Implementing Australia’s TV prominence framework

Consultation outcomes report

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# **Executive summary**

Australia recently introduced laws establishing a prominence framework to support the availability of free-to-air television services and apps on internet-connected television devices.[[1]](#footnote-2) The ACMA is responsible for administering and overseeing the framework.

In September 2024, we published a consultation paper seeking submissions on matters to inform the use of our discretionary powers to make legislative instruments under the framework. This paper summarises what we have heard from submitters, updates our preliminary views, and outlines next steps.

We have updated our views on regulated television devices

Stakeholders were in broad agreement around regulated television devices clearly within scope of the prominence framework. Submissions focused on the preliminary criteria outlined by the ACMA to assess the ‘primary purpose’ of a device, as well as the ACMA’s preliminary view around ‘edge cases’ (in particular, smart projectors and smart monitors).

Following consultation and consideration of submissions, we confirm that the list of matters originally set out in our consultation paper remain relevant when considering and applying the primary purpose test. However, we acknowledge that purchasing intent and consumer usage are also relevant considerations and, where such information is available, will form part of our considerations when assessing compliance.

To help guide industry, we have updated our views on which device types it considers are likely in-scope. This list differs from our preliminary view, as submitters presented persuasive evidence in favour of including smart monitors as TV devices due to their substitutability. It now includes:

* smart TVs
* smart streaming sticks and boxes
* smart projectors
* smart monitors.

Submitters did not identify any other types of devices likely to be within scope at present.

Based on the current state of the market, we have concluded that there is no need to make legislative instruments determining that specific devices are, or are not, regulated television devices at this time. We will formalise the criteria for determining whether a device is a regulated television device, outlined in this report, as standalone guidelines in early 2025.

In recognition of emerging technologies and changing consumer habits, and as part of developing a broader compliance and enforcement strategy, we will also consider a monitoring approach and research to better understand the market, evolving technology and consumer usage of edge case devices. As a result, our guidance about regulated television devices or the need for legislative instruments may change over time.

We have updated our view on the primary user interface

Stakeholders held strongly divergent views about the intended application of prominence on the primary user interface (PUI), including the placement and visibility of the free-to-air TV apps, as well as whether the ACMA should exercise its discretionary powers to make an instrument to describe requirements relating to an ‘interface’.

While our consultation paper proposed some flexibility around what constitutes an ‘interface’, we concluded this issue was fundamental to the policy objectives of prominence, and therefore appropriately addressed by government through the regulations for minimum prominence requirements. This view was communicated to the government and key stakeholders shortly after the public consultation period concluded in late October 2024.

On 16 December 2024, the Broadcasting Services (Minimum Prominence Requirements) Regulations 2024were registered. The regulations provide that ’free-to-air TV apps must be visible on the PUI without any user interaction’. In light of this very clear direction, we see no need at this time to make instruments to further describe the PUI.

As part of our ongoing environmental scanning activities, we will monitor the evolution of PUIs, particularly in relation to content aggregating interfaces. If required, we may make legislative instruments to determine specific arrangements for these interfaces in the future.

We confirm our preliminary view on when a regulated television service is offered

We acknowledge existing industry practices related to offering apps are well-established, broadly accepted by stakeholders and appear to be operating effectively. There is no need at this time for the ACMA to make an instrument regarding when an app is taken to be ‘offered’.

We will continue to engage with both manufacturing and broadcast stakeholders on the operation of the prominence framework, including on how offer arrangements are working. Should there be ambiguity or significant issues around the conduct of involved parties, we will revisit whether a legislative instrument is warranted.

Our next steps

To support the commencement and ongoing operation of the framework, in 2025 we will focus on:

* developing standalone guidelines, based upon the criteria for determining regulated television devices outlined in this paper, to be released in early 2025
* developing a compliance and enforcement strategy, including a compliance and monitoring program
* considering research and data needs, including market analysis and consumer usage trends to support the compliance and monitoring program
* engaging with stakeholders, particularly regulated entities, to assist them with understanding their obligations and working towards achieving compliance with prominence rules following the commencement of the framework in January 2026.

# Overview

From January 2026, all regulated television devices supplied in Australia must comply with new TV prominence rules. These are designed to make it easier for Australians to access free-to-air services and apps on their smart TVs and similar devices.

