate (e.g. 180 words per minute), and the language will be reduced if the speech is faster than this. The completed caption file is then incorporated (or 'encoded') onto the master tape of the program, or transmitted at the same time as the program is broadcast.

Offline programs may also be captioned using caption files that have been created in another country. These files usually require editing. There is a significant world-wide trade in caption files, including the use of other formats (i.e. NTSC files in PAL countries) that are technically reformatted to suit the new application.

Recently, some caption suppliers have trialled a new method sometimes called 'assisted captioning'. In this method, an electronic version of a script is converted to captions, while a speech recognition program analyses a digitised version of the program and automatically assigns timecode to the captions. An offline captioner then reviews the file, adding sound effects captions, music captions, etc.

Offline captioning is also used for DVDs, movies and any other formats that are not live.

#### 5.3.2. *Online captioning*

Online refers to the captioning of news programs, or other programs which are transmitted live, or completed so close to broadcast time that

normal offline captioning methods cannot be used.

In many cases, although a news bulletin is broadcast 'live', many of its components are available prior to broadcast as scripts or taped stories, and these may be used to create caption files which are then transmitted manually by a captioner as the program goes to air. If properly prepared, these should appear to a viewer as identical to offline captions.

Programs, or segments of a program, which are genuinely live may be captioned by a stenocaptioner or a captioner using speech recognition software. Stenocaptioners are highly trained individuals who use a phonetic keyboard (as used by court reporters) to create captions as the program goes to air. These captions will typically appear on screen one word at a time, and there is an unavoidable time lag between the stenocaptioner hearing the dialogue and the captions appearing, although a really experienced stenocaptioner can keep this to 5 seconds or so. The quality of stenocaptions depends on the skill level of the stenocaptioner and the time they have been given to prepare for the program. (Part of this preparation involves entering any unusual names or words into a 'dictionary', so that these will be spelled correctly in the captions as they appear.)

In the last few years, speech recognition software has improved to the extent that it can now be used to caption live programs. In this method, a captioner repeats the dialogue of a live program into a microphone, and speech recognition software converts this to captions. This method is not yet advanced enough to use for captioning drama programs, but it is increasingly used for news and sports programs.

#### **5.4. Audio description in Australia**

Audio description in Australia is currently restricted to some theatrical performances (which are described by volunteers), the occasional movie screening and some DVDs. Most of the DVDs have audio description tracks which have been produced overseas, although Roadshow have recently engaged Red Bee Media Australia to audio describe some of their titles. (In 2005 Red Bee Media, then the Australian Caption Centre, was awarded a one-off grant by the Department of Family and Community Services and Indigenous Affairs (FaCSIA) to investigate audio description, acquire the necessary software and equipment to do it, and produce 10 audio described DVDs.)

The introduction of audio description on Australian television has been hampered by the fact that no provision was made for it when the standards for digital receivers were being set in the lead-up to digital broadcasting. All digital TVs and set-top boxes meeting Australian Standard AS 4933 must receive and display captions, but none are equipped to receive a second audio stream with audio description.

Television programs in Australia and overseas are currently broadcast in the MPEG-2 format. It is expected within the industry that, following the completion of the digital switchover (i.e. the end of analogue transmission, currently set for 2013), there will be a move to a new format (probably MPEG-4) which will enable the transmission of extra information within the same

bandwidth. This transition will require the development of new digital standards and receivers, and will provide an opportunity to introduce an optional audio description service.

It is therefore not currently possible to broadcast programs on Australian TV with AD as an option that can be turned on or off by the viewer. The advent of digital multi-channels, however, opens up the possibility of devoting some of the time on them to broadcasting audio described programs (while a dedicated audio description digital channel could also be created).

It would also be possible to provide audio description on programs made available for downloading via the Internet. The user would simply choose which version they wish to download – with AD or without it.

#### **5.5. Audio description methods**

Audio description may be pre-recorded and delivered as an option for television programs or DVDs, or it may be performed live (e.g. for a theatrical performance).

Audio describers, using specialised software, first prepare a script, taking care that none of the descriptions will overlap with dialogue or other important elements of the soundtrack. This description is then recorded, either by the person who wrote it, or by an actor. In order to produce a high quality AD track, a professional sound mixer will need to combine the description with the original soundtrack, reducing the background noise when necessary so that the description is fully audible.

## 6. ISSUE 1: CURRENT CAPTIONING LEVELS

*The current levels of captioning on free-to-air television including digital multi-channels, subscription television, DVDs and films in cinemas, including cinemas in regional areas, in Australia.*

### 6.1. Free to air TV

The agreement between the main free-to-air networks, Deafness Forum and Deaf Australia (which expired in May 2008) saw captioning increase to 70% of programming between 6am and midnight.

An analysis of printed program guides for two four-week periods showed the following levels of captioning.

*Hours of programs per week, 6am – midnight, 26/1/08 – 22/2/08*

	Captioned	Uncaptioned	% captioned	Adult programs uncaptioned	Children's programs uncaptioned	Sporting events uncaptioned
ABC	98	28	77.8%	8	14	6
Seven	102	24	81.0%	19	4.25	0.75
Nine	116	10	92.1%	6	1.5	2.5
Ten	90.75	35.25	72.0%	23.25	8.5	3.5
SBS*				10	0	4

*Hours of programs per week, 6am – midnight, 17/5/08 – 13/6/08*

	Captioned	Uncaptioned	% captioned	Adult programs uncaptioned	Children's programs uncaptioned	Sporting events uncaptioned
ABC	107	19	84.9%	7	9	3
Seven	100	26	79.4%	16.5	4	5.5
Nine	105.5	20.5	83.7%	16.75	1.75	2
Ten	89.75	36.25	71.2%	22.5	7.5	6.25
SBS*				11.75	0	12.5

*\*SBS figures do not include foreign language programs, which are exempt from captioning requirements*

### 6.2. Digital multi-channels

The broadcasters are currently exempt from captioning programming which is unique to their standard definition and high definition channels until digital switchover is completed.

Seven, Nine and Ten have all now launched their HD channels. The amount of unique programming on them varies each day. An analysis of TV schedules for the week 31 May–6 June showed that the following hours of

unique programming were captioned. (Note, these figures are based on printed program guides for Sydney, online guides differed slightly).

	Hours of unique programs	Hours captioned	Percentage captioned
Seven HD	40.5	17	42%
Nine HD	12	0	0%
Ten HD	40.5	6	15%

ABC2 shows a mixture of unique programs (including two news and current affairs programs, *Asia Pacific News* and *Australia Wide*) and repeat programs from ABC1. It usually broadcasts from 7am to around midnight. An analysis of schedules for the week 24 May to 30 May showed that, of approximately 100.5 hours broadcast, 54.5 hours, or 54%, were captioned.

Programming on SBS2 at the moment seems to mirror the main SBS channel.

### 6.3. Subscription television

At the time of writing, FOXTEL's website lists the following channels, and timeshifted channels, as having some captioned programs. (Timeshifted channels have the same programming as the main channel, screened two hours later). They are:

- Crime and Investigation Network
- Discovery Channel
- Fox News
- National Geographic
- The History Channel
- ESPN
- Movie Extra
- Movie Greats
- Movie One (plus timeshift)
- Showcase
- Showtime
- Showtime Greats (plus timeshift)
- TCM
- Cartoon Network
- Disney Channel
- Nick, Jr
- Nickelodeon
- Playhouse Disney
- Arena (plus timeshift)
- E!
- Fox Classics (plus timeshift)
- Fox 8 (plus timeshift)
- Hallmark
- How To Channel
- The Lifestyle Channel (plus timeshift)
- Lifestyle Food
- The Comedy Channel (plus timeshift)
- TV1 (plus timeshift)

- UKTV (plus timeshift)
- W (plus timeshift)
- MTV

In addition to these, a further three channels, Biography, Animal Planet and Discovery Science, now have some captioned programs, while FOXTEL publicity also lists The Weather Channel as having captions. This brings the total to 35 channels and 10 timeshifted channels.

The amount of captioning on FOXTEL channels varies wildly. A check of FOXTEL's printed program guide for the first week of June 2008 showed the following hours listed as captioned over the entire week. Hours include programs repeated within the day. Note that the printed guide does not have complete program listings for Fox News, MTV, The Weather Channel and the children's channels (Cartoon Network, Disney Channel, Nickelodeon, Nick Jr, Playhouse Disney).

<b>Channel</b>	<b>Hours captioned</b>	<b>% captioned</b>
Crime and Investigation	0	0%
Discovery	54.5	32%
National Geographic	37	22%
History Channel	14	8%
ESPN	88	52%
Movie Extra	38.25	23%
Movie Greats	6	4%
Movie One	79.75	47%
Showcase	163.75	97%
Showtime	130.25	78%
Showtime Greats	165	98%
TCM	120.75	72%
Arena	54.75	33%
E!	0	0%
Fox Classics	33	20%
Fox 8	56	33%
Hallmark	25.25	15%
How to	27.5	16%
Lifestyle	31.5	19%
Lifestyle Food	16.5	10%
Comedy Channel	49.25	29%
TV1	44	26%
UKTV	34.5	21%
W	18	11%
MTV	4	2%
Biography	14	8%
Animal Planet	54.5	32%
Discovery Science	8	5%

#### 6.4. DVDs

Many titles include English subtitles and for this purpose have been categorised as a form of access for the hearing impaired. Subtitles provide a straight translation of the dialogue only, where captions also include sound



effects and music. Ultimately, captions provide full access where subtitles do not.

Figures are based on entertainment, new release titles since June 2006. The 'number of titles' does not reflect the number of ALL mainstream titles – just those that were available to be researched. The same titles were researched in Australia and internationally.

	Australia	UK and USA
Number of titles	1242	1242
Number captioned	696	843
Percentage captioned	56%	70%

The actual titles captioned in each country may differ. There may be titles that were captioned for release in Australia but they were not captioned for release in other regions.

Australia imports the majority of its mainstream release DVD titles from the United Kingdom. This is because the UK and Australia use the same PAL TV system, as opposed to the USA's NTSC system.

The Australian Video & Software Distributors Association (AVSDA) in consultation with consumer groups, HREOC and MAA, has developed the 'Accessibility Framework for the Home Entertainment Film Industry', encouraging its members to import captioned titles from international sources where possible. This is a voluntary industry code.

#### 6.5. Captioning of TV programs released to DVD

In a recent study of television series released to DVD, it was found that 61% of them were captioned.

111 titles were researched, based on programs that are currently or were recently broadcast in Australia and their previous seasons, e.g. *Desperate Housewives* seasons 1, 2 & 3.

There are many instances of shows being released with captions for only some of the seasons, for example:

- *Prison Break* seasons 1 & 2 have captions but season 3 does not.
- *Medium* seasons 1 & 2 have captions but season 3 does not.
- *Spooks* seasons 1 and 3-6 have captions but season 2 does not.
- *That 70s Show* seasons 1-3 and 5-8 have captions but season 4 does not.

All TV series researched in this study were captioned for broadcast in Australia as they are prime time shows, and must be captioned under the *Broadcasting Services Act* regulations.

## **6.6. Cinema**

### **6.6.1. HREOC agreement**

In early 2000 a complaint against a Hoyts cinema in Western Australia was lodged with HREOC by a deaf man. This complaint was taken up as an inquiry by HREOC, which brought about negotiations between the complainant, the Motion Picture Distributors' Association of Australia and the three major Australian cinema chains of Hoyts, Village and Greater Union/Birch Carroll & Coyle.

The resulting agreement was launched in May 2001. This initial agreement stipulated the screening of three sessions per week of captioned films in one location of each Australian capital city. The initial agreement was based on using special open-captioned prints. Two copies were imported and rotated around the 8 locations in turn. A consequence of this was that the DVD version of the film could have been released before it played at the cinema.

Following a visit to the UK, in 2005 MAA suggested the use of the DTS captioning system, which uses the normal film print and then projects captions onto the screen using a data projector. This was tested against the Dolby ScreenTalk system and the DTS system was adopted. This led to considerable cost savings as the distributors no longer had to pay for specially captioned versions of the movies (unusually the distributors paid for the equipment that was installed in the cinemas – so none of the cinemas had to pay for the capital cost of equipment). As part of this agreement, two new locations were added.

### **6.6.2. Locations**

There are 10 locations nationally that show captioned films. The locations are one location in each of the eight capital cities, plus Maroochydore in Queensland and Glendale (near Newcastle) in NSW.

