



Australian Government

Department of Broadband,
Communications and the Digital Economy

Media Access Review submission cover sheet

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Submission to DBCDE's:

***Access to Electronic Media for the Hearing and Vision Impaired
Approaches for Consideration
Discussion Report***

January 2010

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SUMMARY OF RECOMMENDATIONS

The following recommendations are specific actions that MAA believes should be undertaken and should be read in the context of the overall submission, particularly the detail and relevance in each section.

1. Consumers should be consulted about appropriate target levels for access to media.
2. ACMA's role could be improved by: being more proactive about identifying and investigating systematic access issues; improving its communication with consumers who have lodged complaints; taking a more proactive role about future access issues such as the need for a closed audio description (AD) broadcasting system; undertaking regular spot checks and publishing access compliance reports.
3. Electronic Program Guides need to be accessible.
4. A broad scoping of AD needs to be undertaken by ACMA or the Department of Communications.
5. Access quotas for free-to-air (FTA) television should be under the BSA.
6. A UK-style quota model with appropriate exemptions and a % of revenue cap would be the most appropriate way of managing FTA access provisions.
7. Subscription television should be included in the same quota system as FTA.
8. An AD trial should occur on the ABC and include: consultation with consumer groups; evaluation of overseas experience; evaluation of technical issues; evaluation of start up and ongoing costs; equipment issues; AD standards; use of existing AD files; priorities for AD content; regular public reporting; timetable for regular AD services.
9. The existing regulations should apply to multi-channels and they should be included in any quota system.
10. Caption quality should be under a compulsory code and should make reference to all types of captioning (including for DVD, cinema, online). AD quality should be included in the AD trial.
11. Screen Australia could play a leading role in: including AD in its access policy; programming funded accessible movies into accessible cinemas; expanding its policy to include documentaries and short films.
12. Government could look at partial funding support for cinema access.
13. Government acts as a broker between consumers and industry to create goodwill and progress.
14. The Government consultation process for DVDs should be more proactive, including: identifying barriers and solutions to overcome them; what issues are preventing distributors from labelling DVD access features; what are appropriate benchmarks for levels of captioning and AD; setting up a monitoring process.
15. Government needs to consult with consumers about setting targets for different categories of DVDs, including: overseas DVDS; Government agency DVDs (including SBS and ABC); accessible cinema to DVD releases; accessible broadcast content going to DVD; education DVDs.
16. The Government consultation process should include updating MAA's business case for access to DVDs.
17. All audio-visual content on Government websites should be captioned and audio described.
18. Government should encourage content providers to match overseas offerings on

accessible online services and report back by 2012.

19. Government should adopt WCAG 2.0 level A immediately and fully implement its provisions within 2 years with public reporting of progress.
20. Expert groups for consumers and industry should be set up for Internet access, using the successful Digital Switchover Taskforce model.
21. Accessibility of emergency broadcasts should be mandatory and an enforcement approach similar to the FCC in the US should be taken.

1. ABOUT MAA

1.1 What 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. The access service delivery component 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 has any interest in 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 three websites: www.mediaaccess.org.au, www.audiodescription.com.au and www.yourlocalcinema.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.

1.2 MAA's objects

The objects of Media Access Australia, from its Constitution, 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; and
- 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.

1.3 How does MAA operate?

MAA brings a unique perspective to the world of access. 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 achieve level of access, especially looking at implementation issues, cost-effective approaches and drawing on demonstrated successes.

Recommendation 1:

Consumers should be consulted about appropriate target levels for access to media.

2. MAA'S APPROACH TO THE DISCUSSION REPORT

The DBCDE's Discussion Report has been compiled over a period of 18 months and some information has become outdated since it was sourced. In some cases, different sources have been quoted and there are also some inaccuracies and some issues that are not fully explained in the Report.

MAA's submission provides updated and corrected information, as well as an explanation of the issues that provides a context to the proposed targets. MAA's submission also provides information about long term targets and policy solutions that have already been implemented in other countries to increase access.

MAA believes that increased access will support a number of Government policy objectives:

- A timely digital switchover.
- A take-up of National Broadband Network services.
- Media literacy and social inclusion.
- Obligations under the DDA and the UN Convention.
- An open, robust and transparent e-government.

2.1 How access supports the Government's policy objectives

2.1.1 A timely digital switchover

People with disabilities play an important role in a timely digital switchover as they form a substantial part of the television audience.

Experience from the UK shows that with the right access services, people with disabilities watch more television than the average viewer and are strong drivers of television services.¹

The high rate of viewership by people with disabilities is supported by closed captioning, audio description and signing that are required by the Ofcom *Code on Television Access Services*. By increasing television access services in Australia towards the levels in the UK, Australia will make more content accessible to people with disabilities and help drive a timely digital switchover.