The prominence framework is given effect through Part 9E of the *Broadcasting Services Act 1992* (BSA). The *Australian Communications and Media Authority Act 2005* has also been amended to support our administration of the framework.

Under the BSA, we have discretionary powers to:

* make guidelines to assist in determining which kinds of domestic reception equipment are regulated television devices
* determine, via legislative instrument, that specified domestic reception equipment is, or is not, a regulated television device
* describe or determine, via legislative instrument, requirements for a primary user interface on regulated television devices
* determine, via legislative instrument, the circumstances in which a regulated television service is, or is not, taken to be offered by a regulated television service provider.

The TV prominence framework, once implemented, will consist of obligations under the BSA, minimum prominence requirements prescribed in regulation,[[2]](#footnote-3) and any instruments that the ACMA may make.

## Consultation process

The TV prominence framework involves technical subject matter and a broad range of industry stakeholders – many of whom have had limited prior interaction or engagement with the ACMA.

We are committed to engaging pro-actively and transparently with stakeholders when contemplating action that will affect their interests.[[3]](#footnote-4) In response to calls from stakeholders seeking greater clarity on implementation issues, we decided to undertake an early public consultation process to gather evidence to help determine if and how we should exercise our discretionary powers to support the operation of the TV prominence framework.

We published a public [consultation paper](https://www.acma.gov.au/consultations/2024-09/our-approach-implementing-tv-prominence-rules) on 24 September 2024. This set out the legislative requirements for the framework, outlined prior stakeholder positions, and provided preliminary ACMA views on exercising our new powers. The paper sought feedback on   
12 questions and requested evidence from industry to assist our decision-making.

We received 23 submissions across broadcasters, device manufacturers, industry groups, streaming services, academics and the public. All non-confidential submissions were [published](https://www.acma.gov.au/consultations/2024-09/our-approach-implementing-tv-prominence-rules#submissions) on our website on 30 October 2024.

We also held 2 roundtable workshops with representatives from broadcasters and device manufacturers during the consultation period, as well as several one-on-one meetings with different industry providers.

## About this report

This report summarises the views we heard from stakeholders who made submissions to the consultation process regarding the scope, interpretation and application of Australia’s TV prominence framework, and the ACMA’s role.

The report provides updated ACMA views and further guidance to device manufacturers and broadcasters on the exercise of our powers, including in relation to:

* the scope of ‘regulated television devices’
* the ‘primary user interface’
* when a service is ‘offered’.

The report concludes by outlining our work program over the next 12 months including some initial information about the ACMA’s compliance and enforcement approach.

We would like to thank those who provided feedback and contributed to the consultation process.

# Defining a regulated television device

Section 130ZZI of the BSA defines a regulated television device as domestic reception equipment that:

1. is capable of connecting to the internet and providing access to broadcasting video on demand services, and
2. is designed for the **primary purpose** of facilitating the viewing of audiovisual content.

The BSA sets out that the ACMA may also determine that specified domestic reception equipment is, or is not, a regulated television device via legislative instrument. Under section 130ZZM, it further provides that we may make written guidelines to assist in determining whether a device is a regulated television device.

In our consultation paper, we discussed which devices we considered clearly met the legislative definition, such as smart TVs and smart streaming devices. We identified 2 device categories that potentially required further clarification. Of these ‘edge cases’, we suggested that ‘smart projectors’ were likely to be in-scope, whereas ‘smart monitors’ were likely out of scope. This was on the basis that the main purpose of a smart projector is the viewing of audiovisual content, whereas smart monitors are typically multipurpose devices with a wider range of functions.

We also sought stakeholder feedback on the considerations relevant to a device’s ‘primary purpose’, whether there were any other major device types or categories we had not identified in the paper, and if we should issue further guidance or make instruments ahead of the commencement of the scheme.

## Assessing primary purpose

### What we heard

Stakeholders mostly agreed with our preliminary views on which devices were clearly intended to be in or out of scope (see page 7). However, some stakeholders raised concerns about the criteria proposed to assess whether ‘edge case’ devices would meet the ‘primary purpose’ of facilitating the viewing of audiovisual content.