### **6.6.3. Session times**

Captioned films are shown three times per week in each location. The days and approximate times are Wednesdays at 10am, Fridays at 6:30pm and Sundays at 3pm. These sessions were negotiated as part of the HREOC agreement, in part to ensure that a wide cross-section of the community was catered to.

### **6.6.4. Film Finance Corporation funding policy**

All Australian feature films funded by the FFC since 1 July 2007 must be captioned. Due to the long processes of production to public release, a captioned film has not yet been realised on screen. As the exhibition industry currently provides accessible projection equipment in only 10 cinemas nationally, these films will only be viewed with captions in these cinemas.

## **6.7. Audio-visual material and education**

In Australia, each state and territory education department develops its own

curricula, and set texts are usually only prescribed for the study of English for senior students. Teachers are mostly free to choose from a variety of educational support materials, including audio-visual material, to deliver the curriculum. While this encourages diversity and regional perspectives, it greatly complicates the issue of providing access in schools.

States and territories hold a small collection of captioned audio-visual material, but there is no national repository for this as exists in the US with the Described and Captioned Media Program (DCMP – [www.dcmp.org](http://www.dcmp.org)), which provides a comprehensive library of accessible material available at no cost to schools. Teachers of Deaf or hearing impaired students in Australia must therefore seek out captioned versions of the material they wish to use in the classroom. This may be in the form of TV programs, videos, DVDs or, increasingly, Internet downloads or streamed video. This is time-consuming for teachers, who will often find that no captioned versions of the material they are seeking are available (this will be the case with many non-entertainment DVD titles, and virtually all Internet content).

Raising the levels of captioning on television, DVDs and material provided on the Internet will therefore have an immediate flow-on effect in the education sector, making it possible for deaf and hearing impaired students to fully participate in curriculum-based activities.

#### **6.8. Early stages of support for education**

There is some systematic support for the captioning of education titles via the Captioning Grant funded by the Federal Department of Family, Housing, Community Services and Indigenous Affairs. This annual grant of approximately \$133,000 provides for captioning of education and community DVDs. It is administered by MAA and targets a wide variety of education titles, especially those dealing with non-fiction subject matter (i.e. history, geography, science). Under the grant about 150 hours are captioned each year.

MAA uses this as the base for a fledgling education access program. MAA has recently employed a part-time Education Manager to further expand the program and work with schools departments to provide access to classrooms for deaf and blind students.

Although the UK does not operate a specialist DVD program, it does have a film access program in which school students are invited to attend a film at their local cinema free of charge. Titled “National Schools Films Week”, it has a massive program encompassing 1,500 sessions in 530 cinemas across Britain and runs in October/November of each year. This now includes both captioned and audio described sessions ([www.nsfw.org](http://www.nsfw.org)).

## 7. ISSUE 2: CURRENT AUDIO DESCRIPTION LEVELS

*The current levels of audio description on free-to-air television including digital multi-channels, subscription television, DVDs and films in cinemas in Australia.*

### 7.1. Free to air TV/Digital multi-channels/Subscription television

There is no audio description on Australian television at present.

### 7.2. DVDs

Figures are based on entertainment, new release titles since June 2006. The 'Number of titles' does not reflect the number of ALL mainstream titles – just those that were available to be researched. The same titles were researched in Australia and internationally.

	Australia	UK	USA
Number of titles	1242	1242	1242
Number AD	58	122	5
Percentage AD	5%	15%	<1%

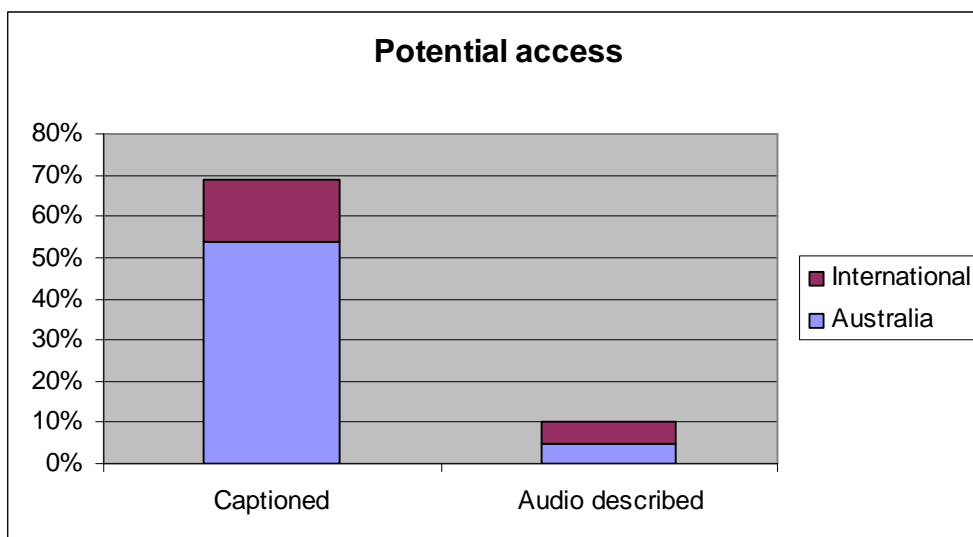
The actual titles described in each country may differ. There are 5 titles described in the USA, but not all these titles are included in the 58 released in Australia or the 122 in the UK. Similarly, some of the 58 titles released in Australia are only available with audio description in Australia. This is because they've been audio described for Region 4 release by Roadshow Home Entertainment, which provides its product solely to the Region 4 market.

Australia imports the majority of its mainstream release DVD titles from the United Kingdom. This is because the UK and Australia use the same PAL TV system, as opposed to the USA's NTSC system. If Australian DVD distributors imported all titles available with audio description in the UK, the number of audio described titles would double.

### 7.3. Audio description on TV programs released to DVD

At the time of writing, there are a number of audio described TV series released to DVD with audio description. These have either been audio described in Australia or imported by Roadshow Home Entertainment.

- *Sea Patrol, Series 1*
- *Kath & Kim, Series 4*
- *Thank God You're Here, Series 2*
- *Thank God You're Here, Series 3*
- *Dr Who, Series 1 box set*
- *Dr Who, Series 2 box set*
- *Dr Who, Series 3 box set*



The above table shows the percentage of access currently in Australia for audio description and captioning, and the potential percentage if distributors imported accessible components from international sources.

#### 7.4. Cinema

There are no cinemas in Australia that provide audio description (excepting occasional ad hoc screenings).

The 10 locations currently providing captioned films nationally are also equipped with the DTS access system that will allow them to broadcast audio description. This equipment was installed in July 2005, when the projection of captioned films was changed to the DTS Access System. With the addition of an induction loop (commonly found in cinemas already), emitter and headsets, the system supports audio description.

Around 70% of the access discs provided by the Motion Pictures Distributor Association of Australia for captioned screenings also hold the audio description soundtrack.

Cinemas have so far not offered audio description for any screenings.

#### 7.5. Audio-visual material and education

The situation outlined in section 6.7, about the difficulties teachers of the Deaf and hearing impaired face in obtaining accessible audio-visual teaching materials, also applies to teachers of the blind and vision impaired. The situation is worse for the latter, for apart from some entertainment DVDs, no audio described material is currently available.

## **8. ISSUE 3: COSTS OF CAPTIONING AND AUDIO DESCRIPTION**

*The costs of providing captioning and audio description on free-to-air television including digital multi-channels, subscription television, DVDs and films in cinemas, including cinemas in regional areas, in Australia*

### **8.1. Access cost or revenue potential?**

There is an emerging change in the approach to the idea of costs and access services. This trend is looking at the “opportunity” of access, rather than just regarding it as a cost “burden”. This has been most noticeable in Australia in the subscription television and DVD markets.

Some subscription television channels provide captioning at far greater levels than the HREOC quotas (60-90% rather than 15% as required) and anecdotally this is because the channels have calculated that they generate profits from this in attracting more subscribers. In the case of subscription television, customers are real people who can be individually identified (as opposed to the statistical survey methods used by broadcasters, which do not include caption users). Thus their purchasing behaviour can be tracked.

Some DVD distributors, such as Roadshow, have also provided increased levels of access and MAA's business case analysis of the DVD market in Australia undertaken in 2007 suggests that this makes very good business sense (this is included as an Appendix).

The cinema and download industries are equally well-placed to commercially benefit from providing access, although it does pose challenges to the industry of adopting new business models and different marketing strategies.

### **8.2. Captioning costs**

When looking at the cost of providing captioning services for electronic media it is important to understand the production environment and the way that supply arrangements have been negotiated in the last 5 years.

Major changes in the production environment that have put downward pressure on captioning prices in the last 5 years include:

- Vastly increased knowledge about captioning production techniques and costs by the clients. In the past access companies were able to charge higher margins due to a lack of understanding of the caption production process. Media organisations, which are often global, have a longer history of using access services and an increase in competition has led to more market knowledge. This has led to previous “pockets” of extraordinary profits being reduced to a more typical “cost-plus” margin being earned on captioning services.
- A rationalisation of captioning organisations so that the market is serviced by either very large multinational suppliers (such as CSI, Red Bee Media) or niche suppliers (such as AI Media, The Captioning Studio). This competition, where captioning is a small part of a service provided by a large post-production company or a low-cost base niche supplier, has

driven prices downwards, particularly as media and access to media has become more international in its scope.

- Provision of total access services by companies. In a quest to derive efficiencies and maximise margins, access companies now typically offer a suite of related services, including: captioning, audio description, foreign language subtitling, DVD authoring, compliance, editing and reformatting.
- Volume discounts are more prevalent as the volumes of content that need captioning are increasing.
- Re-use of caption files in a convergent world. Captions are created in a file format, not dissimilar to other computer file formats. These are small and easily transportable (typically emailed or downloaded from a server). Once a caption file is created it can be reused, adapted (for example removing commercial breaks, editing for censorship changes) and reformatted (from PAL to NSTC and vice versa) very easily. There is a thriving worldwide trade in caption files. This reuse can include adapting them for a different delivery medium, such as cinema to DVD to television to download. Furthermore, there has been a trend away from the copyright of the caption file being held by the access company, to it being owned by the content provider, further improving reuse opportunities.
- Technological developments such as speech captioning. Live captioning is no longer the sole domain of stenocaptioners (who are highly paid, highly trained professionals) and speech recognition captioning techniques are widely used around the world for news, sport and other live programming.
- Major television contracts tend to have been secured on a “fixed price” basis. With the provision of covering any “additional hours” or ad hoc special requirements.

### 8.3. The impact of these issues on costs

The “rack rate” for captioning an hour of programming from scratch 10-15 years ago was \$1,500-\$1,600. Adapting a caption file was typically \$800-\$1,000. Today those figures are more like \$750-\$900 per hour from scratch and \$200-\$500 per hour for conversion of caption files. In CPI adjusted terms, this represents a 65% drop in the cost of captioning over that period.

### 8.4. Free-to-air television

The cost structure of free-to-air television captioning in Australia is characterised by:

- The major networks and public broadcasters covering their basic captioning requirements under “fixed-price” type arrangements. This is because under the current regulations and HREOC agreement, the mix and scope of programming can be reasonably accurately predicted and a supplier can give a fixed price.
- Typically these contracts have “per additional hour” clauses to cover extra programming.
- Regional networks are supplied most of their programming with captions and they have to provide captions on their own unique programming only (typically a half-hour news bulletin and occasional local sporting event).
- The costs for the ABC would generally be higher per hour as the ABC does not have commercial breaks, leading to more minutes needing to be

captioned and greater staff coverage on live programming (commercial breaks can act as rest periods for stenocaptioners and voice captioners).

- Almost all programming that originates from overseas or has been shown in another format (such as a movie or DVD) would have a caption file available for adaptation, or captions can be streamed directly for the program (in the case of live US programming).

#### 8.5. **What is not captioned and what would this cost to do?**

A more useful way of examining the status of free-to-air television is to examine what is not captioned and the likely costs of making the rest of the programming accessible.

An analysis of the uncaptioned programming across the five networks shows that what is left is: sports broadcasts, repeat programs, shopping programs, religious programming and other imported programming. Whilst the amount of captioning on free-to-air television is around 55% of total broadcasts (measured on a 24-hr day) the cost of captioning the remainder would not be twice as much as current captioning costs.