2.1.2. A take-up of National Broadband Network services

People with disabilities are significant users of broadband services. In the UK, a media literacy audit found that people with disabilities use the Internet slightly more than the average user.²

¹ In the UK, people with disabilities aged under 65 watch on average 25.5 hours of television per week, twenty-five percent more hours than the average 20.1 hours for all UK adults under 65. Data from the *Media Literacy Audit: Report on media literacy of disabled people*, 2006, available from <http://www.ofcom.org.uk/advice/mediaajiteracy/medlitpub/medlitpubrss/disabled/>

² In the UK, people with disabilities aged under 65 spend 10.7 hours on the Internet per week, comparable to the average 10.4 hours for all UK adults under 65. Data from the *Media Literacy Audit: Report on media literacy of disabled people*, 2006, available from <http://www.ofcom.org.uk/advice/mediaajiteracy/medlitpub/medlitpubrss/disabled/>

Accessibility standards for broadband services and mobile devices, which are the fastest growing platform for Internet use, will help people with disabilities take up the new services that are delivered via the NBN.

With the right access features, mobile devices will be a significant driver of broadband services.

MAA notes that many iPhone-based devices, Google Android OS-based devices, and Nokia Symbian OS-based devices already support some third-party assistive software. Similarly, Motorola devices will soon include speech feedback in the US.

2.1.3. Media literacy and social inclusion

Access to media is a prerequisite for media literacy and social inclusion. An Ofcom study on media literacy, with a particular focus on people with disabilities, highlighted the importance of access, arguing that media literacy is “the ability to access, understand and create communications in a variety of contexts”.³ The same report further recognises that media literacy is crucial to social inclusion, noting that “without such skills, people's ability to participate effectively in the workplace and in society may be greatly diminished”.

In Australia, there continues to be a lack of access and a lack of reliable information about the specific needs of Australians with disabilities. While failing to acknowledge that access is a fundamental pre-requisite to media literacy, a 2009 ACMA research study recognised the value of digital media literacy to social inclusion as “the outcome of learning processes involving a combination of ‘literacies’ that give an individual the ability to confidently use, participate in and understand digital media and services”.⁴

Media access will contribute to the Government’s National Disability Strategy, which will help people with disabilities play a full role in Australian life. It underpins education and training, workplace opportunities, and strong participation in communities.

2.1.4. Obligations under the UN Convention and the DDA

Access to electronic media progressively increasing towards a long term goal of full access will ensure that government and industry meet their respective obligations under the *UN Convention on the Rights of Persons with Disabilities* (UN Convention) and the *Disability Discrimination Act 1992 Cth* (DDA).

The Australian Human Rights Commission is of the opinion that Australia must progress towards a long term goal of full access to meet its obligations under the UN Convention. The Commission believes that any action that would reduce captioning, web accessibility or stop progress towards achieving compliance could be a breach of the Convention and as a result Government may find itself subject to a complaint.

Industry has an obligation under the DDA to remove barriers unless it can demonstrate

³ *Media Literacy Audit: Report on media literacy of disabled people, 2006*, available from <http://www.ofcom.org.uk/advice/mediaajiteracy/medlitpub/medlitpubrss/disabled/>

⁴ *Barriers to the effective use of digital media and communications*, presented by Lesley Osbourne, ACMA, Communications and Policy Research Forum 2009, Network Insight Institute, available from <http://www.networkinsight.org/verve/resources/Osborne CPRF09.pdf>

unjustifiable hardship and Government needs to closely assess whether or not industry claims meet that test.

2.1.5. An open, robust and transparent e-government

Accessibility to government information underpins e-government that is open, robust and transparent because it guarantees that people with vision, hearing and mobility impairments have a comparable level of access to those in the wider community.

Accessibility was recommended as a key enabler of open government in Chapter Six of the final report of the Government 2.0 Taskforce to the Ministers Tanner and Ludwig in December 2009. Specifically, the Taskforce recommended compliance with Web Content Accessibility Guidelines (WCAG), released by the World Wide Web Consortium (W3C).

3. COMMENT ON CHAPTER ONE: CAPTIONING AND AUDIO DESCRIPTION

3.1. What is captioning?

The report states that "closed captions are encoded into the television system as teletext data, which can be decoded and viewed with a teletext decoder or teletext capable television". This is how analog captions are delivered. Digital captions can be viewed on any digital TV or via any digital set-top box that conforms to Australian Standard 4933. Nearly all digital televisions and receivers sold in Australia comply with this standard, including all receivers endorsed by the Digital Switchover Taskforce.

Captions are also delivered in different ways for subscription television, DVDs, cinema, streaming videos and video downloads, and video games.

For subscription TV, captions are activated via the set-up menu, and are available to all subscribers. Subscription TV suppliers must pass through all captions available on free-to-air programs. The Foxtel iQ recorder also allows captions to be recorded as part of a program.

For DVDs, captions are provided as a menu option, usually within the language option section. The captions are 'closed' and selected by the viewer as required. DVD captions are produced in the file format required by the authoring system the DVD producer is using and incorporated along with the other components of the DVD. No special equipment is required to watch DVD captions as all DVD devices, including computers, play the captions.