Multiple stakeholders suggested that a primary purpose test must consider how consumers typically use their devices. ABC and SBS noted this would help mitigate concern that the proposed assessment criteria places too much weight on subjective statements from manufacturers. Others, like CESA and Foxtel, argued a primary purpose test based on user behaviours could help exclude some of the proposed ‘edge cases’ by demonstrating that viewing TV content was a secondary rather than primary function of the device.

There was also some discussion about the evolution of ‘television-like screens’ and the challenge of applying a primary purpose test to devices that increasingly service multiple uses, including gaming, communications and web browsing. Free TV encouraged the ACMA to consider a ‘broad, rather than narrow’ interpretation of ‘audiovisual content’.

Both CESA and Panasonic Australia submitted that the primary purpose criteria could be refined to better distinguish between multifunction devices that primarily serve as TV access points, versus those that offer a broader range of features. They suggested we consider additional factors, including device functionality and typical consumer behaviour. This could more clearly exclude multifunction devices like personal video recorders (PVR) (on the basis the primary purpose of these devices is content recording, storage and time-shifted playback), and Blu-ray/DVD players (on the basis the primary purpose of these devices is the consumption of content on physical disc media).

### Our updated view

We maintain the view that the primary purpose criteria set out in the consultation paper remain applicable. Where a device has multiple functions (one of which includes facilitating the viewing of audio-visual content), the following matters should inform consideration of its ‘primary purpose’:

* how the manufacturer describes the purpose of the device
* how the manufacturer has designed the user experience for the device (for example, how the device is controlled, the design of the primary user interface, and the ease of access to audiovisual content)
* the type of software and apps pre-installed or promoted by the manufacturer as being accessible on the device
* other features and functions of the device (for example, the types of inputs, screen resolution and portability of the device).

Some of the specific factors to be considered under the existing criteria include:

* whether a device displays or adapts smart TV software as its primary user interface
* the inclusion of a handheld remote control (particularly with buttons for streaming apps)
* marketing materials that promote the device as a TV substitute
* its screen size relative to that of a smart TV in an average Australian household.

We agree with stakeholder feedback that purchasing intent and consumer usage should also be factors in assessing primary purpose. This may help distinguish between devices that provide access to TV services as an ancillary feature, and those that are primarily used for viewing audiovisual material. As we do not yet have detailed usage data, and no stakeholders have provided us with this information, we have not been able to factor this into our current consideration of edge cases.

Given the diverse and growing marketplace of devices offering a smart TV experience among other features, the prominence framework cannot remain static, nor can it readily ascertain the primary purpose of each individual device, make or model supplied to Australians. The onus ultimately falls to manufacturers to determine if they are supplying a regulated television device according to the legislative definition and will therefore need to comply with the minimum prominence requirements.

Guidance issued by the ACMA may assist manufacturers in making this determination. The outcomes paper has reaffirmed the broad criteria that we consider relevant for assessing primary purpose. We will formalise these views by publishing standalone guidelines on determining regulated television devices in early 2025.

In parallel, we will be developing a strategy to monitor the market and consider further research to understand emerging device categories and user behaviours. This will help ensure the considerations that inform the application of the primary purpose test remain relevant, while also identifying examples of devices that may need to be determined in or out of scope of the prominence framework by way of a legislative instrument.

## Edge cases

### What we heard

Most submitters disagreed with our proposed approach to the 2 identified edge cases – smart monitors and smart projectors – however, there was a clear divide between the views of device manufacturers and broadcasters on how they should be treated.

Manufacturers, in general, disagreed with our preliminary view that smart projectors should be considered ‘likely in-scope’. CESA noted the intent of the legislation was to capture devices ‘predominantly used for TV viewing’ and argued considerations around devices should initially be ‘limited to the scope intended in the Bill,[[4]](#footnote-5) namely smart televisions, set top boxes and plug-in devices’. CESA and LG argued that smart projectors should be considered multi-purpose devices with ancillary television viewing features.

Manufacturers also raised practical challenges of regulating smart projectors. CESA and LG both submitted that consultation had not targeted smart projector suppliers, and many would not be aware of their potential obligations. RMIT separately noted the long tail of imported, unbranded, low-cost smart projector devices sold online, that would be difficult and resource-intensive to police.

Broadcasters expressed support for the ACMA’s preliminary view on smart projectors, but opposed our preliminary view on smart monitors, arguing both devices should be considered as substitutes for television sets and be caught under the prominence framework.

