



**Submission by
Free TV Australia**

Australian Communications and Media
Authority

*Draft Broadcasting Services (Television
Captioning) Standard 2013*

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EXECUTIVE SUMMARY

- Free TV welcomes the opportunity to comment on the draft *Broadcasting Services (Television Captioning) Standard 2013* (Draft Standard) in the lead up to the development of a final Standard under section 130ZZA of the *Broadcasting Services Act 1992* (BSA) (the Standard). Commercial television broadcasters are committed to working closely with the Australian Communications and Media Authority (ACMA) as part of this process.
- Closed captioning is a valued service within the deaf and hearing-impaired community. As well as setting parameters for broadcasters in providing captioning services, the finalised Standard should also serve as a guide to caption users about the issues that determine the overall quality of captioning.
- Free TV generally supports the approach taken by the ACMA in the Draft Standard. In particular, an assessment based on the cumulative effect of the captions and the overall context of the program as a whole (or program segment) is practical and correctly places the focus on meaningful viewer outcomes.
- It is essential that the Draft Standard be amended to make provision for live captioning. It is not reasonable for live captioned programs to be assessed against the same benchmarks as a program that has pre-prepared captions. While the key quality considerations should remain the same, the ACMA should be required to consider whether a program has been live captioned and make certain allowances as a result when assessing the quality of a captioning service under the finalised Standard.
- Free TV has also made a number of suggested changes the Draft Standard to ensure that programs whose captions have originated overseas will not be disadvantaged. For example, reasonable accommodation should be made for American spelling of certain words.
- The definition of captioning service that appears in the Draft Standard is aspirational and sets an unattainable benchmark because of the inclusion of the word “simultaneously”. It should be amended to a purely objective definition, with quality benchmarks (including in relation to synchronisation) to be determined by the other factors set out in the Draft Standard.
- It is essential that the finalised Standard set a framework that is objective, practical and clear for both broadcasters and caption users. Free TV has suggested a number of changes to the wording of the Draft Standard to achieve this outcome. These are detailed in this submission and a marked up version of the Draft Standard is provided at Attachment A.



Introduction

Free TV Australia (Free TV) represents all of Australia's commercial free-to-air television broadcasters. At no cost to the public, our members provide nine channels of content across a broad range of genres, as well as rich online and mobile offerings. The value of commercial free-to-air television to the Australian public remains high. On any given day, free-to-air television is watched by more than 14 million Australians.

Free TV recognises that closed captioning is a much-valued service within the deaf and hearing-impaired community. In addition to meeting the legislative and regulatory requirements which apply to captioning, broadcasters have worked collaboratively with the Australian Human Rights Commission and hearing-impaired advocacy groups to substantially increase captioning levels on their primary channels. Free TV members also regularly engage in active consultation with the ACMA and hearing-impaired advocacy groups on captioning quality issues.

While Free TV generally supports the Draft Standard, there are a few key areas where changes are required to reflect the practical realities of a captioning environment, and provide clarity to captioning service providers, broadcasters and caption users. In particular, there must be some mechanisms in place to deal with programs that have been live captioned, and programs with captions that originate overseas.

Attachment A is a copy of the Draft Standard, marked up with the changes as proposed in this submission.

Overall approach

Free TV supports the approach taken by the ACMA in developing the Draft Standard. In particular, the emphasis on meaningful viewer outcomes is achieved by focusing on the cumulative effect of a range of factors in determining captioning quality (rather than simply applying metrics). Section 6 of the Draft Standard sets out the two primary elements of such an approach – namely, that the program (or program segment) must be viewed as a whole, and that the determination of quality must be based on the cumulative effect of the listed factors (as opposed to a checklist).

Using a range of factors as a way to assess overall viewer outcomes represents a sensible and practical approach to regulating captioning quality.

To ensure that the quality factors contained in the Standard are not interpreted as a “checklist”, the Explanatory Statement accompanying the Standard should contain specific wording about the need to have reference to all of the relevant indicators and their cumulative effect. This should also include an explicit acknowledgement that some of the quality assessment factors are inconsistent with one another.