For cinema in Australia, captions are currently delivered by the DTS access system. The captions are contained on a disk, and projected onto the screen as a normal print of the film plays, using a data projector. The system is currently in use in 24 cinemas across Australia. In North America, the Rear Window closed captioning system is also used whereby captions are projected onto a plexiglass screen via a unit at the back of the cinema. This allows the patrons to choose whether or not to view the captions. With digital cinema the captions are delivered using a system that is similar to DVDs. That is, the captions are a menu item that the operator selects. They can then be played using the digital cinema projector (in open form for all to see) or connecting to closed systems such as Rear Window. The international standards for digital captions (and audio description) for cinema are expected to be published in April 2010 by SMPTE (Society of Motion Picture Theater Engineers). This includes 3D movies (in fact some movies such as *Avatar* and *A Christmas Carol* have already been shown in 3D versions with open captions).

For streaming videos, captions are an optional extra which can be activated on the media player being used. For video downloads, captions can be incorporated into the video as feature which can be activated on the viewer's media player, or an alternative 'open' captioned version of the video can be provided to download.

An increasing number of video games are including access features such as captions. In the more accessible games, their size, font and placement can be adjusted by the user according to preference.

3.2. What is audio description?

The report states that "audio description is generally transmitted to the consumer via headphones". This is true of AD in cinema screenings and theatrical performances, but not with television programs, DVDs and downloads.

In the UK and US, AD on television is delivered as a secondary audio channel which can be accessed on some digital receivers (and, in the UK, on subscription TV boxes). The description is then enabled by the viewer at home and listened to either via headphones or the television speaker.

At present the Australian digital standard makes it more complex to set up a secondary audio channel and thus offer closed AD (but not impossible). However, digital receivers currently on the Australian market would not be able to access them. This situation is very fluid and is expected to change with both the next generation of digital receivers that are likely to have AD decoding capability as a standard feature (this is being rolled out in Europe this year) and also when Australia adopts the next broadcast format standards as part of the digital switchover process.

In the meantime, it is possible the MHEG-5, an interactive TV middleware which has been adopted by Freeview (and is expected to be in place in 2010), could present an interim solution. MHEG-5 will enable an EPG and interactive services, and it may be feasible to also use it to introduce an AD service.

The introduction of AD on subscription television would be a much easier process as Foxtel/Austar has control over the viewing hardware and could incorporate it into its equipment. This hardware control considerably sped up the rolling out of captioning on subscription television, including the provision of software updates to the boxes to fix minor captioning errors. In the interim, there is a fully-workable system for delivering closed AD on subscription TV using the 'red-button' function. This has already been used to provide an alternative soundtrack on The Comedy Channel for a cast commentary on episodes of *The Chaser*. This is exactly the same as delivering a closed AD service.

For streaming videos and video downloads, AD can be provided as an optional secondary soundtrack or in an open-AD version. The most comprehensive rollout of AD streamed video is the BBC iPlayer and it offers an alternate open-AD version of the program, rather than a 'switch-on, switch-off' AD soundtrack (which is how the captions are presented for iPlayer programs). Unfortunately, BBC iPlayer cannot be accessed outside of the UK.

3.3. Who uses captioning and audio description?

The report states that captioning is used by "viewers of television, DVD, film and cinema a services". It is also true that captioning is used by users of online video, computer games and video games.

Captions are also provided on other services, such as airline AV content. Qantas provides open captions on its in-flight news service and magazine programs. Whilst this was originally provided as a service to Deaf and hearing impaired people, it has continued and expanded partially as a result of positive feedback from business and other non-deaf customers who value the ability to "read" the news as they do other work. Captions have now been included on the in-flight hard drive-based entertainment system for Qantas and

other airlines.

MAA notes that with rapid developments, such as the automated closed captioning of user generated video content on YouTube, captioning is available on an increasing variety of platforms and content.

There are a number of free caption software programs available which enable individuals to caption online videos. For example, CaptionTube allows people who have posted videos on YouTube to caption them and upload the caption files. The captions can then be activated on YouTube's player, and are available for everyone to see. Overstream allows anyone to caption videos on YouTube, Google Video and some other video providers, and these videos can be viewed with captions by anyone on the Overstream site.

4. COMMENT ON CHAPTER TWO: REGULATORY FRAMEWORK

4.1. ACMA complaint handling role

The report states that "[u]nder these industry codes, written complaints must first be submitted to the relevant broadcaster within 30 days of the broadcast at issue." This is not the case with closed captions, complaints about which can be sent directly to ACMA.

Most complaints about captioning fall into three main categories:

1. Technical problems which prevent the broadcast and reception of captions. These may be across a network, or only affect a particular region. (A broadcaster failure)
2. Poor quality captions on a particular program or programs. (A caption supplier failure.)
3. A systematic failure by a network to fulfil its obligations under the BSA by not captioning a program or part of a program.

ACMA, which takes a mainly legalistic approach to handling complaints, is not suited to dealing with the first two categories, which need to be dealt with immediately. MAA has partially filled this void by dealing with complaints by members of the public and trying to assist broadcasters in identifying and rectifying systematic problems. This is not an ideal way of dealing with broadcasting issues which are properly the concern of ACMA, not a private organisation.