Service List Registry (SLR) highlighted that leading television manufacturers produce smart monitors with the same operating system as their TVs. Free TV also raised difficulties in distinguishing between smart monitors and TVs, noting that unlike phones and tablets, a smart monitor can overlap in size and ‘is liable to be called a “TV” if it is in the living room’. Given this potential substitutability, Free TV submitted smart monitors should not be exempted as a class, and the existence of an app rail on the home screen and a handheld remote control are factors which would qualify smart monitors as being within scope.

### Our updated view

There is no dispute that smart TVs and smart streaming devices are caught under the prominence framework. These make up the vast majority of the regulated television devices in Australian households and will be our priority when undertaking compliance.

Smart projectors and smart monitors are niche product categories, with low household penetration. Despite this, we understand industry would like further guidance on the ACMA’s views on edge cases to assist with planning and deployment.

We confirm our preliminary view that smart projectors are likely to meet the definition of ‘regulated television device’ and be subject to the minimum prominence requirements. We also acknowledge concerns that smart projector manufacturers have not been directly engaged in prominence consultations. We will engage with major smart projector manufacturers in early 2025 to better understand their development timeframes and ensure they understand the obligations under the prominence framework.

While we originally considered smart monitors as ‘likely out of scope’, we have revised our views in light of evidence provided through this consultation. We reviewed several popular smart monitor devices currently available for sale in Australia, all of which featured pre-installed streaming apps prioritised on the primary interface, were promoted as offering a ‘smart TV experience’ and included a remote control with streaming app shortcut buttons. Although these devices do typically offer cloud-based productivity and gaming features out of the box, we consider that the viewing of audiovisual content would likely be the primary reason behind a consumer’s decision to purchase a smart monitor over an ordinary   
computer monitor.

While some smart Blu-ray players and PVRs also provide similar features to smart monitors, we consider that these types of devices are likely out of scope as they have a more clearly identified primary purpose beyond the viewing of live terrestrial or streaming TV content. The changes in ACMA views on device type are reflected in bold in Table 1 below.

Summary of device types

|  |  |  |  |
| --- | --- | --- | --- |
| **In-scope** | **Likely in-scope** | **Likely out-of-scope** | **Out-of-scope** |
| * Smart TVs * Smart streaming devices (including streaming sticks and boxes) | * Smart projectors * **Smart monitors** | * **Smart Blu-ray players** * **Personal video recorders (PVR**) | * Mobile phones * Tablets * Laptop and desktop computers * Video game consoles |

We acknowledge that some sub-sets or specific models of smart projectors and smart monitors may not meet the ‘primary purpose test’ and would not be subject to the minimum prominence requirements. This could be the result of targeting business or enterprise users, adopting an interface that prioritises productivity tools or gaming services over TV features, or not making streaming apps available on the primary user interface. We will consider further research to understand emerging device categories and use cases.

## Instruments for regulated television devices

Most stakeholders considered that the ACMA should provide further clarity around device eligibility but did not identify an immediate need for us to exercise our powers to determine specific devices to be in or out-of-scope.

Free TV stressed that the ACMA’s powers are discretionary, and primarily designed to future-proof the scheme so it can capture new device categories not currently envisioned, as well as unique ‘edge cases’ that may arise in the meantime. CESA and LG, however, called for us to make an instrument to exclude 2025 TV devices from the framework.

### Proposal to exclude 2025 devices

Although most major device manufacturers release new connected TVs annually, manufacturing and supply timelines do not generally align with the start of a calendar year. CESA has advised that its members expect to release new 2026 model devices between March to July 2026, and that there will be a cross over period where both old and new models will be on sale after the commencement of the prominence framework.

CESA submits that this timing presents a significant compliance challenge for manufacturers, as the designs of the various 2025 model interfaces have already been ‘locked in’. It explained ‘there is no way to make these transition period devices compliant with prominence requirements’ due to ‘global design and approval processes which cannot be   
re-done for Australia only’. Noting the minimum prominence requirements had not been established in regulation when the ACMA undertook its consultation, CESA proposed the ACMA use its power to determine that televisions launched in 2025 are not regulated television devices – or alternatively, provide a moratorium against enforcement to allow sell out of 2025 television devices from the market.