Live captioning

It is essential that the Standard recognises and makes appropriate allowances for programs that are live captioned.

Where possible, broadcasters have programs captioned before they go to air. Programs with pre-prepared captions will generally produce a better result for viewers.

However, pre-captioning programs is not possible in all cases. A program may be live captioned for a range of reasons, including:

- topical productions delivered a few hours before broadcast;



- uncaptioned programs from overseas with a short turnaround time;
- programs that are broadcast live or near live; or
- when pre-recorded captions fail to broadcast due to file corruption or another irregular occurrence.

Live captioning is very difficult and often involves transcribing the aural elements of a program in real time. Live captioning is not limited to stenography and re-speaking, and can also involve captioning scripted material as it is broadcast. A number of programs are also recorded “as live” for broadcast a short time later. In these cases, there is no scope for corrective action.

The Consultation Paper accompanying the Draft Standard noted that the overall objective was to achieve a meaningful service for caption users, and that whether or not a program was live captioned was irrelevant to this consideration.

Free TV agrees that the quality factors and overall requirements should not change depending on whether or not a program has been live captioned. However, it is simply not reasonable or realistic to expect live captioned programs to attain the same quality standard as a pre-captioned program. A pre-captioned program will almost always be of superior quality to a live captioned program. There are inherent difficulties in a live captioning environment, including in relation to accuracy and presentation. These have previously been recognised by the ACMA.¹

Failure to differentiate live captioning in the Standard will create a single benchmark that will prove to be very difficult for broadcasters to satisfy.

Live captioning in a broadcast environment is unavoidable, particularly in the mornings when a large proportion of television is live, and for topical programs such as news and current affairs. Broadcasters will obviously take all steps to ensure that live captioned programs are meaningful and accessible to viewers, but there will be unavoidable quality compromises due to the nature of live captioning. For example, a spelling error may not be corrected because the act of making the correction will delay the captions and cause synchronisation problems for the remainder of the program.

Measuring live captioned programs against the same standard as a pre-captioned program will inevitably result in breaches of the Standard, even when broadcasters have made all reasonable efforts to provide a high quality captioning service. This will in turn result in significant and unreasonable compliance issues for broadcasters as captioning levels increase to 100% on the primary channels.

The fact that a program has been live-captioned must be taken into account by the ACMA in investigating complaints under the Standard, so that certain allowances can be made on key issues such as synchronisation and accuracy of spelling. This approach will also assist in managing the expectations of viewers who use captions, by recognising that there may be compromises made in a live caption environment that will impact on some of the factors in the Standard. It is important to not only understand the inherent issues with live captioning as provided above but also the onus this puts on broadcasters as live captioning will not always be a seamless process.

The common substantive factors for assessing captioning quality should still be used. However, the wording in the Draft Standard should be amended to stipulate that when investigating a

¹ Advisory Note 4.2, Appendices of the ACMA *Co-Regulatory Captioning Committee Quality Indicators*



complaint, the ACMA must take into account whether a program has been live captioned, along with an appropriate guidance note.

In suggested changes to the Draft Standard at Attachment A, Free TV has recommended the use of the guidance notes in the Co-Regulatory Captioning Committee Quality Indicators document. These factors were developed following extensive consultation with all relevant stakeholders, and reflect the practical realities of a live caption service.

Overseas captions

Free TV appreciates that the ACMA has taken steps to accommodate captions prepared overseas in the “readability” factors in the Draft Standard, by not stipulating particular colours and case requirements for captions.

This focus on viewer outcomes and overall readability is a positive step towards ensuring that programs with captions from overseas are treated in the same way as locally produced captions.

However, there are a number of outstanding areas where broadcaster use of overseas captions may result in contravention of the finalised Standard, even where the viewer is not disadvantaged.

For example, alternative spellings in programs that have been captioned overseas (for example, check vs cheque) may not satisfy clause 9(v) of the Draft Standard in relation to correct spelling.