SBS captions almost all of its English-language programming, so assuming non-English programming is exempt, then there is not much to do. For the other channels, it is reformatting caption files and some extra live programming for the live sports broadcasts and shopping programs. Given the way that contracts are structured in Australia, it would be expected that in an environment of determined quota targets that suppliers would be able to access economies of scale and efficient usage of shifts to provide lower prices. The internationalisation of access service provision is also keeping downward pressure on prices. As in the UK and USA, any supposed “inequities” (such as disproportionate impact on small stations) could be dealt with via turnover or audience share exemptions.

#### 8.6. **International cost benchmarks**

Captioning costs are pretty uniform across the English-speaking world, with some minor variations due to exchange rates. In fact, the production of captions has become a transnational business. For example, Australian captioners provide live captioning for Midnight-Dawn UK programming, using timezone advantages to avoid penalty rates and difficult-to-staff shift times. A newly emerging factor is third-world English speaking countries such as India and Kenya providing non-live captioning services.

#### 8.7. **How much should be spent on access services?**

In the UK the Code on Television Access Services stipulates that broadcasters need to achieve the highest level of access they can with 1% of their relevant turnover (clause 21). The US Federal Regulations state that spending in excess of 2% of gross turnover is a possible ground for an exemption based on undue burden clause 79.1 (f) (11).

In the recently-released ACMA report (*Commercial Television Industry Financial Trends 1978-79 to 2005-06*) the turnover of the commercial free-to-air television industry in Australia in 2005 was \$3,989.7m. The commercial TV share of the 2005 estimate of captioning costs was \$9m. This represents 0.23% of turnover which is well below international benchmarks.



## 8.8. Long-term trends

The long-term trends for captioning costs are downwards as:

- More content is reused and caption files are resold.
- Voice recognition production techniques become more efficient.
- Caption production (particularly non-live captioning) is outsourced to lower labour cost environments (such as India).

It is difficult to estimate what the long-term pricing will be, however it is also fair to say that the percentages of cost reduction will be smaller as the major impacting factors (such as market knowledge and industry consolidation) have already happened.

## 8.9. Subscription TV

The 2005 snapshot of the cost of captioning for pay TV (subscription television) needs to be examined taking into account a number of issues:

- The % quotas applying to subscription television were much lower as caption quotas were only introduced in 2005 and does not apply to all channels.
- There is less original captioned content on subscription television, so more content is reformatted caption files which are cheaper to produce.
- No news and hardly any live sport is captioned.
- There is a higher level of program repetition (through repeating programs across a week at different time slots and through time shifted channels – so called +2 versions of channels).

The pricing for subscription television channels would be very similar to free-to-air channels as the production methods, transmission, and access to overseas files are similar. In fact, in other countries, such as the UK and USA, there is no real differentiation between subscription and free-to-air television. All are covered by the same rules and have the same access suppliers.

Again the 1% of turnover in the UK and 2% of turnover in the US rules are applied in terms of what is reasonable for subscription television.

## 8.10. Cinema captioning and AD costs

For Australia where almost all mainstream movies that are shown in the cinema originate from overseas, the production cost of providing captions and AD are almost zero. At present we understand that the caption disks are provided at no cost, however there are some additional arrangements in terms of the box office share, which are not dissimilar to the arrangements for “normal” screenings of a movie.

Captioning and describing a movie from scratch is in the same region as DVD costs (and has the added benefit that once a movie is captioned and described, these files can be adapted for further use). In fact it is commonplace to produce the cinema and DVD file at the same time.

Depending on the access system used, there are potential licensing costs which are either a flat fee or per screening fee.

#### 8.11. **Cinema implementation costs**

The main costs identified in cinema access are:

- Capital costs for the equipment.
- Perceived opportunity costs associated with having an accessible session replacing a non-accessible session.
- Costs of producing audio described and captioned movies.

##### 8.11.1. **Capital costs**

The capital cost for an access system varies from about \$3,000 - \$20,000 depending on the type of system chosen and any ancillary equipment associated with it. For example, the latest version of the DTS sound system (XD10) effectively has the access components as standard. A data projector (for the captions) and headphones, and a possible upgrade to the sound system (for audio description) would be additional costs amounting to a few thousand dollars.

As these are capital costs, they are then amortised over the life of the equipment. In the case of a typical DTS installation (where it is not a new build) this would amount to around \$3,000 p.a. in depreciation charges. At an average cost of \$10 per ticket, an additional 300 tickets per annum would need to be sold to cover the cost of this.

It should be noted that when the 10 cinemas in Australia were fitted out with DTS equipment, this was paid for by the distribution industry, not the exhibitors. This was on the basis that the distributors were gaining cost savings in not having to import open-captioned prints. A similar arrangement is occurring with digital cinema rollout.

The UK Film Council recognised the barrier of the capital costs for the swift rollout of the access equipment and committed 350 thousand pounds sterling. This allowed for up to 50% of the capital cost to be subsidised and was allocated under a competitive tendering system. The US has experienced rollout without any public assistance.

##### 8.11.2. **Opportunity costs**

Cinema operators have raised the issue of lost opportunity cost as being a reason for not having accessible sessions, or not expanding the proliferation of accessible sessions. This is predicated on the idea that non-access users are put off or offended by attending accessible sessions.

In the case of audio description this is not an issue as the audio description service is "closed". It is listened to by the consumers via headphones that do not impact on the rest of the audience. Audio description has not been introduced into mainstream cinema in Australia, despite it appearing on almost 70% of the captioned movies shown in the ten caption-accessible cinemas in Australia.

Open captioned sessions do have an impact on all movie patrons. Assuming this is not desirable, there are several approaches which can reduce opportunity cost and in fact turn it into revenue opportunities:

- Mimic the NZ experience where specifically targeted marketing is undertaken to reach caption users. This is carried out by a dedicated marketing consultant and results in significant audiences on a regular basis at the three NZ locations. In Australia the marketing effort has been very minimal and has suffered from poor customer service (such as captioned sessions starting earlier than advertised, no online information or ability to book online, no targeted marketing).
- Explore different schedules and sessions. Access users skew to older age groups and this market is a better potential daytime market when cinemas are generally quieter. This needs to be backed up with targeted marketing. This strategy has not been used by captioned cinemas in Australia despite the fact that other entertainment attractions, such as performing arts, museums, festivals and tourist attractions all specifically target the older audience,.
- The current access system chosen by the industry in Australia is the DTS access system providing open captions. The most popular system in North America is Rear Window which is a closed captioning system providing the captions onto individual perspex screens. This allows access in any session without impacting on other audience members. The Rear Window display can be driven by existing DTS systems. To our knowledge the cinema industry has not explored this as an option for delivering captioning in Australia.

### 8.11.3. Cost of producing accessible movies

At present the movies shown with captions (and also containing audio description on the access disks in nearly 70% of cases) in Australia have all been made accessible overseas. Thus there have been no direct costs associated with providing captioning and audio description on these movies. It is likely that this will remain the case as most movies shown in Australia are imported.

In the case of Australian feature movies, the Film Finance Corporation agreed to caption all of the feature movies that it funds from 1 July 2007. There has been no discussion about audio description being incorporated into that to date, although the presentation of *Newcastle* was audio described (and not captioned) for the Sydney Film Festival.

If movies need to be made accessible, the basic costs are similar to DVD access, although there may be some license fees associated with particular systems. It should be noted that in locations where cinema access is widespread (i.e. UK and USA) a common practice is to create the movie captions and DVD captions at the same time (with considerable cost savings). The FFC policy also covers making the captions available for DVD release.

### 8.12. DVD audio description costs

Audio description is in general more labour-intensive and more expensive than captioning. In 2006, MAA contacted a number of audio description suppliers in the US, Canada and the UK to find out what they charged for

audio description. In the US and Canada, the rates quoted ranged from US\$1,100 to US\$2,600 per hour.

One Australian AD supplier's quoted rate is \$30 per minute, or \$1,800 per hour, which factors in the extra sound mixing for DVDs.

8.13. **Television audio description costs**

A TV network contracting for a steady volume of audio description, without the extra sound mixing for DVDs, would no doubt be charged less than the \$30 rate quoted above, particularly if it was part of a contract and had reasonable volumes (100 hours plus per annum).

## 9. ISSUE 4: FUTURE TARGETS FOR CAPTIONING AND AUDIO DESCRIPTION

*Appropriate future targets for captioning and audio description on free-to-air television including digital multi-channels, subscription television, Australian television and film productions made available on DVDs, and films in cinemas.*

### 9.1. MAA approach to targets

MAA takes the viewpoint that the consumer organisations and individual consumers are best placed to articulate what specific targets should be for captioning and audio description on individual media. However, MAA does support:

- Progression towards 100% access to all media, in a structured, considered way that balances the needs of consumers with the practical implementation of access for each medium.
- The concept that once content is made accessible that it should be accessible in all subsequent forms (eg movie – DVD – TV broadcast – download) and that should not be restricted by international boundaries. There is a thriving worldwide trade in access files/versions and this can easily be used by media companies in Australia, particularly as so much content is derived from overseas.
- MAA's response to this issue should be viewed in the context of both the responses to the costs and regulatory frameworks issues and responses from consumer organisations about targets that they are seeking. MAA sees immense value in understanding the global context of how targets are set and the use of appropriate international benchmarks which is why our response to this section includes detailed discussion and analysis of those benchmarks.

### 9.2. Overseas captioning targets

#### United Kingdom

In the UK, captioning quotas are regulated by Ofcom (the Office of Communications). Its television access code, which covers both free-to-air and subscription channels, stipulates minimum levels of captioning, signing and audio description. All channels with an audience share of 0.05% or more must comply with this code (although there is a proviso that meeting their targets will not cost them more than 1% of their UK-derived turnover). Ofcom conducts a mid-year review of the audience share and revenues of UK-licensed TV stations based on data for the previous year. The latest review (published in June 2008) has found that 80 channels will be required to provide access services in 2009.

In 2008, 81 channels were required to provide access services.

The actual access quotas each channel is required to meet depend on what Ofcom calls the 'relevant date' for each one. This is 1 January 1997 for BBC1 and BBC2, 1 January 1998 for Channel 5, and 1 January 2000 for ITV and Channel 4. For digital channels it is the date when the service began. By the tenth anniversary of the 'relevant date', stations must caption at least 80% of their non-exempt programs. (Ofcom may rule that some programs are exempt from some or all access requirements, based on the level of benefit the

access service will provide, the likely audience, and the costs and technical difficulties involved in providing the access service.)

For most broadcasters, the annual captioning targets are:

Anniversary of relevant date	Captioning target
First	10%
Second	10%
Third	35%
Fourth	35%
Fifth	60%
Sixth	60%
Seventh	70%
Eighth	70%
Ninth	70%
Tenth	80%

There are some exceptions to this. The BBC has committed itself to higher targets (for example, the captioning targets for BBC1 and BBC2 are 97% for 2007, and 100% for 2008). The target for Channel 3 (basically ITV) and Channel 4 has been set at 90% for the tenth anniversary of the relevant date.

Ofcom monitors the access compliance of channels, and issues quarterly reports. As in previous reports, the first quarter report for 2008 showed that most broadcasters were exceeding their quotas for captioning and audio description.

Figures for the main free-to-air channels, including the BBC's two children's channels, CBBC and CBeebies, were as follows:

	Captioning quota	Captioning achieved	AD quota	AD achieved	Signing quota	Signing achieved
BBC One	97%	97.5%	10%	14.6%	5%	5.2%
BBC Two	97%	97.2%	10%	11.4%	5%	5.4%
BBC Three	90%	93.4%	10%	15.6%	5%	5.4%
BBC Four	90%	93.4%	10%	15.6%	5%	5.1%
CBBC	90%	93.9%	10%	12.2%	5%	5.6%
CBeebies	90%	93.9%	10%	10.9%	5%	5.7%
BBC News 24	90%	91.1%	Exempt		5%	5.3%
ITV1	88%	97.6%	10%	16.2%	5%	5.2%
Channel 4	88%	90.6%	10%	10.3%	5%	5.9%
Five	80%	80.3%	10%	12.6%	5%	4.7%

Source:

[http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tvaccessrep/q108/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tvaccessrep/q108/)

The top-rating channels in the UK are BBC One, BBC Two, ITV1 (including GMTV), Channel 4 and Five, which together accounted for 63.7% of the television audience in 2007. (Source: [www.barb.co.uk](http://www.barb.co.uk)) The average caption quota for these five channels was 88.2% for 2007, with 89.3% of programs actually captioned.