Broadcast technicians need to be aware of technical problems as they arise so they can be rectified as quickly as possible. Broadcasters need to know if their caption suppliers are failing to produce quality captions, so that they can convey this to suppliers and demand that problems are fixed. Ultimately, caption quality problems are the responsibility of the broadcaster, even if they have outsourced the caption production to a third party.

While some networks and individual stations are proactive in monitoring caption quality, others rely on members of the public to notify them about problems (which shows another issue, the varying degree of interest and seriousness taken by broadcasters about captioning). It is not always easy for people to do this, with the networks requesting that complaints be made in different formats (by phone, fax, email or online form). In order to simplify the process, MAA set up a complaints form on its website, one copy of which goes to the station in the relevant format, while another copy goes to MAA. People who ring stations to complain often speak to people who are not knowledgeable about captions, and often assume that problems are due to reception issues with televisions or set-top boxes, which can cause great frustration for a person trying to lodge a legitimate complaint. A common consumer response to this treatment is for them to give up. This leads to somewhat erroneous statements being made by organisations like FreeTV that they are not aware of any major captioning problems. The problem is mainly with the system of monitoring and enforcement.

ACMA, under its present structure, is better suited to dealing with the third category of caption problems, systematic failures to fulfil BSA requirements, but the system is cumbersome. ACMA, on receipt of a complaint, may decide that it warrants an investigation being undertaken, and these usually take many months to complete. Two examples are:

1. A complaint was made to ACMA that NBN Newcastle had failed to caption all of its Evening News bulletins between 26 November 2007 and 17 December 2007. The complaint was upheld on 9 September 2008. (9 months later.) NBN agreed to upgrade its systems to prevent this happening again.
2. A complaint was made to ACMA that NBN Newcastle failed to caption segments relating to the Victorian bush fires in its Evening News bulletin on 11 February 2009, despite NBN's undertakings to resolve the previous complaint. The complaint was upheld on 29 October 2009. (8 months later.)

There is currently no real mechanism for consumers to complain about a lack of audio description on television (as well as in cinemas, and on DVDs and Internet downloads).

How could ACMA's role be improved?

Whilst ACMA has some different powers and objectives to its UK counterpart, Ofcom, there are some approaches taken by Ofcom that could vastly improve the effectiveness of ACMA and deliver better outcomes for consumers. These could be undertaken within its existing powers and objectives. For example:

- ACMA could be more proactive about identifying potential systematic problems in the broadcasting area (such as caption compliance on regional news) and hold an informal investigation to identify potential supply-chain, technical and broadcast issues that are creating these problems. This could help broadcasters fulfil their access obligations and identify potential points of failure.
- An improvement in the notification and customer service aspects of dealing with consumers. The investigations process takes a long time and consumers almost forget they have submitted a complaint by the time it is resolved. This could be improved by better ongoing communication.
- Taking a proactive approach to future issues, such as the development of a closed AD broadcasting system in Australia. ACMA could identify issues, costs, implementation considerations and provide practical implementation advice on this prior to standards and implementation plans being formulated. It is notable that the NZ Government identified AD issues and plans for dealing with them *in anticipation* of a service being required in the future.
- Regular spot checking and reporting of compliance with access requirements. This has been one of the fundamental drivers of improved access in the UK. Ofcom reports against compliance targets quarterly (and usually within 4-8 weeks of quarter-end) and shows that generally UK television channels exceed required quotas. Plans are put in place to address shortfalls in the next quarter, if needed.

Recommendation 2:

ACMA's role could be improved by: being more proactive about identifying and investigating systematic access issues; improving its communication with consumers who have lodged complaints; taking a more proactive role about future access issues such as the need for a closed audio description (AD) broadcasting system; undertaking regular spot checks and publishing access compliance reports.

4.2. Australian Human Rights Commission exemption - captioning of free-to-air television

The report twice states that the AHRC granted exemptions to the free-to-air broadcasters on the condition that they "caption 85 per cent of broadcast content by 31 December 2011".

Australia is alone in having some captioning requirements that apply only to an 18-hour broadcast day, rather than a 24-hour broadcast day. This misrepresents the true level of captioning on free-to-air television. In the discussion report, the 85% captioning figure applies only to broadcast content between 6am and midnight and is equivalent to only 63.75% of all broadcast content.

In 2007, the Canadian Radio-television and Telecommunications Commission updated its broadcast day to include the overnight period. In Australia, the same change should be made to ensure that a broadcast day is simply a 24-hour day, to provide clarity and certainty about captioning, future audio description and other program standard targets.

The report defines Media Access Australia as a "deafness representative group", which is not the case. MAA is a not-for-profit public benevolent institution that provides information about media access and develops and provides technological solutions to media access issues. It does not represent the Deaf and hearing impaired, blind and vision impaired people or any other disability group.