Similarly, programs captioned in the United Kingdom are often not verbatim, and many programs captioned in North America do not include sound effects.

While these differences may have a minor impact on viewer outcomes, the potential disruption will be greater if broadcasters are required to re-caption all material that is currently shown with overseas captions. In some cases this will necessitate a program being live captioned, which is likely have a greater overall negative effect on viewer outcomes than the absence of some sound effects, or the paraphrasing of certain sentences.

Free TV recommends that some minor changes be made throughout the factors to accommodate overseas captions. These changes are marked up at Attachment A. Other changes suggested by Free TV will also serve to facilitate the use of overseas captions (such as the removal of "if it is not possible" from the accuracy factors and the rewording of sections relating to sound effects and non-verbal noises).

Definitions

Free TV has serious concerns with the definition of captioning service, as it appears in the Draft Standard.

In particular, the use of the word “simultaneously” is aspirational and undermines other elements in the Draft Standard, particularly in relation to the comprehensibility factors concerning timing and delay.

The word "simultaneous" also implies a strict time lag measurement in the synchronisation between captions and the aural elements of the program. This is not a position that is supported by broadcasters or the ACMA. The definition sets an unreasonably high bar for broadcasters, particularly in relation to live captioning.

The definition in the Draft Standard should be replaced by a simpler, more objective definition that focuses only on the nature of the captioning service, without reference to outcomes.



The quality factors contained throughout the Draft Standard are the appropriate measure of viewer outcomes. Such matters should not be incorporated into the definitions.

Free TV suggests that the definition of captioning service be kept very simple and objective, and revised as follows:

Captioning service means a service whereby captions are provided.

The definition of captions should remain unchanged.

Such an approach simply and clearly states what a captioning service is. Retaining the two separate definitions will ensure that the majority of wording in the remainder of the Draft Standard does not require amendment.

If this approach is not adopted, then as an alternative Free TV supports a definition based on the wording that was developed as part of the Co-Regulatory Captioning Committee process:

Captioning service is the presentation of the relevant audio component of audio visual content as text on screen. It is the display in words of the aural elements of a program (i.e. the dialogue, narration and relevant sound effects) as the program is being broadcast on a television screen. Closed captioning is primarily a form of text-based communication, and, depending on the uses, is either a substitute or a supplement for hearing the soundtrack of a program.

Free TV does not have any comments on the remainder of the definitions in the Draft Standard.

Quality of captioning services

This section of the Draft Standard simply replicates the obligations that already exist in the BSA at subsections 130ZZA(4) to (7). Including the obligation again as a provision of the Standard is circular, unnecessary and confusing in the context of the overall regulatory framework.

This section of the Draft Standard should be removed. The Explanatory Statement that accompanies the finalised Standard can make reference to the obligations at section 130ZZA of the BSA and include the information contained in the Note that appears in the Draft Standard, if it is felt that such information is essential.

Determining the quality of captioning services

Free TV supports the proposed wording of this section of the Draft Standard, and particularly the recognition that the ACMA must consider the cumulative effect of the relevant factors and the context of the whole program (or program segment).

However, an additional clause must be included in this section to ensure that programs that have been live captioned are assessed appropriately. Suggested wording and an accompanying guidance note has been provided in Attachment A to this submission.

The guidance notes are based on the documentation developed as part of the ACMA Co-regulatory Captioning Committee process.

Including this specific consideration will provide a clear framework for analysing compliance and give certainty to all stakeholders. Such an approach will also ensure that this significant issue is considered as part of each relevant investigation.



Readability of captions

Free TV recommends that two minor changes be made to the Draft Standard wording in clause 7(b) (Clause 6(b) in Attachment A).

The first change involves a small amendment to item (i), to make it clear that the legibility standard is an objective one. Caption users will have a broad range of literacy and vision levels. The assessment of whether something is legible in accordance with the quality standards should be based on whether it is legible to an ordinary reasonable viewer. It should not be an assessment that is made based on a complainant's individual circumstances. Free TV recommends clarifying this point to add the words "to an ordinary reasonable viewer" at the end.