### 9.2.1. **New Zealand**

Captioning in New Zealand is funded by a government body, NZ On Air, which aims to foster and promote New Zealand culture on television and radio. Captioning is currently limited to the government-owned networks TV One and TV2, and the commercial network TV3, as these are the only networks capable of transmitting teletext. Approximately 165 hours of captioned programs are broadcast each week, and there is an agreement that, between 6pm and midnight, there must be a captioned program broadcast on at least one of the three channels at any given time. All captions are supplied by TVNZ Captioning.

### 9.2.2. **United States**

US captioning quotas were introduced as part of the *Telecommunications Act of 1996*. The Act made a distinction between 'new programming' (which was first exhibited after 1 January 1998), and 'pre-rule programming' (first exhibited before 1 January 1998). Captioning of programs in these two categories was made compulsory in the following stages. (NB, these quotas apply to all programs with the exception of commercials that are less than 5 minutes long.)

#### *New Programming*

From 1 January 2000 to 31 December 2001, broadcasters had to caption 450 hours of programming, or all of their new programming, whichever was less. This figure increased to 900 hours in 2002-2003, and 1300 hours in 2004-2005.

From 1 January 2006, broadcasters were required to caption 100% of new programming.

#### *Pre-rule programming*

From 1 January 2003 – 30 December 2007, broadcasters were required to caption 30% of pre-rule programming. From 1 January 2008, this figure rose to 75%.

So, the current situation in the US is that broadcasters must caption all programs first shown since 1998, and 75% of those first shown prior to that.

Actual levels of captioning on a station will vary according to the number of pre-1998 repeats they show. Stations affiliated to the ABC, CBS and NBC networks receive about half their programming from these networks, all of which is new programming that is captioned. Combined with new local programs, post-1998 repeats and 75% of pre-1998 repeats, this means that the majority of programming on these stations will be captioned.

A spot check of the Public Broadcasting Service (PBS) schedule over several days showed that all of its programs were captioned.

### 9.2.3. Canada

The Canadian Radio-television and Telecommunications Commission (CRTC) has the following caption quotas in place:

- Major stations like CBC, CTV and Global must caption at least 90% of all programming during the broadcast day as well as all local news, including live segments.
- Medium and smaller television stations are encouraged to meet the same standards.
- Specialty services must work towards the 90% level as well.

In 2004, following a complaint to the Canadian Human Rights Commission by a Deaf lawyer, Henry Vlug, a settlement was reached with the Global Television Network, in which Global agreed to caption 100% of their programming, including commercials.

### 9.3. Adapting the UK captioning model to Australia

The broadcast set up which is most like Australia is the UK, in terms of the role of the public broadcasters, a small number of commercial stations and a broad subscription television industry. Australia does have a few differences, especially the anti-siphoning list and geographic distance. On this basis, MAA believes that a UK-style approach is the best way of handling access requirements on both free-to-air and subscription television (this is outlined in more detail in section 14 dealing with regulatory options).

The UK caption regulations do not distinguish between free-to-air TV, digital multi-channels and subscription TV. As an example, extrapolating this model, which specifies incremental increases in caption quotas tied to the anniversaries of the stations' first digital broadcasts, would result in the caption quotas listed in the following table. NB: MAA does not offer an opinion on what the quotas should be at a particular point, other than to say that it supports a transition to 100% access. The timeframe and interim targets should be determined by consultation with consumer organisations.

(NB, Ofcom has not as yet announced a quota schedule for years above the first 10 after the commencement of digital broadcasting. The percentages above 80% in the table reflect what we believe will be the likely targets when they are announced.)

These figures cover a 24-hour day (which is the UK base), not the 18-hour (6am to midnight) day used in the now expired HREOC agreement.



	2009	2010	2011	2012	2013	2014	2015
<b>ABC1</b>	70%	70%	80%	80%	90%	90%	100%
<b>SBS</b>	70%	70%	80%	80%	90%	90%	100%
<b>Seven</b>	70%	70%	80%	80%	90%	90%	100%
<b>Nine</b>	70%	70%	80%	80%	90%	90%	100%
<b>Ten</b>	70%	70%	80%	80%	90%	90%	100%
<b>NBN</b>	70%	70%	70%	80%	90%	90%	100%
<b>ABC2</b>	35%	60%	70%	70%	70%	80%	80%
<b>Seven HD</b>	10%	35%	35%	60%	60%	70%	70%
<b>Nine HD</b>	10%	35%	35%	60%	60%	70%	70%
<b>Ten HD</b>	10%	35%	35%	60%	60%	70%	70%
<b>Fox 8</b>	60%	60%	70%	70%	70%	80%	80%
<b>Movie Greats</b>	60%	60%	70%	70%	70%	80%	80%
<b>Sky News</b>	60%	60%	70%	70%	70%	80%	80%
<b>A multi-channel commencing 2009</b>	-	10%	10%	35%	35%	60%	60%
<b>A mobile channel commencing 2009</b>	-	10%	10%	35%	35%	60%	60%
<b>A fourth commercial channel commencing in 2010</b>	-	-	10%	10%	35%	35%	60%

*[The major FTA networks commenced digital broadcasting in 2001, FOXTEL in 2004, ABC2 in 2005, and the FTA HD channels in 2008. The FTA networks will be able to have new multi-channels from 2009. ]*

#### 9.4. Overseas audio description targets

##### 9.4.1. United Kingdom

As with captioning, audio description quotas in the UK are set and monitored by Ofcom. The following table sets out these quotas.

Channel	AD quota 2007	AD achieved Oct-Jan 2007	AD quota 2008	AD quota achieved Jan-Mar 2008	AD quota 2009	AD quota 2010
BBC One	8.3%	12.7%	10%	14.6%	N/A	N/A
BBC Two	8.3%	12%	10%	11.4%	N/A	N/A
BBC Three	8.3%	24.4%	10%	15.6%	N/A	N/A
CBBC	8.3%	12.8%	10%	12.2%	N/A	N/A
Cbeebies	8.3%	10.9%	10%	10.9%	N/A	N/A
BBC News 24	Exempt		10%	N/A	N/A	N/A
ITV1	8%	10.7%	10%	16.2%	10%	10%
GMTV	8%	9.1%	10%	8.9%	10%	10%
Channel 4	8%	9.5%	10%	10.3%	10%	10%
Five	8%	9.9%	10%	12.6%	10%	10%
S4C	8%	9.7%	10%	10.2%	10%	10%
ITV2	8%	11.9%	10%	12.3%	10%	10%
GMTV2	8%	9.1%	10%	10.4%	10%	10%

Sources: [http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tvaccessrep/q407/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tvaccessrep/q407/),  
[http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/tvaccessrep/q108/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/tvaccessrep/q108/)  
and <http://www.ofcom.org.uk/tv/ifi/codes/ctas/ctas.pdf>)

There are approximately 30-60 hours of audio described programs on Freeview (free-to-air) channels (20 channels) per day, not including programs repeated within the day. These are available to anyone with a digital receiver.

Shows currently audio described on the five main free-to-air channels include:

- BBC One: *Neighbours, Eastenders, Holby City, Jam and Jerusalem, New Tricks*
- BBC Two: *Torchwood*
- ITV 1: *Emmerdale, Coronation Street, The Bill, Echo Beach*
- Channel 4: *The Hoobs, Shameless, ER*
- Five: *Home and Away, Law and Order SVU*

There are approximately 25 hours of audio described programs on Sky (18 channels) per day, not including programs repeated within the day. Most programs are repeated often.

#### 9.4.2. United States

Audio description for TV is known as 'video description' in the US. It's accessed via the second audio channel (Second Audio Program or SAP) of TVs and VCRs (most equipment made since 1990 has this capability).

In July 2000, the Federal Communications Commission ordered the four big TV networks and the five biggest cable networks to show 50 hours of audio described programs per quarter by April 2002. The FCC's power to do this was challenged by the Motion Picture Association, and the challenge was eventually upheld. By then, the networks were meeting the quota, and some continue to do so (though Fox is the only one to officially commit to that).

In January 2008, Congressman Ed Markey of Massachusetts released a draft bill, the *Twenty-first Century Communications and Video Accessibility Act*, which aims to greatly increase the levels of access, and in particular access on Internet-based services, in the United States. One of its provisions is that the FCC's rules regarding minimum amounts of audio description will be reinstated, and the amounts will be increased. In addition to this, all digital TV technologies and equipment will have to accommodate audio description. Onscreen emergency warnings and similar televised information will require non-visual access.

#### 9.5. Audio description on Australian TV

There is currently no way of transmitting 'closed' audio description on Australian TV. However, the advent of digital multi-channels provides an opportunity for Australian broadcasters to show some 'open' audio described programs. (ABC2 and SBS2 are currently broadcasting, while the commercial free-to-air networks will be able to have a multi-channel each from 2009.)

Some broadcast time on subscription TV could also be set aside for audio-described programming. We note that audio description files would be available for many of the British programs shown on subscription TV.

Given the lack of attention paid to audio description in Australia and the need for services to be delivered quickly, there is a special case for audio description to receive specific financial support from the government. In the past the Federal Government has supported new captioning initiatives, including:

- 1981 Seed funding for the establishment of the Australian Caption Centre.
- 1989 Subtitled Video Project grant covering captioning of entertainment videos – now used to caption education and community DVDs.
- 1990 Special funding for captioning of Australia’s first live news program – *ABC Late Edition News*.
- 1997 Special funding for captioning the SBS *World News* and ABC *Evening News* (in every State), a total of \$7m over 4 years.

This funding helped establish captioning in Australia, develop captioning of videos and DVDs and live news news programming. A similar grant could be used to fund audio description services on ABC and SBS television.

#### 9.6. Cinema captioning/audio description in the UK, US and New Zealand

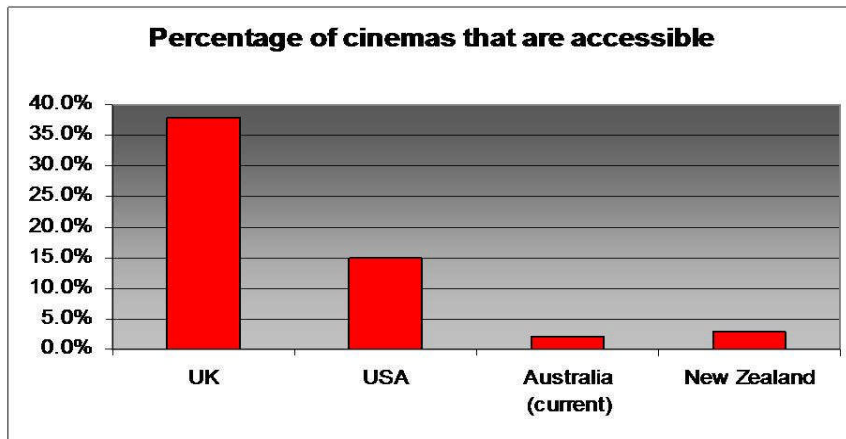
Australia lags behind the world on both a percentage of cinemas that are accessible and per population basis. The leader is the UK with nearly 40% of cinemas accessible. The Australian target of 70 accessible cinemas is based on a fair comparison to the UK and US.

*International comparisons:*

	Australia	UK	US	New Zealand
Number of cinemas with caption facilities	10	275	830	3
Number of captioned screenings per week per location	3	varies	varies	3

	Australia/ NZ	UK	USA/Canada
Number of cinemas with audio description facilities	0	275	More than 500
Number of audio described films	0	More than 670 (since 2002)	More than 500 (since 2001)

The audio description service using the DTS system is “closed”. That means that it is accessed by the user and only the user experiences the audio description. Thus any screening of a described film in an accessible cinema can be accessed without any impact on other patrons. In the UK and USA the AD sessions are for all of the films in the accessible cinema.



### 9.6.1. Australian caption and AD targets for cinema

#### *Current negotiations*

Consumer groups have agreed that 70 more locations are needed in Australia to bring it to a fair comparison with overseas locations (this is in addition to the current 10). This recognises issues such as major cities needing more than one location and a reasonable geographic coverage. In addition to this, any new cinemas or significant rebuilds are also expected to be made accessible.

Negotiations have been slowly progressing with the three major chains of Hoyts, Village and Greater Union/Birch Carroll & Coyle and a proposal is currently with them for their response. To date the negotiations have been about captioning only, although there is an expectation that once the locations have been established they will include audio description (which is a closed system and therefore has no impact on regular screenings).

#### *Independent cinemas*

Separate negotiations have recently begun with the Independent Cinemas Association of Australia, which covers nearly half of the target locations. This negotiation is more cooperative, with an approach of looking at each location on a case-by-case basis and identifying any issues at a particular location (such as potential hardship issues with single-screen cinemas).