While not directly in response to this proposal, Free TV submitted that manufacturers had been provided with an ‘arguably generous’ 18-month implementation timeframe to comply, and that new user interface software updates should be able to be developed and deployed within 6 months.

### Our view

We do not propose to make any legislative instruments regarding regulated TV devices at this time and will not exclude 2025 TV models from the prominence framework.

While we appreciate there are a range of practical implementation challenges for manufacturers updating interfaces on existing devices, the Parliament’s intent was for all regulated television devices supplied on or after 10 January 2026 to comply with the prominence requirements in Australia. This factored in an 18-month implementation window.

We intend to publish further information in 2025 about our approach to compliance and enforcement of the TV prominence framework. This will build on our existing agency-wide [compliance and enforcement policy](https://www.acma.gov.au/compliance-and-enforcement-policy), which encourages a graduated and strategic risk-based approach to compliance in a way that fosters industry compliance without imposing undue financial or administrative burden. When assessing compliance, we will consider factors outside of a manufacturer’s control.

We will engage in further discussions with device manufacturers throughout 2025 as part of the development of our compliance and enforcement strategy.

## Other issues

### Definition of ‘domestic reception equipment’

SBS raised questions as to the meaning of ‘domestic reception equipment’ in the BSA. It argued it should be read broadly by the ACMA to encompass devices used in non-domestic settings, such as hotels, hospitals and venues.

In the consultation paper, we noted that ‘domestic reception equipment’ is not defined but that we had taken the term to mean equipment necessary to receive a regulated television service for home or residential use. The ACMA’s view remains that the intent of the framework is to capture smart TV devices intended for domestic use, and that ‘domestic’ should be given its ordinary meaning.

It is our view that any regulated television devices supplied directly to a commercial end-user, and not made available in retail stores, would unlikely fall within scope. Further, a consumer-grade smart TV that has been adapted to suit business or operational needs (for example, a bespoke hotel TV interface) would not be expected to adhere to prominence rules as it has a similar effect to that of a consumer customising their smart TV home screen.

## Summary of our updated views on regulated TV devices

* We reaffirm our preliminary view that smart TVs and smart streaming devices (including streaming sticks and boxes) are regulated television devices for the purposes of the   
  TV prominence framework.
* We have amended our preliminary view on ‘edge cases’ and consider that both smart projectors and smart monitors are likely regulated television devices.
* In assessing primary purpose, we confirm the list of matters previously discussed in the consultation paper. Consideration should also be given to evidence or data on how devices are being used by consumers. In early 2025, we will publish written guidelines to assist in determining whether a device is a regulated television device.
* There is no current need for the ACMA to make a legislative instrument determining specific devices are, or are not, regulated television devices. Manufacturers will need to determine which of their devices are caught under the prominence framework. We will not make an instrument to exclude 2025 model devices from the framework.
* We will develop a compliance and monitoring strategy and consider further research to inform our understanding of the market and new and emerging devices and periodically review the suitability of the legislative definition to determine whether further guidance or legislative instruments are needed.

# Defining primary user interface

Section 130ZZL of the BSA provides that the primary user interface of a regulated television device means the interface of the device that is either or both of the following:

1. the home screen or main screen of the device
2. the main interface most commonly used to provide access to applications that make audiovisual content available on demand using a listed carriage service; and meets the description or requirements (if any) determined by the ACMA.

We may describe an interface or determine requirements relating to an interface differently for different regulated television devices or kinds of regulated television devices, or different kinds of things or circumstances. The ACMA may determine such descriptions or requirements by way of a legislative instrument.

The consultation paper tested an approach to describing the primary user interface as a virtual space that may extend beyond the bounds of the screen. Our preliminary view suggested that some scrolling may be permitted to reach all free-to-air TV apps, but not beyond a space that is double the initial view. This was proposed to provide consistent prominence outcomes to users, while giving manufacturers the flexibility to adopt prominence requirements within their existing user interfaces. We also sought views on whether we needed to make descriptions or requirements for a device’s primary user interface, whether content aggregating services needed to be treated differently, and the impact of contractual arrangements.

## The meaning of ‘primary user interface’

### What we heard

The visibility and placement of the free-to-air TV apps on the primary user interface, including any tolerances for scrolling, is a key concern to all stakeholders in the implementation of the prominence framework.