The second change that is recommended is the inclusion of the words "where possible" at the beginning of item (iv), to account for situations where key visuals or a speaker's face take up the whole screen.

Accuracy of captions

To provide certainty and clarity for broadcasters in complying with their obligations, a number of wording changes are recommended to the accuracy factors in the Draft Standard. These changes will remove ambiguity and ensure that objective measures are applied across the board.

"It is not possible"

The words "it is not possible" should be removed from items (iii) and (iv), with consequential changes to the remainder of the provisions. The principle should simply be that where captions are not verbatim, the captions reflect the actual meaning. This approach will result in a more meaningful outcome for the caption user.

Whether or not it was possible for captions to be provided verbatim is irrelevant to the quality of captioning service, and has no bearing on whether the overall program with captions was meaningful to the viewer.

Free TV is also concerned at the subjectivity of determining whether or not it is possible for captions to be verbatim. Whether it is possible for captions to be verbatim is a matter that may be determined differently depending when a decision is made and who it is made by, as well as a number of other factors.

The ACMA should not be responsible for assessing whether verbatim captions were possible in each investigation matter. This goes to the mechanism by which the captions were provided, which is something that the ACMA has indicated should not be part of the Standard.

Item (ii) of section 8(b) in the Draft Standard already requires the ACMA to consider whether captions of spoken content are verbatim. As a result, how closely the captions capture the spoken words will already be taken into account when assessing the accuracy of the captioning service.

The change suggested by Free TV does not alter the operation or focus of the accuracy factors (iii) and (iv). Rather, it reframes those factors at 8(b)(iii) and (iv) to focus on whether the captions are meaningful to the viewer.

Literacy of children

The reference to the literacy levels of children at item (iv) of 8(b) of the Draft Standard is vague and uncertain. It does not provide adequate guidance or benchmarking for broadcasters.



Free TV recommends that this phrase be removed and replaced with the words “intended audience”. This will enable broadcasters to make a more accurate assessment based on the nature and intended demographic of the relevant children’s program.

Additional information conveyed via captions

Free TV does not agree with the level of detail that is contained in Items 8(b)(v) and (vi) of the Draft Standard.

Current industry practice for captioning in Australia does not extend to the inclusion of the detailed descriptive and interpretive elements that are set out in these provisions. The factors as described will involve a number of subjective judgments that are open to different interpretations.

For example, while the caption service will usually include the lyrics to the song (and sometimes the artist), the requirement to also include a description of the tone or atmosphere of the music is onerous and difficult. It is not reasonable to require broadcasters to provide additional descriptive information to explain the program for viewers as part of the captioning service.

The requirement to caption the audio track of a program should be limited to obvious tone or mannerisms of speech, and relevant sound effects. The factors in the quality standard should reflect this. Attachment A contains some alternative wording that reflects this position.

Comprehensibility of captions

Removal of metric-like descriptors

In the consultation paper, the ACMA explained that it had not included metric measurements as part of the factors contributing to quality, instead focusing on the overall outcome for the viewer. This position is supported by Free TV.

For this reason, the words “clearly” and “simultaneously” should be removed from items (i) and (ii) respectively. These words undermine the premise that the primary assessment should be whether the captions are meaningful to the viewer.

The word “clearly” requires a subjective judgment to be made and is unnecessary to the overall assessment of whether the speaker is identifiable.

The word “simultaneously” appears to suggest that the captions must be perfectly synchronised with the aural elements of the program, which is not a realistic requirement (particularly if a program is live captioned). This appears to build a metric test into the Standards in relation to time lags. As the consultation Paper notes, this is not the intention of the ACMA.

Homophones and alternative spellings

Allowance should be made in section 9(b) of the Draft Standard (or 8(b) in our Attachment A) for alternative spellings and homophones. There may be occasions where alternative spellings and homophones are used and this does not detract from the quality of the captioning service and the overall viewer experience.