## 9.7. Captioning and audio description on DVDs

### 9.7.1. Ready opportunities for access

As discussed in the sections on current levels of captioning and audio description (sections 6 and 7), there are opportunities to increase levels of access through provision of overseas access content, particularly from the UK. Some distributors are already taking advantage of this low-

cost strategy, but it is not uniform across the industry. Furthermore, it should be noted that NZ is treated as part of the Australian distribution system for DVDs and contributes an additional half a million or so people who need access features.

#### **9.7.2. Developments in DVD access – captioning: Class action against major movie studios**

In 2006, an American man instigated legal action against the major movie studios' practice of marketing all of their DVDs as closed captioned even though only the feature itself was captioned.

The Class Action case contended that the labelling was misleading, as it inaccurately informed consumers that the entire contents of the DVD were captioned. Bonus material, such as gag reels, directors' cuts and alternative endings, were often not captioned. (Bonus material does not include trailers or advertising elements.)

The case did not claim that the studios had to caption any DVD content, just that the studios should accurately label the DVDS.

Below is a summary of the settlement, finalised in November 2006:

- The five defendant studios of Disney, Warner, Universal, MGM and Sony must start captioning most of their special features for the next five years. Details differ for each studio, but for example, the requirements for both Disney and Warner will result in their captioning close to 80% of their DVD content.
- The defendants are under no legal obligation to do so, but they have agreed to caption most special features on major categories of DVDs.
- The settlement covers DVDs to be released over the next five years, not DVDs that have been released in the past. However, re-releases and re-masters of defendants' titles are included.
- In addition, the studios were instructed to make payments totalling \$275,000 to three non-profit organisations, the Hearing Loss Association of America, the National Association for the Deaf and Telecommunications for the Deaf.

Consumers were compelled to sue as there is no legal requirement to caption DVDs. Settlement was the only way to gain benefit of captioned special features. The claims potentially covered labelling for four years, but the settlement provides for five years of captioning.

The only enforcement mechanism of the settlement is after the fact. Disney and Warner Bros have no obligation to report on this, whereas MGM, Sony and Universal have the following provision:

- Within six months of the five-year anniversary of the commencement date, MGM, Sony and Universal will provide Class Counsel with a list which identifies all titles released during the term. For each title on the list, the distributors will state whether or not any of the bonus materials on them are captioned or closed captioned. This list must also be published on the distributors' websites. Class counsel has one year from the date they receive the lists to raise objections, claims or issues

relating to the lists or the distributors' performance of its obligations.

### 9.7.3. **Developments in DVD access – audio description: development of audio menus**

Audio menus are DVD menus that narrate the options to a viewer. They are primarily used by people with vision impairments.

Audio access to DVD menus is a relatively new technological development. The first talking menus for DVD were on the box set discs of *Dr Who* Series Two, produced by the Royal National Institute for the Blind and 2 entertain Ltd in 2006.

When the first disc of the series is inserted into a DVD player, the disc says, "Dr Who, series 2, disk one". It will then give the viewer the option of selecting audio menus which, if selected, will be spoken and also shown in large print.

Audio menus have since been developed for the third series of *Dr Who*, as well as British ITV series, *Lewis*, the 2006 BBC series of *Jane Eyre*, the 2008 re-release of *Northanger Abbey*, and BBC children's series *Numberjacks Are On Their Way* and the *Numberjacks* releases of *Brain Gain*, *Calling All Agents* and *Standing by to Zoom*.

All of these titles except for *Northanger Abbey* and *Lewis* have been, or are soon to be released, in Australia with audio menus, through Roadshow Home Entertainment.

At this point in time, no Australian DVD distributor has developed audio menus, although we understand a major distributor may announce the provision of audio menus on local product soon.

## 10. ISSUE 5: CAPTIONING AND AUDIO DESCRIPTION OF ADVERTISING

*The captioning and audio description of advertising content on these media.*

### 10.1. Australian TV commercials

MAA has conducted occasional surveys to gauge the level of captioning of TV commercials. The following table gives the results of a survey conducted over 28 days, from 1 October to 28 October, 2007. The Sydney transmissions of the Seven, Nine and Ten networks, and of SBS, were monitored on a rotating basis (i.e. 7 nights were monitored for each station during the survey period). The results were as follows:

	Commercials broadcast	Commercials Captioned	Commercials uncaptioned	% captioned
Seven	986	370	616	38%
Nine	761	200	561	26%
Ten	826	393	433	48%
SBS	314	120	194	38%
TOTALS	2887	1083	1804	37%

These figures are consistent with other surveys conducted over the previous 12 months.

There is no audio description on Australian TV commercials.

### 10.2. Government advertising regulations

The Federal Government and all State governments have policies in place that state that all government TV commercials must be closed captioned.

### 10.3. The Canadian case

As part of the settlement reached between Henry Vlug and the Global Television Network the network is obliged to caption all TV commercials. This is the only legislation that has been introduced internationally which covers the captioning of non-government commercials.

### 10.4. Access to emergency announcements

An aspect of advertising access that should be reviewed is emergency announcements.

#### 10.4.1. Captioned emergency announcements

At present the Free TV Code of Practice section 1.23.4 states:

“When broadcasting emergency, disaster or safety announcements, provide the information visually, whenever practicable. This should include relevant contact numbers for further information.”

This can be contrasted with the US Federal Communications Commission approach, which was reissued in FCC Notice DA 06-2627. This notice outlines the extent of the expectations of the FCC and how it will treat submissions regarding non-compliance. The FCC has an

expectation that the following steps will be taken to anticipate the need for captioning on emergency announcements, including:

- Having contracts in place with a caption provider that can generate captions at very short notice.
- Policies to ensure that contacting the provider in an emergency is on the checklist of top priorities for a station.
- Labelling television sets in a newsroom with the requirement and contact numbers.
- Putting a labelled speed dial button on the telephones in newsrooms for the captioning service.
- Regular presentations and training to employees about this issue.

The notice also makes it clear that there are no exemptions and that stations can use techniques such as on-screen open captions, prepared signs, or “even handwritten information on a whiteboard.”

#### 10.4.2. Audio described emergency announcements

The Free TV Code of Practice does not mention vision impairment and does not have an equivalent of 1.23.4 stating that all information should also be in an audio form, particularly contact numbers and websites displayed on screen.

SBS does not mention blind or vision impaired people in its Code of Practice. MAA and Vision Australia made a joint submission to the 2006 review of the Code asking for a inclusion of a clause covering emergency announcements:

“When broadcasting emergency, disaster or safety announcements, SBS will ensure that essential information, including phone numbers, is provided both visually and in the audio.”

This was not included.

The ABC has within its Code of Practice:

*"3.6 Television Programs: Accessible Television for People who are Blind or Have a Visual Impairment or Limited Reading Comprehension. Where material appears in text format on ABC Television, the ABC will endeavour to provide it in audio as well, subject to availability of resources and considerations of creativity, editorial integrity and immediacy."*

The US Code of Federal Regulations states that provision needs to be made to provide aural versions of national emergencies.

*§ 79.2 of the Code of Federal Regulations (USA)*

(b) (1) Video programming distributors must make emergency information accessible as follows:

(ii) Emergency information that is provided in the video portion of a regularly scheduled newscast, or newscast that interrupts regular programming, must be made accessible to persons with visual disabilities; and



- (iii) Emergency information that is provided in the video portion of programming that is not a regularly scheduled newscast, or a newscast that interrupts regular programming, must be accompanied with an aural tone.
- (2) This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.
- (3) (ii) Emergency information should not block any video description and any video description provided should not block any emergency information provided by means other than video description.

## 11. ISSUE 6: CAPTIONING AND AUDIO DESCRIPTION ON INTERNET CONTENT

*The captioning and audio description of audio-visual content that is distributed via the internet.*

### 11.1. The overseas situation

Whilst broadcasters around the world are increasingly making their programs available as downloads or streamed videos subsequent to their initial TV broadcast, there has been little progress on making these programs available with captions or audio description. Technical difficulties involving media players are the most cited reason for this.

In the UK, the BBC is now offering captioning on selected programs which can be viewed on its iPlayer, launched last year. Its target though is to mirror the access levels of its broadcasts on the download versions by end of financial year 08/09.

In the US, the NBC network last year introduced its Rewind video player, which allows Internet users to watch streamed versions of a selection of programs. All are available with captions. PBS's website also has some programs which are downloadable with captions, while CNN has some captioned news clips.

DotSUB is a US website that allows people to upload and caption videos using the site's unique captioning software. Once captioned, these videos may then be viewed for free on the site in the manner of YouTube videos.

Project Read On (PRO) allows viewers who have seen a video available online to nominate it for captioning. If PRO agrees, they will caption the video for free, and provide a link to its original source (e.g. YouTube). Clicking on the link will take the viewer to the video, with captions provided by PRO's own media player.

MovieFlix is a US site which offers a catalogue of some 4,000 movies and TV shows for download or streaming, most for free, others for a flat fee of US\$9.95 per month. 44 movies are currently available with captions.

A number of online captioning tools are available, including MovCaptioner, released by SynchriMedia in 2007, which allows the user to caption QuickTime videos.

Google has recently introduced a closed caption search function on its Advanced Video Search page.

Also in the US, WGBH's National Center for Accessible Media (NCAM) is currently engaged in a six-year research project, looking at providing access on the Internet, iPods and other platforms, and advancing public policy debate on access issues. As part of this project, NCAM has established and manages the Internet Captioning Forum (ICF), a collaboration between NCAM, AOL, Google, Microsoft and Yahoo!. This will examine the technical issues associated with repurposing captions from broadcast or other sources for the web, as well as material created for the web. Among its goals are:

- A database of online media distributors and previously captioned programs. This will help locate suitable existing caption files.
- Technical and standards documents, case studies and best practice in online captioning.
- Demonstrations of innovative practices to preserve captions while editing and digitising captioned videos.

On the subject of captioned video downloads, Tom Apone of NCAM, who helped to develop PBS's caption software, was quoted as saying, "All the tools exist to do it. It's just a matter of time and money to make it happen. It's pretty straightforward and not terribly expensive."

The situation in the US would change dramatically with the passage of a draft bill, the *Twenty-first Century Communications and Video Accessibility Act*. One of the provisions of the bill is that all television programs which have been screened with captions or audio description and which are re-distributed over the Internet must retain their captions or audio-description.

## 11.2. The Australian situation

The downloading or streaming of video content has not taken off in Australia to the extent it has in some other countries, but according to a recent survey by Cisco Australia, it is now on the rise. The survey, carried out among 864 Australians and 219 New Zealanders, found that 59% of Internet users had watched or downloaded media content in the previous 30 days. 38% had downloaded short video clips or music videos, while 25% had accessed news programming.

### 11.2.1. What is available as downloads?

A check of the various network websites in June showed the following video content was available:

- ABC: 20 programs available for downloading, including *7:30 Report*, *Lateline*, *Sunday Arts*, *Triple J TV*.
- Nine: 100 streamed excerpts from various programs, and other short video clips.
- Seven: Streamed excerpts from 8 programs.
- Ten: Complete streamed episodes of 6 programs, including *Neighbours*, *Rove* and *Good News Week*.
- SBS: Streamed excerpts from 6 programs.
- BigPond has also been offering movie downloads for sale for about two years.

None of this content is available with captions or audio description (although almost all the content on the network sites would have been captioned for TV broadcast).

Red Bee Media Australia has conducted testing of captioned download systems for a number of clients in the last two years, but had undertaken no commercial work in this area as yet. Rob Shirey, Red Bee Media's Manager – Technical Services, has told MAA, "Captions can easily be inserted into the header of a WMV file for web media (both offline and LIVE) and AD can be set as an additional audio track, which is selectable in the windows media

options.”

### 11.2.2. The importance of access to broadband

The Federal Government has identified access to broadband-level internet services as a major priority in delivery of a range of services including education and health. This access needs to be for all Australians, including those with disabilities. Some initial work has been undertaken in this area with MAA publishing a document with the Consumers' Telecommunications Network and Australian Communication Exchange, *Accessible Broadband for all Australians* ([http://www.mediaaccess.org.au/index.php?option=com\\_content&view=article&id=191&Itemid=84](http://www.mediaaccess.org.au/index.php?option=com_content&view=article&id=191&Itemid=84)). This is a practical guide to making broadband accessible and includes the need to provide content with captions and audio description.