Device manufacturers raised definitional concerns and called on the ACMA to use our discretionary powers to clarify primary user interface requirements in a way that can accommodate diverse user interface designs without disrupting existing commercial arrangements.

Broadcasters, by contrast, argued there is no definitional ambiguity, and that the legislation as passed requires manufacturers to display all free-to-air TV apps on the initial interface of a device, without any scrolling, clicking or other action taken by a user.

Both stakeholder groups contend that their positions are consistent with government’s intent and broader policy objectives, citing various explanatory materials released as part of the Bill to justify their viewpoints.

RMIT supported our proposed approach, suggesting that regulatory design should consider user expectations and familiarity with navigating user interfaces. RMIT device testing of smart TV UIs from the top 5 brands in Australia showed all home screens had identifiable app launch rows that clearly extend off the screen. Its research further showed that most users are comfortable scrolling horizontally through an app row.

Some stakeholders argued we had misunderstood the scope and purpose of our powers under the new legislation, and that we should not interfere unless there is a demonstrated need for a ‘circuit breaker’. Free TV noted the role of the ACMA is to ‘assist in the event that there is a dispute about what an interface means, not to define primary user interface more generally’.

Stakeholders also had mixed views about how prominence requirements ought to interact with existing contractual arrangements between device manufacturers (or providers of operating systems) and content service providers (such as SVOD providers). CESA noted these arrangements are managed globally or by third parties and are usually subject to confidentiality undertakings, meaning that local representatives may not have visibility of the specific details of these arrangements.

Manufacturers and SVOD providers noted that their existing contractual arrangements, coupled with limited available screen space on existing interfaces, could make it difficult to integrate free-to-air TV apps without scrolling. CESA and Netflix suggested a folder-based approach would allow multiple free-to-air TV apps to be grouped in a dedicated section on the main interface to balance compliance with practical interface limitations. Netflix further argued that if the folder approach is not adopted, regulations should limit the number of free-to-air TV apps afforded prominence to one per regulated television service.

Broadcasters noted that existing contractual arrangements are a matter for manufacturers, not a regulatory matter for the ACMA, and should not be a barrier to realising the intent of the legislation. The Australian Children’s Television Foundation (ACTF) and SBS proposed that free-to-air TV apps should be in their own app rail separate from other apps to avoid the challenges of fitting them on the home screen.

### Our updated view

The ACMA has carefully considered whether there is a need to exercise our discretionary powers to describe an interface or determine interface requirements via a PUI legislative instrument. Stakeholder submissions highlighted a significant divergence of views, particularly in relation to the expected placement and visibility of free-to-air TV apps, and whether there should be any flexibility or tolerances afforded around scrolling or other user interaction. Similarly, stakeholders expressed conflicting views regarding the need for the ACMA to exercise our discretionary powers to make a legislative instrument to determine or define requirements relating to a device’s primary user interface.

The consultation process demonstrated that issues around the visibility of the free-to-air TV apps and level of user interaction required to access them went to the policy intent and objectives of the prominence framework and legislation. Following careful consideration of stakeholder views and submissions, we formed the view that these issues would be better addressed as part of the regulations establishing the minimum prominence requirements rather than the ACMA exercising our discretionary instrument-making powers. We informed government and key stakeholders of this decision in late October 2024, so these issues could be considered as part of the development of the regulations.

The Broadcasting Services (Minimum Prominence Requirements) Regulations 2024 were registered on 16 December 2024, and form a key component of the prominence framework. In addition to specifying when free-to-air TV apps need to be installed and updated, these regulations clarify that all free-to-air TV apps need to be visible on the primary user interface without any user interaction, except that which is necessary to initially access the interface.

## Content-aggregating interfaces

### What we heard

Submissions differed on whether content aggregating interfaces need to be treated differently from other regulated television devices when describing requirements for the primary user interface. Some stakeholders, including CESA, Connected TV Marketing Association (CTVMA) and Fetch TV, supported the ACMA’s preliminary position that content-aggregating interfaces may need to be treated differently.

Others, including Free TV, SBS, ABC, Community Broadcasting Association of Australia (CBAA), Australian Community Television Association (ACTA) and SLR opposed any differential treatment.

Foxtel argued that it gives easy access to regulated television services through its remotes for IQ devices (one button push) and Hubble devices (2 button pushes) but did not recommend that we make any instruments regarding the primary user interface.

