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The Foxtel Group response to the Proposal to remake the Broadcasting Services (Television Captioning) Standard 2013 Consultation Paper, released May 2023

The Foxtel Group welcomes the opportunity to make a submission in response to the Proposal to remake the *Broadcasting Services (Television Captioning) Standard 2013 (Standard)* Consultation Paper, released May 2023 (**Captioning Paper**).

1. Executive Summary

- 1.1 The Foxtel Group is strongly of the view that the Standard in its current form, remains an efficient and effective mechanism to ensure the deaf and hard-of hearing community have meaningful access to television content.
- 1.2 As such, the Foxtel Group supports the ACMA’s proposal to remake the Standard in its current form and, rather than amend the Standard, the Foxtel Group welcomes the ACMA’s proposal to issue additional guidance on the interpretation of key elements of the Standard.
- 1.3 In addition, the Foxtel Group is of the view that there is no market failure that warrants the introduction of a metric measurement model or a trial to examine a metric measurement model, as the majority of deaf or hard-of hearing viewers who use captions perceive that they are receiving quality captions on television¹ under the current Standard.

2. Section 2 – About the Foxtel Group and its compliance with the Standard

- 2.1 The Foxtel Group is one of Australia’s most progressive and dynamic media companies that is quintessentially Australian, reaching more than 4.6 million Australian homes overall via our different services².
- 2.2 The Foxtel Group provides a premium subscription television broadcast (**STB**) service to 1.3 million subscribers in both regional and metropolitan areas, over cable and satellite, via our proprietary set top boxes.³
- 2.3 The Foxtel Group recognises that captioning is a valued service within the deaf and hard-of-hearing community and that the quality of captions is considered to be “very” to “somewhat” important to that community when it comes to the choice of channel (75%), choice of program (80%) and amount of TV watched (76%)⁴. Accordingly, the Foxtel Group takes its compliance obligations under the Standard very seriously.

¹ Captioning Paper, [16]

² [Foxtel Group Fiscal 2023 Third Quarter Earnings | Foxtel Group](#)

³ Ibid.

⁴ Use and experience of captioning – Consumer research to support the ACMA’s Captioning Quality Standard review paper, [3]

2.4 The Foxtel Group submits that the quality of captions provided on its STB service is meeting community expectations with the Foxtel Group not being subject to any ACMA investigations into the quality of captioning since the Standard commenced in 2013.

2.5 The Foxtel Group's dedication to the quality of the captions it provides was reflected in the findings of the research conducted by the ACMA in 2022 for the purposes of the Standard review, that found subscription TV returned the highest mean score (4.1 out of 5) for overall satisfaction from the deaf and hard-of-hearing community with regards to the quality of live and closed captioning.⁵ In addition, 95% of respondents reported being very satisfied/satisfied with live captions on subscription TV.⁶

3. Section 3 – The current Standard remains efficient and effective

3.1 The Foxtel Group understands that some stakeholders have strongly encouraged the ACMA to consider introducing a metric model to assess the quality of captions, specifically the NER model. However, Foxtel is strongly of the view that there is no evidence of market failure with the current Standard, or a risk to the meaningful access to television for the deaf and hard-of-hearing community, that would warrant the introduction of a metric quality standard.

3.2 The objectives of the captioning standard are to ensure that broadcasters provide a consistent quality of captioning services across services and to ensure captioning services are meaningful to the viewer.⁷

3.3 The Foxtel Group submits that the objectives are best achieved by reference to the non-metric factors set out in the current Standard; readability⁸, accuracy⁹, and comprehensibility¹⁰.

3.4 The outcome-based approach of the current Standard is less prescriptive than a metric measurement model, allowing for a degree of flexibility in determining whether a service is meaningful to the deaf and hard-of-hearing viewers by considering the context of the program as a whole, the circumstances of the broadcast and the nature of the program being broadcast.