5. COMMENT ON CHAPTER THREE: TELEVISION BROADCASTING

5.1. *Comments and clarifications*

5.1.1. **Captioning and audio description levels on television**

Australia is unusual in that it treats free-to-air television (FTA) and subscription television differently when it comes to access services. In other jurisdictions (especially UK, US and Canada), television channels are treated as being similar entities and common rules are applied for access quotas. These common rules take into account turnover, audience reach, start up date of channel and types of programming in determining appropriate access levels. From the consumer perspective this makes sense in that it is clear what the expectations are and they can choose to watch (and pay for if required) any service that they need.

The current dual regulation system (BSA and AHRC exemptions) is a legacy of the one-off captioning quota set up for the introduction of digital television and the argument at the time that subscription television was a 'start-up' industry that deserved special treatment. Ten years later subscription television is well established and with the evolution of FTA multi-channels to be more specialised and like subscription channels, there needs to be a different approach taken to access.

The report states that "[i]n Australia, digital television content is broadcast in the MPEG-2 format which is not compatible with the delivery of audio description." The current use of MPEG-2 is compatible with the delivery of open audio description, which involves broadcasting a new version of a program for which a new audio track has been created with the audio description added as an extra layer of sound. MPEG-2 is only incompatible with closed audio description, as is correctly stated in chapter six of the report.

MAA understands that Freeview Australia will be adopting MHEG-5 as the interactive television middleware and that audio description could be supported by this system.

The report states that "[t]he ABC advises that the key challenges in the midnight to 6.00am scheduling period is the reliance on live captioning for sport coverage, particularly local sport, and the requirements involved in captioning music video content presented during programs such as Rage." The development of voice recognition software means that captioning of the ABC's midnight to 6.00 programs is well within the capabilities of caption suppliers. Voice recognition provides a suitable alternative to stenocaptioners for sports, music and other programming. Broadcasters no longer rely solely on stenocaptioners and, therefore, the shortage of stenocaptioners in Australia no longer poses a challenge to the ABC or any other broadcasters in midnight to 6.00am programming.

The report quotes from Free TV Australia's submission that "[t]he process for modifying [caption files acquired from overseas] is extremely time consuming and, given the general shorter lead times for receiving this material, is increasingly impractical." This is not true. The complete process for modifying imported caption files is straightforward and not time-consuming. This has been the case for many years, as the Australian Caption Centre began importing caption files from the US and UK in the early 1990s. In some cases the files need to be adjusted for different timecodes and commercial breaks. At the Australian

Caption Centre, it typically took one hour to convert a file for a half-hour program. The files can be emailed or transferred via FTP in a matter of minutes so there are very few overseas shows on Australian television screened so close to their original screening that overseas caption files cannot be used.

The report quotes from Free TV Australia's submission that the cost of captions and the time taken to caption programs "is a particular concern for regional broadcasters, where there is a greater shortage of experienced captioners". This comment is somewhat out of date as captions can be produced from a remote location, so geographic distance from a caption supplier is no impediment. For example, Red Bee Media in Sydney produces captions for the BBC's London news using voice captioners. The same service could be provided to regional broadcasters.

The report notes that "Broadcasters do not support the introduction minimum requirements for audio description and consider that the cost of establishing and delivering this new service will be several million dollars."

A quoted rack rate for audio describing DVD programming is \$30 an minute. This does not allow for any volume discounts and is for AD from scratch. Based on this rate, the cost to a channel to fill a 10% quota having to do all programming from scratch would be \$1,576,800. In reality the cost would to fulfil such a quota would be considerably lower as:

1. Television AD is a less complex production process with fewer stages the DVD or cinema AD.
2. Some airtime is advertising on commercial channels.
3. Significant volume and 'bundling' (with captioning services) discounts.
4. Repeated programming only needs to be audio described for the first airing.
5. Overseas programming exists that has already been audio described (which presumably networks would seek to source first).
6. Some Australian programming has been audio described for overseas use, such as *Home and Away* which is shown with audio description in the UK.
7. In the US and Canada in 2008 rates were in the range of US \$1,100 – US\$2,600 per hour.

On this basis a more realistic cost would be in the region of \$400,000 - \$750,000 p.a. per channel (and probably considerably less for a movie channel which could source much of its content).

The report notes that "Free TV Australia draws attention to Australia's relatively small population and large geographic area which...need to be considered when comparing Australian requirements to overseas examples". MAA notes that Australia's small population and large geographic area are poor indicators of the contextualised cost of access requirements, and have not formed an impediment to the development of program standards and caption requirements. A more direct, fairer and appropriate comparison of Australian requirements to overseas examples would be the cost of access requirements as a percentage of revenue. This ensures that the requirements take into account the financial position of Australian broadcasters, which is a highly relevant comparison.

In the UK, many free-to-air and subscription channels have been required to audio

describe 10% of their programming under the Ofcom *Code on Television Access Services*. The Code specifies that if the cost of providing access services, including any captioning, audio description and signing services, exceeds 1% of turnover, the channel does not need to provide those services beyond the 1% cost.

There are also narrowly defined exemptions based on a variety of other reasonable factors, including:

- Low audience benefit, which excludes television channels with an audience share of 0.05% or less in the relevant broadcast region from requirements for captioning, audio description and other access services.
- Demonstrable technical difficulty, such as insufficient space on the soundtrack to fit any audio description (Clause 18).