MAA has built on this pioneering work and has employed an expert on accessibility to the internet, Dr Scott Hollier, as its Manager of New Media. MAA recognises that this area is of crucial importance as more people rely on online/downloadable material for accessing government services, education and training material, news and entertainment.

### 11.3. The power of convergence

Outside of user-generated content, there is very little downloadable content that is new and specially created for a download market. Most of the content that is chosen to be available as a download has been distributed or broadcast before, usually with captions and sometimes with audio description. As with all converged content, there are relatively easy opportunities to make this accessible if there is a desire or requirement to do so.

Work is being undertaken in the UK and the USA to develop streamed versions of captions and audio description and there is no reason why this can't be utilised in Australia. However, the interim solution is very simple in that data storage costs are dropping by orders of magnitude and there is no reason why open-captioned/open described versions cannot be offered alongside the non-accessible version. Consumers who want audio description or captioning do not mind if that access feature cannot be turned off.

## 12. ISSUE 7: CAPTION AND AUDIO DESCRIPTION STANDARDS

*The extent to which the quality of captions and audio description can be effectively measured and standardised for different types of content, including 'live' content.*

### 12.1. Overseas caption standards

The degree to which caption quality is standardised around the world varies considerably. The UK has comprehensive standards relating to captions (which are called subtitles there). These were introduced in 1999 and are administered by Ofcom.

The guidelines cover colouring, positioning, line breaks, timing and synchronisation, and include considerable detail about how captions should be written and presented on screen.

The guidelines state that captions for adult programs should normally be no faster than 140 wpm (words per minute), although in exceptional circumstances they can go up to 180 wpm.

For children's programs, the guidelines note experiments that suggest that a speed of 70-80 wpm is appropriate for pre-lingually deaf children, and states that language in programs targeted at children younger than 11 should be simplified (preferably by removing rather than changing words). It notes though that children over 11 "benefit from subtitles as they are currently provided" (i.e. at the word speed stipulated for adult programs).

In the section on 'real-time subtitling', the guidelines note that current techniques for live broadcasts "do not provide the same high quality service expected from pre-prepared scripts. Such techniques should be limited to occasions when there is insufficient time to prepare subtitles using other methods."

Ofcom's captioning standards are at:

[http://www.ofcom.org.uk/tv/ifi/guidance/tv\\_access\\_serv/archive/subtitling\\_standards/](http://www.ofcom.org.uk/tv/ifi/guidance/tv_access_serv/archive/subtitling_standards/)

In sharp contrast to the UK situation, the Federal Communications Commission in the US has never specified any quality standards for captions. This would seem to be one of the primary reasons for the notorious variability of caption quality in the US.

### 12.2. Australian caption standards

Australia has, in general, followed the UK lead in caption standards, particularly in terms of colouring, positioning and word speeds. We note, however, that since the early 1990s, most American programs have been screened in Australia with imported American captions. American caption standards are somewhat different (e.g. all captions are white and in capitals, positioning is different, US spellings are used). Given that MAA has seen very few complaints about the use of American captions, it would seem that these are acceptable to most viewers. In fact, at the time this system was introduced there was an agreement that the networks would spend any cost savings on providing more captions (it is about 50% cheaper to convert a

caption file than to caption something from scratch). There is a trend in America now to providing upper and lower case captions.

#### 12.2.1. Deafness Forum's Caption Quality Code of Practice

In 2004, Deafness Forum of Australia released its Captioning Quality Code of Practice. This stipulates that captions must be correctly spelled and punctuated, and stay as close as possible to the original wording. Colouring and positioning should be used.

The code states that the appropriate reading speed for adult programs is 180 words per minute, and for children's programs 120 wpm (although lower speeds may be appropriate for programs aimed at younger children).

The code notes that errors necessarily occur in programs captioned live, and that these will essentially be captioned verbatim, thus often exceeding the 180 wpm rate. It also states that "All items in a television news bulletin should be captioned".

The full text of the Captioning Quality Code of Practice is at:  
<http://www.deafnessforum.org.au/index.php?q=captioning>

While Deafness Forum's code has never been formally endorsed by any of the broadcasters, it seems fair to say that it has become the de facto industry standard in Australia. When ABC and SBS put their captioning work up for tender in 2005, the caption quality guidelines in their tender documents were clearly derived from the Deafness Forum's code. We understand from industry sources that the contracts for the Seven, Nine and Ten networks include standards that are similar to the Deafness Forum code.

#### 12.3. Options for Australian caption standards

The *Broadcasting Services Act* does not define captioning. This causes problems, because there is no onus on the broadcasters to ensure caption quality. In 2007, MAA lodged a formal complaint with ACMA about a regional broadcaster which was not captioning live segments of its news bulletins. This complaint was disallowed. The investigation report noted, "Captioning service' is not defined in the legislation, nor is what is regarded as acceptable quality for a captioning service."

MAA notes that there is still considerable debate around the world about various aspects of captioning, particularly word speeds. During the 1990s, when MAA was still called the Australian Caption Centre (ACC), it conducted a number of tests where caption consumers were shown samples of programs captioned at different speeds. Their responses varied, with some preferring quite low speeds (involving considerable reduction of language) while others wanted captions closer to verbatim. All agreed that it was important to have the captions synchronised with the dialogue. Following these tests, the ACC adopted 180 wpm as its speed for adult programs.

We note, however, that the current trend in captioning across the world is towards live captioning, and this trend will no doubt continue as speech recognition software is refined and adopted by more caption suppliers. Live

captioning is, necessarily, verbatim most of the time, so that designated word speeds become irrelevant.

While errors in spelling and punctuation are unavoidable with live captioning, offline or pre-prepared captions should be edited before they go to air, so theoretically should be free of such errors. One way of measuring caption quality is to count the number of mistakes in a caption file, so a caption standard could define an unacceptable error rate, based on a percentage of errors per program. We believe that such a system would be too time-consuming and impracticable to monitor properly.

MAA nevertheless believes that there is a real need to have a definition of caption quality. There is a need for quality standards. This is to ensure that:

- Industry has clear direction on what it should be doing.
- There is equity in that a level-playing field exists so that nobody is permitted to compete on the basis of poor access standards.
- Suppliers are clear about what needs to be delivered.
- Australian product is made accessible to world-benchmark standards so that it can be used in other parts of the world.
- Imported access material is of a good standard.

At a minimum, it should cover the following points.

- A program shall only be deemed to be captioned if it is captioned in its entirety, including live segments of news programs.
- A program should only be captioned live if there is no possibility of captions being pre-prepared and synchronised with the soundtrack.
- Captions must accurately convey the information contained in a program's soundtrack, and every effort must be taken to ensure that they are spelled and punctuated correctly.

#### 12.4. **Overseas audio description standards**

It should be noted that audio description is a much more recent access service and has not been rolled out to anywhere near the same degree as captioning. As such, there is far less practical experience in the use of audio description. Furthermore, the nature of audio description is more subjective than captioning as it is dealing with translating visual ideas into words. Nevertheless, there is still a need for standards and guidelines on how media should be described.

As with captioning, Ofcom specifies standards for audio description, giving detailed guidelines on how scripts should be written and recorded. These are available at

[http://www.ofcom.org.uk/static/archive/itc/itc\\_publications/codes\\_guidance/audio\\_description/Index.asp.html](http://www.ofcom.org.uk/static/archive/itc/itc_publications/codes_guidance/audio_description/Index.asp.html)

In the US, The Federal Communications Commission does not set audio description standards. The Described and Captioned Media Program (DCMP), which funds the captioning and audio description of educational videos and DVDs, is currently working on audio description guidelines which are expected to be released in late 2008.

#### 12.5. **Options for Australian audio description standards**

MAA believes there is a need for a definition of audio description which, like a definition of captions, could be in the form of an amendment to the *Broadcasting Services Act*. At a minimum, it should cover the following points:

- Audio descriptions should be timed to avoid dialogue and other important audio elements.
- A program will only be deemed to be audio described if it is audio described in its entirety, although the level of description within individual scene will be determined by the existing soundtrack.
- Descriptions should be in the present tense, and in clear, simple language.
- Descriptions should be neutral, avoiding interpretation, value judgments and aesthetic opinions.



### 13. ISSUE 8: HREOC AND ACMA

*The appropriate roles for the Human Rights and Equal Opportunity Commission and the Australian Communications and Media Authority in relation to access requirements under the Disability Discrimination Act 1992 and the Broadcasting Services Act 1992.*

The roles for ACMA and HREOC are highly dependent on how the regulatory requirements are determined (Issue for comment 9). The current mixed form of access regulation, split between HREOC and ACMA, has led to a number of problems:

- ACMA is only responsible for part of the free-to-air television quotas (the part included in the *BSA* as regulations) and HREOC for the remaining part of the quota.
- No effective compliance reporting requirements.
- No definition of captioning.
- Process is complaints driven.

#### 13.1. ***The role of ACMA***

If the Government was seeking a more transparent, publicly reported system that took the approach of ensuring access happened and facilitating that process then ACMA could play a more proactive and broader role, much more akin to the role that Ofcom has in the UK.

This would include:

- Public monitoring and reporting of compliance for any channels covered by the *BSA* and other relevant legislation (e.g. if mobile/downloadable content was also covered by parts of Telecommunications legislation) and using its powers to appropriately deal with non-compliance.
- Using its consumer consultation process to identify potential problems/opportunities and make recommendations on dealing with those.
- Using its knowledge and relationships with broadcasters, equipment providers, government, consumers to identify strategies to further increase access and overcome barriers.
- Simplifying consumer complaint processes, including making them easier for consumers to use.
- Speedier investigation and resolution of complaints.
- When pursuing issues raised in complaints, to work at an industry level to rectify any systematic problems (our experience with captioning issues is that there are underlying causes that are more widespread than the initial complaint and by working on the problem with industry it tends to be solved).
- Monitoring and developing quality control standards in line with changes in technology and delivery.
- Coordinating with overseas agencies that regulate/monitor access services, especially in English-speaking markets where there is a high level of common/shared content (eg UK and USA) to help the process of the spread of accessible content both to and from Australia.

### 13.2. **The role of HREOC**

The use of HREOC-brokered exemptions to the *DDA* by consumers seems to have been a strategy born out of an ease of process and a perceived lack of interest by previous Governments to expand regulation beyond the static captioning provisions applying to free-to-air television under the *BSA*, or where there was no regulation.

Fundamentally, HREOC's role is about broad protection of human rights in society, of which media access is one facet. The value of HREOC is in dealing with situations where the market/regulatory process has broken down (in general terms) or dealing with specific individual issues of discrimination.

If acceptable levels of media access were provided (as judged by consumers) and that was being implemented in a well-coordinated and systematic way, then there would presumably be little need for HREOC to be dealing with media access issues.

It appears that this could be the case with free-to-air, subscription television and the internet (downloads) as these could readily be dealt with by ACMA and existing regulatory systems (albeit with some modification of perception of role and direction to use its powers to achieve certain policy outcomes). In the case of DVDs and cinema the role of existing regulators is less clear as these industries are generally unregulated (although DVDs have to go through a censorship classification system).

It is clear that if there is no progress in levels of access across all media, then consumers will continue to use the power of the *DDA* and HREOC in organising temporary negotiated settlements to expand the amount of access.

## 14. ISSUE 9: CHANGES TO REGULATORY REQUIREMENTS

*How changes to the regulatory requirements for access to electronic media should be implemented.*

### 14.1. Introduction

Media content is global and operates in a converged environment. Owners of content seek to exploit it in as many ways as possible, following established paths of how content is released. For example, a movie is shown in the cinema, then released on a DVD/download, then onto subscription television, then free-to-air and perhaps later repackaged in a different form as an anniversary/director's cut/special edition. Essentially the content is the same; it is just delivered in different ways. Most content (excepting locally produced television programming) is imported and tends to be made accessible in its country of origin. There are well-established techniques for adapting caption files and audio description scripts from one medium to another, all at considerable cost savings. The regulatory process needs to encourage this free-flow of access following the content wherever it appears.

The main issues that are impacting on the efficient delivery and regulation of access, particularly as it becomes more complex, are:

- The regulatory process needs to be simplified.
- The regulatory process needs to be framed so that it treats like with like (eg free-to-air television and subscription television are both regulated by the *BSA* and consumers treat them in similar ways).
- The regulatory process needs to deal with convergence so that situations where content is made accessible in one medium but then appears later in another format without access (such as television series being released on DVD) do not occur.
- The current regulatory approach is a mix of regulations within legislation, temporary exemption agreements under the *DDA* and industry voluntary codes (with varying levels of enforceability).
- Furthermore, within each of these instruments, there are loopholes, items missing and inconsistency. This reflects the organic way in which these regulatory measures have been introduced over the last ten years. Irrespective of targets, quotas and other issues that may be introduced as a result of this investigation process, there is a real opportunity to make the regulatory process easier to manage and clearer for consumers, industry and regulators.