Homophones, while unfortunate, do not usually have a material impact on comprehensibility. Homophones are more likely to appear in live captioned programs, but there may be times when they appear in a pre-captioned program as well.

Similarly, programs that have been captioned overseas may contain different spellings for common words, such as “analog” as opposed to “analogue”.

Free TV has suggested a new clause at item 9(b)(vi) of the Draft Standard (8(b)(vi) in our Attachment A) to allow for incorrect or alternative spelling where the meaning of the word is



nevertheless clear. This is based on wording from the Co-regulatory Captioning Committee Quality Indicators document.

ATTACHMENT A



Broadcasting Services (Television Captioning) Standard 2013²

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY determines this Standard under subsection 130ZZA(1) of the *Broadcasting Services Act 1992*.

Dated [date to be confirmed but prior to 28 June 2013]

Member

Member/General Manager

Australian Communications and Media Authority

² All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

1 Name of Standard

This Standard is the *Broadcasting Services (Television Captioning) Standard 2013*.

2 Commencement

This Standard commences on [date to be confirmed but prior to 28 June 2013].

3 Object of Standard

The object of this Standard is to specify mandatory requirements for broadcasters and narrowcasters, that relate to the quality of closed captioning services, to ensure that captioning services are meaningful to deaf and hearing impaired viewers.

4 Definitions

In this Standard:

Terms that are defined in the *Broadcasting Services Act 1992* have the same meaning as in that Act, unless the contrary intention appears.

Act means the *Broadcasting Services Act 1992*.

broadcaster means a commercial television broadcasting licensee, a national broadcaster or a subscription television broadcasting licensee.

captioning obligations means the legislative obligations under Part 9D of the Act that require:

- (a) commercial television broadcasting licensees and national broadcasters to provide a captioning service for programs transmitted under subsection 130ZR(1) of the Act;
- (b) commercial television broadcasting licensees and national broadcasters to provide a captioning service for programs transmitted on their respective multi-channelled commercial or national television broadcasting services under section 130ZS of the Act;
- (c) broadcasters and narrowcasters to transmit a minimum percentage of hours of captioned programs per year under sections 130ZT, 130ZU and 130ZV of the Act; and
- (d) subscription television licensees to provide a captioning service for programs transmitted on a subscription television service under sections 130ZZ and 130ZZAA of the Act.

captioning service means a service in which captions are provided ~~for programs, that enable the viewer to simultaneously follow the speakers, dialogue, action, sound effects and music of a program.~~

captions means the visual translation of the soundtrack of a program in English, in text form.

narrowcaster means a subscription television narrowcasting licensee.

program includes:

- (a) a television program; and
- (b) a distinct program segment within a television program.

~~5—Quality of captioning services~~

~~Broadcasters and narrowcasters must, when providing a captioning service in accordance with their captioning obligations, comply with the requirements relating to quality in this Standard.~~

~~Note In exercising its enforcement powers under the Act, the ACMA takes the position that a program that does not meet the requirements of section 5 of this Standard will not be eligible to be used by a broadcaster or narrowcaster to comply with its captioning obligations.~~

65 Determining the quality of captioning services

- (a) Subject to paragraph (b), when determining the quality of a captioning service for a program, the captioning service must be considered in the context of the program as a whole.
- (b) When determining the quality of a captioning service for a distinct program segment within a program, that is unrelated to other program segments within that program, the captioning service must be considered in the context of that distinct program segment on its own.
- (c) When determining the quality of a captioning service, the cumulative effect of the following factors must be considered:
 - (i) the readability of the captions;
 - (ii) the accuracy of the captions; and
 - (iii) the comprehensibility of the captions.

(d) When determining the quality of a captioning service for a program or program segment, the ACMA must take into account whether the program has been live captioned.