The UK targets provide progressive increases towards high long term targets to ensure that a high level of access is the ultimate goal. The table below demonstrates how the targets for closed captioning and audio description are structured over a ten year period:

Anniversary of the relevant date	Captioning	Audio Description
First	10%	2%
Second	10%	4%
Third	35%	6%
Fourth	35%	8%
Fifth	60%	10%
Sixth	60%	10%
Seventh	70%	10%
Eighth	70%	10%
Ninth	70%	10%
Tenth	80%	10%
NB: These are the highest level targets and a sliding scale applies to lower turnover channels		

Currently, the vast majority of UK channels required to provide these access services are meeting or slightly exceeding their captioning requirements, and all are meeting their audio description requirements. Notably, a large number of channels are doubling or close to tripling their audio description requirements. The fact that captioning, audio description and signing are being provided on the vast majority of free-to-air and subscription channels in the UK shows that these services are affordable for broadcasters (as defined by the 1% of turnover measure). This tiered system of requirements, combined with the narrowly defined exemptions, provides a long term path to full access and ample time for broadcasters to adjust. It provides a balance between the commercial interests of broadcasters and the expectations of consumers.

During this time of digital switchover, it is noted that this chapter of the report does not include the importance of accessible electronic program guides (EPG) which will become an increasingly common way of accessing content on free-to-air and subscription

television. As the legal dispute over the IceTV EPG in the past year shows, EPGs will become a key means of accessing digital television, so accessible EPGs will be an integral part of accessible digital television.

Again, the UK experience provides a path forward for Australia. The *Code on Electronic Programme Guides* developed by Ofcom specifically requires that EPGs must be accessible to people with disabilities. In Australia, the BSA requirements for program guides focuses on the free availability of program information, something that seems superfluous given that broadcasters are unlikely to forgo an opportunity to promote their services, while failing to require accessible program guides.

Currently, Australia has no comparable code for accessible EPGs, no television access code, and minimal television access requirements in either the BSA or the *Commercial Television Industry Code of Practice*. Failing an amendment to the BSA of the *Commercial Television Industry Code of Practice* to include access to EPGs, Australia needs a regulator-developed code that covers EPGs on both free-to-air and subscription television and this needs to be addressed prior to the completion of digital switchover.

**Recommendation 3:
Electronic Program Guides need to be accessible.**

5.1.2. Free-to-air television captioning and the competing obligations of the *Broadcasting Services Act 1992* and the *Disability Discrimination Act 1992*

The report notes that Free TV Australia has stated that "setting targets for captioning levels could result in broadcasters taking decisions which prioritise quantity over quality, in an effort to comply with regulatory changes".

There are no technical or practical impediments to quality captioning. In the UK and Canada, closed captioning standards have been developed in consultation with consumer and industry groups and now apply to television broadcasters⁵. These standards provide a line of accountability from caption suppliers to broadcasters and from broadcasters to consumers.

Quality standards can be (and have been) built into supplier agreements and enforced contractually. This is the case in the cinema industry, where standards are supplemented by contractually enforced processes that ensure that quality problems are dealt with promptly and prior to release. There is no practical reason why such contractual arrangements cannot be universal in the television industry (after all, it is the same companies supplying these access services to television, DVD and cinema).

Free TV Australia's statement is somewhat mystifying as it suggests that television stations are incapable of managing captioning supplier contracts in the same way that they manage other supply arrangements. In fact, one of the strengths of having clear captioning levels is

⁵ In the UK, the *Code on Television Access Services* sets out clear, brief quality guidelines for captioning. A copy is available from <http://www.ofcom.org.uk/tv/ifi/codes/ctas/ctas.pdf>. In Canada, the *Closed Captioning Standards and Protocol for Canadian English Language Television Programming Services* sets out detailed quality guidelines for captioning. A copy is available from <http://www.cab-acr.ca/english/social/captioning/captioning.pdf>.

that it makes the management of captioning contracts much easier. Clear quality standards (and both the ABC and SBS included these in their public captioning tenders and MAA understands that the other television networks have similar provisions in place) make it easier for television stations to impose financial penalties on suppliers that fail to deliver. MAA understands that in the UK contractual arrangements make caption suppliers liable to pay Ofcom fines where they have failed to deliver access services under contract. Additionally, the healthy competitive environment in Australia, where there are a number of supply options, gives television stations good commercial options for access services.

If FreeTV is genuinely concerned that some of its members will not provide an appropriate level of caption quality as a reaction to reasonable regulation, then it should be in agreement that legislated captioning quality standards, with significant financial penalties, should be introduced as a matter of priority before this situation occurs. In reality, FreeTV's concern should be that its members utilise professional captioning services, which are widely available, including the provision of captioning to regional areas, and if there are concerns about excessive costs, should lobby for a reasonable access cost limit (such as the 1% of turnover used in the UK), rather than support the idea of substandard services being allowed to proliferate.