### 14.2. Options available to cover media access issues

There are a number of options that could be used to cover media access issues:

- *Broadcasting Services Act* – this already has captioning regulations in place (for free-to-air television only). This could also include specific industry standards and codes covering access issues.
- Industry codes and standards – the current television codes of practice are an example of this and have brief mention of captioning.

- Temporary exemptions under the *Disability Discrimination Act* – this has been used for subscription television captioning.
- Extension of the role of HREOC to make standards for media access (as it currently has done so for transportation access).
- *Trade Practices Act* for importation of product that is accessible
- New specific legislation covering media access (i.e. *Media Access Act*)

#### 14.2.1. Option 1: Expansion of the *BSA* access regulations

Free-to-air television is covered by both the *BSA* and quotas that are being met from a just-expired HREOC temporary exemption. It makes sense to include any access requirements associated with FTA within the same instrument. Given the *BSA* already has quotas and exemptions in place and fundamentally deals with broadcast issues, it would seem the easiest place to do this. Furthermore, as it deals with types of broadcasting license and management of spectrum issues, it could pick up any new licensing arrangements (such as proposed extra channels and new licensees). What would need to be added would be:

- Any changes to quotas.
- Definitions of captioning and audio description.
- Any changes to exemptions.
- Any reporting requirements/additional powers that ACMA would need to regulate any changes.

It would also make sense to include subscription television access quotas this way, rather than leaving it within a *DDA* exemption, given the principles, implementation and regulatory management of subscription television is fundamentally the same as free-to-air television and in consumers' minds, the only difference is that one service is paid for and the other is free of charge.

#### 14.2.2. Option 2: Industry standards and codes

For free-to-air and subscription television, more flexible arrangements such as quality standards would be better covered by a standard or code.

Good standards are not proscriptive but describe outcomes. The most flexible and fluid mechanism for standards is via industry codes and standards, rather than legislation (which tends to be more rigid). However, any industry standard or code needs to be firm, clear and not open to broad interpretation (such as using phrases like “best endeavours” and “where practicable”).

The standards process should include some community consultation and aim at universal standards that apply across all media (to deal with convergence issues) and dealing with medium-specific issues (such as live programming on television services) to that industry specific standard. It is fair to say that the medium that is most problematic in terms of standards is television.

A code approach could also be used for issues such as the movement of TV series to DVD and downloads, whereby television networks (and

their subsidiary companies) agree that as part of the rights process of allowing a series to be released on DVD, it would make any access features a contractual obligation.

If industry is unwilling to embrace this approach then ACMA could make a standard to deal with this important issue.

#### 14.2.3. Option 3: Temporary exemptions under the *DDA*

These arrangements work best when there is general agreement about what needs to be achieved but the industry is relatively unregulated, or where there needs to be flexibility in implementation.

DVD and cinema are relatively unregulated, beyond censorship classification issues.

However, for the reasons of a coordinated, properly supported rollout of both DVDs and cinema, some form of formal agreement covering access to these areas would be preferable to relying on market goodwill (which has delivered very mixed results).

##### ***DVD approach***

The most straightforward way is for the DVD industry to enter into voluntary industry agreements, via a temporary exemption (of say 5 years – the maximum) from the *DDA*. This would ensure delivery of agreed outcomes and protect industry from uncertainty. The process of this has already moved in some ways with the round table discussions with AVSDA. The agreement would need to include:

- Any targets agreed to for both audio description and captioning.
- Labelling formats.
- Promotion and publicity material (including that a DVD had been AD and/or captioned).
- Any other issues, such as audio menus for AD DVDs.

In the case of non-entertainment DVDs, this could be tied to government funding/support agreements.

##### ***Cinema approach***

Cinema currently has a HREOC agreement that is effectively an agreement that in return for the 10 cinemas providing caption access, Deafness Forum and AAD (now Deaf Australia) wouldn't lodge any complaints under the *DDA*. This did prevent a myriad of complaints from others but provides very little certainty for the industry signatories. As the present arrangements are only with Greater Union/Hoyts/Village new arrangements would need to be made with other operators to cover them.

The most straightforward way is for the cinema industry (or split between various companies/associations) to enter into voluntary industry agreement(s), via a temporary exemption from the *DDA*. This would

ensure delivery of agreed outcomes and protect industry from uncertainty. The agreement would need to include:

- Any targets agreed to in terms of numbers of cinemas that are accessible (including future targets/new cinema coverage).
- Promotion/marketing issues.
- Screening times/frequency of screening.
- Review processes.

#### 14.2.4. Option 4: HREOC to make media access standards

HREOC could be given the power to make specific standards, like it does for transport. This would potentially deal with the issues that arise, but it would operate separate to other regulations (such as the *BSA* for television services) and does not provide a robust compliance and reporting regime. The process of developing the media access standards could also take many years.

#### 14.2.5. Option 5: Use of the *Trade Practices Act*

The *TPA* covers the manufacturers and sellers of goods and thus could be used for issues such as DVDs and ensuring that accessible versions are imported or locally produced products are required to be produced to an international standard (including access). It is a cumbersome method of achieving access outcomes and would be limited in its scope (really dealing only with DVDs and some equipment).

#### 14.2.6. Option 6: New legislation

Although the idea of special legislation covering access issues might seem appealing, it really is a last resort if other methods are not being embraced:

- It would be complex in trying to deal with the range of media.
- It would take a long time to draft if it was to cover all issues properly and in a way that would allow for effective implementation.
- Issues of crossover with existing legislation (such as the *BSA*).
- It would need to anticipate new media and new delivery methods and ensure that access was covered for these.

### 14.3. Practical implementation issues

From a strict legal perspective, a mix of *BSA* regulations and standards/codes/exemptions may not appear to deliver the total desired outcomes (whatever they are), however, they should deliver the outcomes on the basis that they would work from a practical implementation perspective:

- If television stations/channels have obligations under *BSA* regulations that means that the captions/audio description is being created/sourced for these purposes.
- If television stations/channels agree to a code/standard covering basic quality issues, then that should lead to good quality caption/audio description files being available for commercial use by others (rather than

looking for a cheap option from scratch), including a station/channel providing a download version.

- If television stations/channels agree that DVDs of their programs have the same access features that they broadcast, then this will assist the DVD industry in meeting its quotas.
- If the DVD industry has quotas in place, then they will naturally look to overseas access files (including those created for cinema versions of product) to help them fill those quotas cost-effectively.

## 15. ISSUE 10: TRANSMISSION AND RECEIVER STANDARDS

*The extent to which standards for digital television transmission and domestic digital television receivers should provide for captioning and audio description.*

### 15.1. The current situation

#### *Captioning standard*

Australian Standard 4933.1-2005 Digital television – Requirements for receivers – VHF/UHF DVB-T television broadcasts is the only standard for equipment that makes reference to captioning.

The Standard aims to provide the necessary information so that any digital terrestrial television receiving equipment made for the Australian system will operate satisfactorily on Australian digital terrestrial television broadcast transmissions. While some receiver requirements are nominated to be essential, in general, it is a marketing choice by the manufacturer as to how the various receiver models operate with a variety of conditions. Conformance testing related to standards is the responsibility of the manufacturer.

Item 10.3 of this standard refers to teletext closed captions and applies to all digital receivers.

10.3.1 – ‘Access to closed captions in a teletext format for hearing impaired’, which is an essential requirement, states: “Australian DTTB transmissions may include closed captions for hearing impaired in a teletext format. The receiving equipment shall be capable of decoding the teletext caption data when present. The receiving equipment shall be capable of overlaying the teletext subtitles on the picture, and this feature should be controllable from the receiver’s remote control. In the case of set-top-boxes capable of connection to SD PAL TVs, the teletext shall be re-inserted on the output PAL VBI “.

The Standard refers to the displaying of broadcast captions only. It does not refer to the recording and playback of captions. Therefore a piece of equipment that displays captions as required by the Standard will not necessarily record captions should a viewer wish to watch a captioned program at a later time.

As industry compliance with Australian Standard 4933.1-2005 is not mandatory, there are many digital equipment pieces on the market that do not comply. Also, there are no testing procedures to ensure equipment that claims to meet the Standard does meet it.

This implementation issue is associated with the rollout of digital television and the best place to deal with this is through the digital taskforce.

If a piece of equipment complies with the Standard, the advertisement of this may not be prominent on its packaging or in its manual, making it difficult for consumers to determine whether equipment will allow them to access captions. There are no advertising guidelines for the advertising of Australian standards.



### *HD Tick*

The Australian Digital Suppliers Industry Forum (ADSIF) release of the “HD Tick” alerts consumers to TVs that are certified to have high definition screen resolution, as well as built-in digital receivers that meet Australian Standard 4933.

As one of the requirements for Australian Standard 4933 is the reception of captions, consumers should be assured that if purchased equipment displays the “HD Tick”, it will receive captions.

The “HD Tick” logo has particular marketing placement guidelines associated with placement on the equipment itself, packaging, web pages and all advertisements.

#### 15.2. **Audio description standards**

*There are no standards for audio description transmission or reception in Australia.*

#### 15.3. **Recommendations for future standards**

As noted above, current Australian standards specify that digital receivers must display captions, but there is no stipulation that personal video recorders with hard disk drives, which are becoming increasingly popular, have to be able to record programs with captions. There are now a number of models on the Australian market which allow viewers to watch captions, but not record them. This is something that needs to be rectified.

As noted, the move to a new broadcasting format, probably MPEG4, will necessitate a complete overhaul of transmission and reception standards, and provide an opportunity to introduce standards covering audio description.

MAA believes that the Digital Television Taskforce that has been set up by the Australian Federal Government is the best agency for dealing with the need for new standards.

## 16. APPENDICES

### 16.1. DVD business case



## Analysis of DVD market and access in Australia

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## 1. Introduction

The HREOC roundtable discussion on access into DVDs is considering a wide range of issues associated with DVD access, including labelling, information and the barriers to making more DVDs accessible. This document outlines some information about the DVD industry in Australia, the costs of making DVDs accessible and the potential market size for accessible DVDs.

The analysis is deliberately pitched at a conservative level (considering for example the cost of providing access from scratch, rather than just obtaining an overseas version that includes access features) to provide some baseline levels at which the costs of access are covered. The main purpose of this is to provide the DVD distributors with a reasonable starting point for determining which DVDs would be priorities for including access features based on easily measurable criteria, such as the expected wholesale sales.

## 2. Overall market

In 2006 the overall wholesale market (i.e. DVDs sold by distributors to either retail outlets or for rental) was:

Type of sale	Average wholesale price	Units sold (millions)	Revenue (millions)
Retail	\$15.63	64.9	\$1,014.4
Rental	\$18.16	9.6	\$174.3
	<b>\$15.96</b>	<b>74.5</b>	<b>\$1,188.7</b>

For the purposes of our analysis of the wholesale market, there is no difference between DVD units sold for retail vs. rental, apart from the wholesale price (so the average price is used). There is further analysis of the rental market to give a different perspective on the access business case.

## 3. Sales patterns

As would be expected there is a huge variance of sales patterns and volumes for DVDs.

There were about 35,000 different titles sold in 2006, with around 5,500 new releases (including re-releases), the other 30,000-odd titles were ones released in previous years. The top-25 DVDs sold represented 7.7% of the total retail market (so we have made the assumption that it would be similar for the rental market).

	Total titles sold	Average units sold	Avg Revenue per title
Average overall	35,000	2,129	\$33,964
Top 25	25	229,460	\$3.66 million

## 4. Access costs

### 4.1. Providing access on DVDs

There are a number of ways that access features can be included on DVDs in Australia:

- Acquiring an accessible version intact from overseas (i.e. the distributor sources the DLT Image that is already compiled with all of the access features needed)
- Acquiring access elements from overseas (i.e. the distributor identifies and secures the access components of a DLT Image from various sources and then builds an accessible version locally)
- Acquiring access in other forms (such as a caption file for television) and using those to create the access components of a local build.
- Creates the access elements from scratch locally and then incorporates those into the local build.

### 4.2. Sourcing existing access elements

If a complete DLT Image is available with access features then there are no real costs involved with this and access should be able to be provided as a matter of course.