While noting that modern smart TV interfaces are shifting to more curated experiences, RMIT noted that it is unlikely that manufacturers will abandon home screen app shortcuts in the immediate future, as they remain an important part of all major smart TV platforms’ design philosophy and are widely understood and accepted means of navigation by users.

### Our updated view

We acknowledge that TV manufacturers are moving towards greater content aggregation on their device home screens. However, as we are not aware of any current devices that adopt content-aggregating only interfaces (i.e., with no app rail or shortcuts), we do not think it is necessary to make any instruments distinguishing content aggregating interfaces at this time.

We will watch closely as the design of device interfaces evolves in coming years. Should design conventions change significantly for specific devices, we will consider whether there is a need for a primary user interface instrument to address prominence on content aggregating interfaces.

## Summary of our updated views on primary user interface

* The Broadcasting Services (Minimum Prominence Requirements) Regulations 2024 were registered on 16 December 2024, and specify that regulated television services must be visible on the PUI without scrolling or other user action.
* We maintain our view that some devices may, in the future, need to be treated differently to other regulated television devices due to differences in user interfaces, but do not see a current need to make instruments to this effect.

# When a regulated television service is offered

Regulated television service providers may develop apps for the platforms and devices on which they want their regulated television service to appear. Once the ‘must-carry’ obligations come into effect, manufacturers must not supply a regulated television device in Australia if it does not comply with the minimum prominence requirements for a regulated television service that is ‘offered’ by a regulated television service provider.

The BSA does not define the conditions for when a regulated television service is considered to be offered. We may, by legislative instrument, determine circumstances in which a regulated television service is taken to be offered and determine different circumstances for different regulated television services or kinds of services.

Our preliminary view set out in the consultation paper was that to be ‘offered’, an app must meet any reasonable manufacturer’s specifications before the deadline for inclusion in the relevant device development timeline. This acknowledged that apps must meet technical specifications for successful integration into device operating systems and that manufacturers’ usual practice is to provide guidance for app developers on their websites. Regulated television service providers will retain choice about the platforms or devices to which they would offer services.

The paper sought views on whether a legislative instrument determining circumstances when a regulated television service is taken to be ‘offered’ is necessary. It also discussed whether greater transparency was needed by way of a register or database.

## Instruments for ‘offered’

### What we heard

Broadcasting stakeholders were largely in agreement that existing practices and processes under which industry offers apps to manufacturers are working well and that this should remain the basis for understanding when a regulated television service is taken to be offered.

Manufacturers’ submissions emphasised the importance of broadcasters providing apps in a timely manner, ensuring compatibility with regulated television devices. Manufacturers want to retain the ability to reject an app that fails to meet technical performance and other specifications (consistent with our preliminary view in the consultation paper). As CESA noted:

TV manufacturers have standard terms and conditions that all app providers must agree to before app development can proceed. These terms outline amongst other things the criteria for compatibility testing, app support, maintenance and resolution of technical issues.

Manufacturers’ submissions did not report negative experiences or call out serious issues with broadcasters in relation to developing and offering apps within the parameters established by device manufacturers presently.

CESA expressed the view that the ACMA should define the conditions for when a regulated television services is offered, but it did not submit that current arrangements are not working effectively.

### Our updated view

The key requirements flagged in manufacturers’ submissions are not unreasonable and they appear to be embedded in business-as-usual processes. We consider this approach to be transparent and appropriate, noting that it also allows for individual manufacturers to tailor requirements as relevant to their respective devices and/or operating systems.

If existing industry practices and processes for offering and developing apps continue, there is no evidence that making an instrument at this time would meaningfully add to industry’s understanding of when an app is taken to be offered.

Accordingly, it is our view that no intervention in relation to ‘offered’ is currently required. However, we will consider the necessity of an instrument if issues around offered emerge that compromise the operation of the prominence framework. There will be opportunities to examine any proposed instruments in advance.

## Transparency issues

Some submitters, including ACTA and CTVMA, advocated for greater transparency about the apps offered across devices. Stan and CESA suggested that this might be achieved through a standardised and centralised list of applications available on platforms and operating systems.

There were some calls for increased visibility of technical specifications and requirements for the benefit of manufacturers and broadcasters alike. Stan supported publishing a ‘standardised set of specifications for each device'.