Note: Live captioning includes but is not limited to stenography, re-speaking, captioning scripted material as it is broadcast, and programs recorded “as live” for broadcast a short time later. Live captioning may occur for a range of reasons. In assessing a program under these Standards, allowances for a program that has been live-captioned include:

- Spelling and punctuation: Words which are not exactly correct but nevertheless convey the meanings of the actual words (e.g. homophones). Mistakes may often be in the form of incorrect, though phonetically similar, words.
- Captioning levels: Some speech or other audio elements may be left out, or only partially closed captioned, since there is no opportunity for the captioner to replay segments that were missed or that were difficult to understand. This may particularly be the case where numerous people are speaking at the same time.
- Live captions may not have the grammatical and presentational quality of pre-prepared closed captions.
- Similarities in speakers’ voices, where changes in speakers are not easily discernible, can result in the same colour being used at times for different speakers.
- It can be difficult to avoid placing captions over rapidly changing graphics, speakers’ lips and other relevant vision.
- There will always be a time lag between the audio and the captions due to operator reaction times and system capabilities.

76 Readability of captions

- (a) When providing a captioning service for a program, broadcasters and narrowcasters must use captions that are readable.
- (b) When determining whether captions are readable, the following factors must be considered in the context of the program as a whole:
 - (i) whether colour and font is used in the captions in a way that makes them legible to the ordinary reasonable viewer;
 - (ii) whether the caption lines end at natural linguistic breaks and reflect the natural flow and punctuation of a sentence, so each caption forms an understandable segment;
 - (iii) whether standard punctuation of printed English has been used in the captions to convey the way speech is delivered;
 - (iv) whether the captions are positioned so as to avoid obscuring other on-screen text, any part of a speaker’s face including the mouth and any other important visuals where possible; and
 - (v) whether the captions are no more than three lines in length.

87 Accuracy of captions

- (a) When providing a captioning service for a program, broadcasters and narrowcasters must use captions that accurately recreate the soundtrack of a program.

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- (b) When determining whether captions accurately recreate the soundtrack of a program, the following factors must be considered in the context of the program as a whole:
- (i) whether spoken content has been captioned;
 - (ii) whether the captions of spoken content are verbatim;
 - (iii) where ~~it is not possible for the captions of spoken content to be~~ verbatim, whether the captions reflect the actual meaning of the spoken content;
 - (iv) where the intended target audience of a program is children and ~~and it is not possible for the captions of spoken content to be~~ not verbatim, the extent to which the captions take into account the literacy levels of children intended audience;
 - (v) whether the manner and tone of voice of speakers has been conveyed, where practical and material; and
 - (vi) whether any obvious sound effects and/or music, not observable from the visual action, have been ~~captioned in a way that accurately describes, where applicable, the name, mood, tone, atmosphere and action of the sound effect and/or music, in order to give them context in the program.~~

98 Comprehensibility of captions

- (a) When providing a captioning service for a program, broadcasters and narrowcasters must use captions that are comprehensible.
- (b) When determining whether captions are comprehensible, the following factors must be considered in the context of the program as a whole:
- (i) whether the captions ~~clearly~~ identify and distinguish individual speakers, including off-screen and off-camera voices;
 - (ii) whether the captions are displayed for a sufficient length of time to allow the viewer to ~~simultaneously~~ read them and follow the action of the program;
 - (iii) the extent to which the appearance of the caption coincides with the onset of speech of the corresponding speaker, sound effect or music;
 - (iv) the extent to which the disappearance of the caption coincides with the end of the speech of the corresponding speaker, sound effect or music;
 - (v) whether the words used in the captions have been spelt correctly;
 - ~~(v)~~(vi) where a word is not spelt correctly, the spelling provided nevertheless conveys the meaning of the actual word in context;

| ~~(vi)~~(vii) whether explanatory captions are provided for long speechless pauses in the program;

| ~~(vii)~~(viii) the extent to which a caption over-runs a shot or scene change; and

| ~~(viii)~~(ix) the extent to which the appearance or disappearance of the caption, as the case may be, coincides with the relevant shot or scene change.

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