With many DVDs there are access features available, but they need to be tracked down and acquired. In some cases this involves payment of additional costs or the conversion of an access element (such as a caption file from a television series). The cost of converting an existing access element can range from a third to a half of the cost of providing access from scratch.

### 4.3. Access from scratch

Based on a 100-minute feature and assuming that everything had to be created from scratch (i.e. no buying in of a caption file, no existing access features that could be sourced from overseas) the captioning rate used is \$15 per minute and audio description rate is \$35 per minute. This is for making the feature only accessible and ignores extras, provision of audio menus and other potential features. NB: Any large distributor with volume work would attract rates at this level or better.

Therefore the total cost for creating audio description and captioning from scratch would be \$3,500 plus \$1,500 = \$5,000 per title.

As a point of comparison, to purchase and reformat an existing caption file (such as for a television series) would be in the range of \$300-\$750.

Type of DVD	Access cost	Cost per unit sold	% of revenue
Average overall	\$5,000	\$2.35	14.7
Top-25 titles	\$5,000	\$0.02	0.1

**Key point: The number of wholesale units that need to be sold to cover the cost of access is 313 (i.e. \$5,000 divided by the average wholesale price of \$15.96). Where some elements of access can be obtained (such as acquiring a caption file), the break-even figure will be lower.**

## 5. Market sizes

### 5.1. Consumer numbers

The main market for audio description is people who are blind or have low vision. The main market for captioning is people who are Deaf or hearing impaired, although there are significant other markets for captioning, for people living in noisy environments and people who are learning English.

In 2004 there were 530,900 blind or people with low vision living in Australia. This is expected to increase to 622,500 by 2010. Blind people represent about 10% of this figure.

In 2005 there were 3,545,230 people who were Deaf or hearing impaired living in Australia. This is expected to increase to 4,017,666 by 2010. Almost all of these people are hearing impaired with the Deaf population (who use Australian Sign Language – Auslan) comprising less than 10,000 people.

Details of these groups is included as an appendix.

**Key point: People who use access features represent up to 20% of the population.**

### 5.2. Comparisons with other forms of language access

In the 2001 census (the 2006 data is not yet available) 21.9% of the Australian population was born overseas and 15% speak a language other than English (although many of these speak English as well). The most commonly spoken languages are Italian, Greek, Cantonese, Arabic, Vietnamese and Mandarin.

**Key point: The combined market size for other languages is less than the market size for access features.**

### 5.3. DVD ownership

An important issue is to consider the level of ownership of DVD players (and therefore potential interest in buying or renting DVDs). By mid-2005 75% of Australian households owned a DVD player.

Given that blind and hearing impaired people do not generally live alone (i.e. they live with others who do not have a disability) it is fair to assume that the proportion of these people with access to a DVD player would mimic the overall Australian pattern.

The issue for these people is whether the DVD itself is accessible, not lack of access to equipment. Furthermore, DVD players are now widely available for under \$100 and it could be assumed that if DVDs are made accessible there are no significant financial barriers to prevent blind people from acquiring a DVD player.

Therefore it can be assumed that 398,000 blind and low vision people have access to a DVD player and 2.66 million Deaf and hearing impaired people have access to a DVD player. Overall these combined groups represent 14.7% of the Australian population.

A reasonable assumption, therefore, is that if a DVD is made accessible then up to 14.7% of the sales/rentals for that DVD would be of benefit to a blind/hearing impaired person. However, that does not mean that you can automatically assume that putting access features will result in 14.7% more sales. Including access allows these people to watch DVDs with other non-disabled people. In time though you would expect to see increases in the sales/rental of these accessible DVDs (see section 7 below).

## 6. How many DVDs do you need to sell to justify access?

### 6.1. The break-even method

Based on making a DVD accessible from scratch, the "break even" figure is 313 units. For other methods of securing access (such as buying caption files, acquiring overseas versions with access features) the break-even would be less.

14.7% of the population that owns a DVD player and needs access, so for 313 "accessible sales" you would need to sell 2,130 units (i.e. 313 divided by 0.147).

### 6.2. Expectation of sales increase method

Although it is very difficult to measure the direct sales impact of access (see Section 7 below) you can still use desired sales increases to provide you with a "rule of thumb" of where it is likely to be profitable to include access (if this is the only reason that you might include access). The table below shows the levels of total sales you would need to achieve if you expected the inclusion of access to increase sales by a nominated percentage. Please note this is for

DVDs where you have to make it accessible from scratch and the figures would be less where access features can be secured from other sources.

<b>% of overall sales increase as a result of inclusion of access</b>	<b>Access cost</b>	<b>Value of total sales expected (access cost divided by % increase)</b>	<b>No of total units needed to be sold overall (value divided by wholesale price)</b>
1%	\$5,000	\$500,000	31,525
2%	\$5,000	\$250,000	15,762
5%	\$5,000	\$100,000	6,266
10%	\$5,000	\$50,000	3,132

## **7. Translating access into measurable sales figures**

### **7.1. Not a comparison between accessible and non-accessible**

Measuring the direct sales impact of access is tricky. It is not like making two different colour versions of a product and then being able to see which ones sold better than others. The access appears on all copies of the DVD and you have no direct way of measuring who bought or rented the DVD because it had access. Even if you surveyed people who bought/rented accessible DVDs they would probably not disclose the need for access unless it was directly for them (i.e. a consequence of the access could be that an excluded disabled family member can now watch the DVD). You would also expect people to say that they would buy/rent accessible DVDs if they were made available, but translating that into a meaningful sales figure is difficult.

### **7.2. Access using captions**

The current level of captioning on main release entertainment titles is around 60% and DVDs have always been available with captions at levels around this percentage. Captioning is also available on free-to-air television (more than 50% of broadcast hours), subscription television (more than 30% of broadcast hours) and some cinemas. Thus the market for captions is well established and caption users are already buying and renting DVDs with captions. Therefore the main issue for these users is choice and having a greater range available. An initial increase in caption access therefore is likely to see:

- Caption users buying a wider range of DVDs (i.e. brand/product switching) that reflects the general market preference for particular titles/genres, because they are now available to them.
- In time, caption users increasing the overall purchase/rental patterns to reflect what happens with the general market. That is, if you have more choice then you will buy more DVDs in similar patterns to everyone else.

### 7.3. Access using audio description

Audio described titles make up around 2-3% of main release entertainment titles and audio description is a relatively new feature of DVDs. There is no audio description in television or cinema (although the access system used in Australia does have AD on the access disks, but the equipment to decode and play it is not installed. This is expected to be rectified this year). Therefore it is reasonable to assume that blind people watch DVDs less frequently than the general population as there is very limited choice of product that is audio described.

As the numbers of titles with AD increases (especially once it gets to a critical mass of having a wider range of product available), it would be reasonable to expect an increase in DVDs bought and rented. There would also be an expected lag in take up as there is an issue of customer education about the availability of audio described DVDs. However, even if all of the overseas accessible versions were brought in to Australia, you are still only looking at about 15% of all titles and therefore most of the titles that people will want to watch will not be accessible, but this is a good start to building up the market.

## 8. Conclusions – how do you work out when to include access?

- The analysis provided does not give a definitive formula where you include access features and then translate that into a direct sales result. There are too many variables and a lack of information on buying patterns of consumers to provide you with that. Furthermore, for some users of access, such as blind people, there is not a critical mass of titles to constitute a viable product offering at this stage. However, it is not necessary to be this precise if you are looking for some safe “rules of thumb” on what is likely to be a business case for providing access.
- Clearly when the access is able to be secured from an overseas source that is a low-cost way of securing access and it should be done.
- Once you start paying additional costs for access, then the various analyses show that you need to look at what your overall sales expectations will be to give you a rule of thumb. It is then a matter of looking at what difference you think access will make.
- Taking the most conservative approaches (i.e. low sales increase and having to provide the access from scratch) you would provide access on titles that are expected to sell around 31,500 wholesale units or more. If you were being a little more optimistic and taking into account the need to provide a good range of titles to build up a market, you might reduce this to titles where you expect to sell 15,000 wholesale units.
- Break-even analysis shows that you would need to expect to sell an extra 300 units to make it worthwhile.
- A final point is comparison to foreign language subtitles. The largest language groups (like Italian) constitute only just over 1% of the Australian population and therefore represent a fraction of the market size for



access.

## 9. Alternative ways of looking at the business case

### 9.1. The rental market

#### 9.1.1. Overall rental figures

It is also useful to look at another dimension to the business case, the DVD rental market. Whilst impact of the rental market is less significant to the distributors (as they derive revenue from the DVD that they sell to the DVD rental store, irrespective of how many times it is rented out), undoubtedly a hearing or vision impaired person having an opportunity to rent an accessible title is likely to lead to improved sell-through market sales of accessible titles as it brings more people into the market who are interested in buying DVDs (i.e. the overall market size increases). We do not have any data on the impact of hiring DVDs on the sell-through market.

The latest comprehensive data on DVD hire is from 2004. The DVD hire market was worth \$472 million and 70% of that revenue came from new releases.

Value of new release hires	\$330.4 million
Average new release rental charge	\$5.50
Number of new release rental "events"	60.1 million
Total titles released in 2004	5,509
Average rental events per title	10,904

Clearly, the range of the number of times a title would be rented is quite wide. If we assume that the top-25 represent 7.7% of the total rental market (as it does for sell-through) then the rental levels of top-25 titles would be in the region of 185,000 events.

#### 9.1.2. The impact of access

Again, if we make assumptions that the patterns of behaviour would not vary greatly between sell-through and rental for people who use the access facilities, we would see the financial implications as outlined in the table below. Please note, that as with sell-through titles, the value of the market reflects that hearing and vision impaired people can access product that may be watched alongside people who do not need the access features, but has implications for the impact of access in influencing which DVDs are hired (as the hearing or vision impaired person's needs can be taken into account by everyone watching the DVD).

The rental business case also demonstrates that for any titles where a significant rental market is expected, including access makes financial sense.

Proportion of total DVD ownership represented by people needing access	14.7%
Potential value of the access rental market	\$48.6 million
Average number of rental events using access per title	1,603
Average access revenue per title	\$8,817
Top-25 number of rental events using access per title	27,000
Access revenue per title Top-25	\$148,500

## 9.2. The cost of legal solutions

One element of the business case to consider is the potential cost associated with complaints against producers, distributors, retail outlets and rental outlets.

While there is currently no case law clarifying the breadth of coverage of the *DDA* complaints in this area have been received and dealt with by HREOC under section 24 (Goods, services and facilities) and section 22 (Education). Complaints could also be dealt with under section 29 (Commonwealth laws and programs) in situations where DVD material was produced by or funded through Commonwealth Government programs.

The costs associated with responding to complaints include the direct costs of staff time and possible legal costs, where a respondent decides to seek legal counsel.

Despite the flexible approaches taken to resolving complaints under the *DDA* and the speedy resolution of most, the costs involved when lawyers are engaged can be substantial. For example, advice to HREOC from specialist legal firms operating in this area suggests that costs for one party alone can be in the order of: \$5,000 - \$10,000 when involved in a complaint up to and during conciliation; and \$30,000 - \$40,000 when involved in a complaint through to Tribunal or Court hearing, typically lasting two days

Reducing the likelihood of resource consuming complaints is an important consideration in looking at the business case.

## Appendix - Information sources

- Market figures are primarily derived from *Get the Picture – Video Industry April 2007*, produced by the Australian Film Commission. The data is mainly supplied by AVSDA and GfK Marketing Services.
- The data just deals with standard DVDs. VHS video and other formats have been ignored in the analysis.
- The analysis primarily deals with entertainment titles, not specialist DVD. This however covers more than 95% of the market.
- Access costs are derived from Media Access Australia's knowledge of the access market in Australia and assume some provision for volume discounting (i.e. not using "rack rates").
- For analytical purposes it has been assumed that an average feature-length DVD is 100 minutes.
- Data on the number of blind and vision impaired people is sourced from *Vision Loss in Australia* by Taylor et al reported in the *Medical Journal of Australia* 2005 182 (11) pp565-568
- Data on the number of Deaf and hearing impaired people is sourced from Wilson (1997) and Australian Hearing (2005) reported in *Listen Hear! The economic impact and cost of hearing loss in Australia (2006)*
- Population data, including % of people speaking languages other than English, is taken from the Australian Bureau of Statistics Census information (2002).

**Appendix: Hearing and vision impairment levels in the population**