The CTVMA asserted that a centralised resource for broadcasters, app developers and manufacturers would:

* provide for transparency and uniformity across platforms
* facilitate compliance with prominence rules
* allow stakeholders to verify tech requirements.

It proposed publishing and administering such a resource on CTVMA’s Australian website.

Although there may be some room for improvement, we did not hear that transparency was a significant obstacle for developing and offering apps. Industry may wish to pursue the establishment of a central repository, as proposed by CTVMA, if there is agreement that it would deliver benefits to stakeholders. We consider that industry would be best placed to coordinate and maintain such a technical resource that would inform manufacturers and broadcasters’ processes around development, offering and ingestion.

## Summary of our updated views on ‘offered’

* We confirm our preliminary views as stated in the consultation paper.
* We recognise existing and broadly accepted industry practices relating to ‘offered’ and will not exercise our powers to make a legislative instrument at this time.
* We will continue to engage with manufacturers of regulated television devices and providers of regulated television services on the operation of the prominence regime including how offer arrangements are working. Should there be ambiguity or significant issues around the conduct of involved parties, we can revisit whether a legislative instrument is warranted.

# Next steps

The ACMA’s indicative implementation timeline, as set out in the consultation paper, contemplated the need to develop formal guidance or legislative instruments. As we do not anticipate exercising our legislative instrument-making powers in the short-term, the implementation program has been revised to reflect our key areas of focus in 2025.

## High-level prominence workplan for 2025

The ACMA workplan is expected to focus on the following key components.

### Stakeholder engagement

We expect to continue liaising with stakeholders throughout the year, including informing them about the progress of our implementation activities. Early in 2025, we intend to engage with regulated entities – especially manufacturers of smart projectors and smart monitors – to confirm the scope of regulation and understand how we can best support them towards compliance with the new rules.

### Regulated television device guidelines

Building on the views expressed in this paper, we will produce short, standalone guidelines to assist in determining regulated television devices under section 130ZZM of the BSA. These guidelines will be aimed at manufacturers and reiterate the factors we consider relevant when assessing primary purpose, including the role of consumer usage behaviours. We will aim to publish these guidelines on our website in early 2025.

### Compliance and enforcement strategy

We will develop a compliance and enforcement strategy to underpin the ongoing operation of the new prominence rules. This is anticipated to be a significant phase of work that will include consideration of:

* compliance activities (including a monitoring approach for regulated TV devices)
* compliance priorities
* compliance reporting
* complaint assessment, investigation processes, and enforcement options
* industry education.

Any compliance and enforcement strategy will be consistent with our [compliance and enforcement policy](https://www.acma.gov.au/compliance-and-enforcement-policy), which outlines our broad approach to compliance and enforcement across our wide-ranging regulatory activities, supplemented by the [Enforcement Guidelines](https://www.legislation.gov.au/F2021L01123/latest/text).

### Research and data needs

We will consider what information and data is needed to support compliance monitoring activities, including environmental scanning, user data, and market analysis in relation to edge cases and emerging devices. This phase will also explore options for how we might verify non-compliance with minimum prominence requirements.

## Keeping you updated

Updates on our prominence work program, including the development of a compliance and enforcement strategy, will be made available on the [ACMA website](https://www.acma.gov.au/consultations/2024-09/our-approach-implementing-tv-prominence-rules). We are keen to continue discussions throughout 2025 and expect to be working closely with stakeholders, particularly regulated entities, to support their readiness for the new rules.

1. The *Communications Legislation Amendment (Prominence and Anti-siphoning) Act 2024*, which amended the *Broadcasting Services Act 1992* and the *Australian Communications and Media Authority Act 2005,* received Royal Assent in July 2024. [↑](#footnote-ref-2)
2. The [Broadcasting Services (Minimum Prominence Requirements) Regulations 2024](https://www.legislation.gov.au/F2024L01658/latest/text) were registered on 16 December 2024. [↑](#footnote-ref-3)
3. ACMA, [*Statement of Intent*](https://www.acma.gov.au/sites/default/files/2023-03/ACMA-Statement-of-Intent.pdf), accessed 21 November 2024. [↑](#footnote-ref-4)
4. Note that this reference to the Bill is the Bill which, when enacted, introduced Part 9E to the BSA. [↑](#footnote-ref-5)