In the UK, Ofcom performs both active and reactive monitoring of captioning, audio description and signing on television. Broadcasters are required to submit and keep for a number of weeks all programming that has television access services, and audits of this material are performed. In addition, Ofcom responds quickly to any complaints or problems of which it is made aware. There is no doubt that this comprehensive monitoring system is a key reason for the eager compliance of broadcasters.

5.1.3. Audio description on television

The report states that "ASTRA is currently conducting a detailed audio description scoping study to understand the implications for the subscription television sector."

MAA also notes that when episodes of *The Chaser* were recently screened on The Comedy Channel, viewers pressing the red button on the FOXTEL remote could access a special commentary on the episode. This is exactly the same as a closed AD system and shows that FOXTEL already has the capability of delivering AD across all FOXTEL channels, and on a wide variety of programming.

Many British and US programs on FOXTEL are audio described in the UK. (For example these include the following programs currently screening on the UKTV channel: *Coronation Street*, *Eastenders*, *Emmerdale*, *The Bill*, *Midsommer Murders*, *Heartbeat*, *Holby City*.) These files could be utilised in Australia. In some cases, the actual file may be imported and used. If this is not technically possible, the original audio description scripts could be acquired and used to create new AD files. Both techniques will significantly reduce the cost of supplying AD on these programs. Similarly the various movie channels are screening movies that have been AD and are shown on British television with AD.

MAA assumes that the ASTRA scoping study is looking at a systematic introduction of a closed service on Foxtel/Austar. However, MAA would like to see a more industry-wide scoping of AD as part of the proposed AD trial. This study would be better undertaken by a platform-neutral organisation, such as ACMA or the Department of Broadband,

Communications and the Digital Economy (DBCDE). This could be undertaken in a similar way to the approach to the digital television switchover.

**Recommendation 4:
A broad scoping of AD needs to be undertaken by ACMA or the Department of Communications.**

5.1.4. Live captioning

The report states that "As the technology behind this method [captioning using voice recognition] improves it could be used by Australia broadcasters to caption live TV." Captioning using voice recognition has been used on Australian TV since 2005. It is now regularly used for news and sports programs on many channels, although it is unsuitable for a small number of complex programs (where stenocaptioners are better utilised). This provides a much cheaper option for live captioning than stenocaptioning, and so long as operators are properly trained, results in comparable quality. A viewer should not be able to tell the difference between the two delivery methods.

The report quotes Free TV Australia's view that some sporting events, such as Bathurst motor races, "may go for 10 hours or more", and therefore cannot be captioned by stenocaptioners.

The length of a program is no impediment to captioning, particularly if it is broken up by regular commercial breaks. A caption supplier would simply assign sufficient captioners using voice recognition or stenocaptioning to work on the program. Sports programs like motor races are perfectly suited to being captioned using voice recognition as they generally have simpler commentary and predictable vocabulary, obviating the need for stenocaptioners.

The feasibility of live captioning long periods of sports programming has already been demonstrated by the Seven Network when it captioned the vast majority of its around-the-clock coverage of the 2008 Beijing Olympics.

The report quotes Free TV Australia's view that "[t]he recent trend for much reduced turnaround times between acquisition and broadcast in Australia of programming acquired from overseas means...an increased reliance on live captioning."

As noted previously, the complete process for modifying imported caption files is straightforward and not time-consuming. Files can be emailed and converted in a matter of hours. A program would have to screen virtually on the same day as it did overseas for it to be impractical to use an overseas caption file. It is still rare for overseas programs to be shown so speedily on Australian television.

The Australian Caption Centre began importing US captions files in the mid-1990s, and soon afterward began selling caption files for programs like *Neighbours* and *Home & Away* to the UK. There is now a healthy, worldwide international market for caption files. Because caption files from both the US and UK are suitable for use in Australia with little or no modification, the use of imported caption files results in significant cost savings on television broadcast. These cost savings are furthered by the sharing of caption costs

across a number of prior and subsequent releases. For example, a blockbuster film shown on television with captions can share its costs with prior releases at the cinema and on DVD. Similarly, a television drama series can share its costs with subsequent releases on DVD. These contribute to significant cost savings. It should be emphasised that the major cost of a caption file is the labour cost involved in the creation of the captions. Once the basic file exists, it can be converted for multiple media types. Thus, a file created for the cinema screening of a movie can be repurposed for TV, DVD, Internet download or streaming video.

The report states that "Live captioning of these programs is a more costly option and more resource intensive, requiring additional captioners to deliver acceptable quality standards." This is not true. Live captioning using voice recognition is usually the cheapest option for caption suppliers. Instead of having two or more captioners working on a program for several hours, then editing each other's work, using voice recognition the captions are created in real time, saving a considerable amount in labour costs.

The report states that "Despite the concerns expressed by representatives of people with a hearing impairment, the broadcasters state in their submissions that they are not aware of any general concerns over caption quality."

As noted in the previous discussion about regulation, the television complaints process is cumbersome and time-consuming. A typical consumer reaction is to give up. FreeTV has also been instrumental in hosting discussions about captioning standards as part of its AHRC exemption compliance. In these discussions, which MAA is also involved in, the deafness organisations have raised many instances and concerns about caption quality issues.