⁵ Captioning Paper, [11]

⁶ Use and experience of captioning – Consumer research to support the ACMA's Captioning Quality Standard review paper, [13]

⁷ *Broadcasting Services Amendment (Improved Access to Television Services) Bill* 2012, [31]

⁸ The Standard, [7(a)]

⁹ The Standard, [8(a)]

¹⁰ The Standard, [9(a)]

- 3.5 Importantly, the quality framework under the current Standard places the emphasis on the experience of the viewer versus a rigid mathematical calculation, while allowing for a holistic approach when assessing the quality of a captioning service provided for a program.
- 3.6 There is no evidence to suggest that the current Standard is not meeting its objectives of providing a consistent quality of captioning services across services and ensuring captioning services are meaningful to the viewer.
- 3.7 Instead, the results of the research that the ACMA commissioned by the Social Research Centre (SRC) in late 2022 into deaf and hard-of hearing adults' perceptions of, and experiences with, the quality of captioning services, demonstrates otherwise. When asked about the quality of captioning respondents watched in programs over the last 30 days, most respondents were satisfied or very satisfied with the quality of live and pre-prepared captioning services for the programs they watched.¹¹
- 3.8 As noted by the ACMA, these findings suggest that under the framework for quality of captioning established by the Standard, the majority of deaf or hard-of-hearing viewers perceive that they are receiving quality captions on television.¹² As such, these findings demonstrate that the current Standard remains efficient and effective in ensuring that deaf and hard-of-hearing people have meaningful access to television content.

4. Section 4: Issues with implementing a metric standard to assess captioning quality

Does not account for a mix of programming

- 4.1 The *Broadcasting Services Act 1992 (Cth) (BSA)* requires the same level of quality to be applied to all types of programs, including live and pre-recorded. Accordingly, unless legislative reform to the BSA is implemented, any metric model (including the NER model) is not a suitable measurement of captioning quality in Australia.
- 4.2 The issue with introducing a one-size fits all metric model that would apply to all programs is that it would not accommodate the difference between providing captioning services for live or pre-recorded content. This would result in an accuracy level that is either too low for pre-recorded content or is too high for live content, which risks non-compliance for live captions.
- 4.3 In comparison, the current Standard allows for flexibility in respect of the type of programming by considering the context of the program as a whole, the circumstances of the broadcast and the nature of the program being broadcast. This allows the ACMA to

¹¹ Captioning Paper, [11]

¹² Captioning Paper, [16]

consider the operational and technical restraints broadcasters face when providing programs for live content.

Does not measure all factors relevant to meaningfulness

- 4.4 The range of factors which contribute to whether captions are meaningful are too varied and complex to be captured in a simple metric.
- 4.5 For example, as identified by the ACMA, the NER model does not measure latency which, according to the results of the SRC, is a key issue that the deaf and hard-of-hearing community identified for viewer dissatisfaction with quality of captioning.¹³ The delivery of live captioning involves a series of trade-offs and in a fast-paced program, paraphrasing captions would be the best means of ensuring synchronicity and meaningfulness to the viewer. However, in this example, a metric system would encourage industry to strive for accuracy at the expense of latency which is not in the best interest of the viewer.
- 4.6 Accordingly, the Foxtel Group submits that an accurate assessment of meaningfulness is best achieved through the current outcome-based approach set out in the Standard which allows the ACMA to consider all the circumstances of the program when determining the quality of the captions.

Requires human subjective assessment

- 4.7 Despite arguments that a metric model is preferable due to its objective measurement, the introduction of a metric model such as the NER model still requires an element of subjective human assessment. For example, trained NER assessors would be required to assess the severity of errors and the overall impact of the errors on the “meaningfulness” of the captioning services to the viewer, and this can often be a timely exercise.

Increases regulatory burden and costs

- 4.8 The introduction of a metric measurement framework for captioning quality will increase the compliance burden for industry, which is an important consideration in an increasingly challenging competitive landscape.
- 4.9 A metric system would impose substantial additional upfront and ongoing costs on the industry with no corresponding increase in the quality of captioning for consumers. As noted above, the NER model requires trained human assessors making it very labour intensive. Any metric measurement framework is also likely to follow international models that require

¹³ Captioning Paper, [21]

annual compliance reporting which would increase the ongoing compliance costs for industry significantly.

- 4.10 There are already substantial compliance burdens associated with the monitoring and reporting of captioning service levels for industry, so any additional compliance burdens associated with the introduction of a metric measurement system will likely divert resources away from delivering new captioned programs.
- 4.11 Accordingly, the Foxtel Group submits that there is no evidence to suggest that the current Standard is not delivering captions that are meaningful to the viewer that would justify the increased resourcing and compliance costs associated with the introduction of a metric framework to measure the quality of captions for Australian viewers.

5. Conclusion

- 5.1 For the reasons set out above, the Foxtel Group is strongly of the view that the Standard in its current form, remains an efficient and effective mechanism to ensure the deaf and hard-of hearing community have meaningful access to television content.
- 5.2 As such, the Foxtel Group supports the ACMA's proposal to remake the Standard in its current form and is of the view that a trial to examine a metric measurement model is not warranted in the circumstances.