5.1.5. Quality of captions and audio description

The report states that "The quality of audio description services was not raised by broadcasters or industry except to note that further research into the requirements of these services is needed."

Several sets of audio description guidelines have been developed in the US and UK which are broadly similar. Australian guidelines could be formalised as part of an AD trial.

5.2. Comment on approaches for consideration

Approach one: Achieving regulatory certainty

"The Government is considering updating the BSA captioning targets for free-to-air broadcasters and to prescribe the relevant parts of BSA under the DDA to address concerns about regulatory certainty."

Clearly having a dual regulatory system for captioning is problematic for consumers, industry and regulators.

Furthermore some of the provisions of the BSA captioning requirements are difficult to monitor, utterly confusing for a consumer and result in undue frustration. For example, the requirement that a program previously shown on a main channel with captions must be

captioned when shown on a multi-channel but only if the multi-channel and main channel are controlled by the same network) leads to major consumer frustration where some previously captioned programs “switch” networks and therefore do not have to be captioned, even though they have been previously broadcast on Australian television (e.g. *South Park* was captioned on SBS and now screens on GO! without captions). To properly follow this regulation, consumers must have an (unattainable) knowledge of what was previously captioned on which networks and when in order to identify whether a breach has occurred or not. This is even problematic for a properly resourced regulator.

Consumers have made it quite clear that they expect regulations to deliver 100% captioning (of non-exempt programming) over time. The provision of simple captioning quotas, following a UK or US style model, would remove much of these problems and provide clear targets for broadcasters to meet and consumers to follow. The model has been well documented and should include appropriate exemptions (for non-English language programming, instrumental music, etc) and an overall percentage of revenue cap (set at say 1%) as a mechanism for balancing consumer access needs and reasonable commercial protections, especially for start up and low audience channels.

Whilst the proscription of the BSA under the DDA is a matter for agreement between the Government and the AHRC, MAA agrees that for proper regulatory certainty television channels need to be clear about targets and not subject to other complaints processes. However, that should be in the context of the basic rights of a consumer under the DDA are not being unduly compromised. Therefore it is a reasonable consumer expectation that the removal of the right to complain under the DDA should be balanced with a clear progress to full access, with appropriate commercial protections in place.

MAA would support ACMA being empowered to engage in stronger monitoring and enforcing of television accessibility. This will provide regulatory certainty as targets will be properly enforced and become meaningful, rather than reliant on commitments to improve in the future which provide no motivation for improved compliance.

In the UK, a channel that fails to meet a quota for a particular access service, such as captioning, audio description and signing, is typically fined by Ofcom, and the missed quota is added to the quota for the next year. This provides a real, meaningful penalty for channels that fail to meet quotas, and provides regulatory certainty. By comparison, ACMA does not impose financial penalties on broadcasters that fail to provide access services, and accepts enforceable undertakings that do not compensate for any missed quotas.

Recommendation 5:

Access quotas for free-to-air (FTA) television should be under the BSA.

Recommendation 6:

A UK-style quota model with appropriate exemptions and a % of revenue cap would be the most appropriate way of managing FTA access provisions.

5.2.1. Approach two: Achieving regulatory certainty

“The Government is also considering conducting a review of captioning and audio description on electronic media in Australia in 2013. This review will consider future

captioning and audio description targets for free-to-air broadcasters as Australia prepares to complete the switch to digital-only television.”

Again MAA strongly supports the idea of a review of captioning and audio description targets for FTA broadcasters but also argues that the targets could be determined now, even if they were in part applicable after the switch-off of analog television.

An analysis of captioning levels during the week of 23-29 January 2010 shows the following levels of captioning on FTA television. Clearly, the main channels for this sample week are exceeding the AHRC quota and the multi-channels GO! and 7Two are close to meeting the BSA quota after analog switch off.

If a UK-style quota system was applied (with an annual target being measured from the start of digital broadcast), the ABC channels, Seven, 7Two and GO! exceed the required quota and Nine and Ten almost meet the required quota with One requiring a significant increase to meet the quota. NB: None of the channels would meet the varying AD quota (2-10%) as AD is not yet provided.

Total hours captioned FTA channels 23-29 January 2010

	Total hours captioned	% captioned (of 24-hour day)	UK quota applied as at 2010
ABC1	145.1	86%	80%
ABC2*	119.3	92%	10%
Seven	140	83%	80%
7Two	29.8	18%	10%
Nine	123.8	74%	80%
GO!	27.7	16%	10%
Ten	105	63%	80%
OneHD	2	1%	10%

* Note, ABC2 generally broadcasts from 6am to 12pm.

There is no technical or practical impediment to setting targets now to be achieved under a percentage quota system as:

- Most of the channels are already meeting likely annual quota targets if a UK-style model was imposed.
- There is a lot of imported content available (particularly for AD).
- Potential new channels would have a clear indication of the expectations of the quota system and be able to incorporate these into their business models.
- A clear percentage target trending to 100% in the case of captioning should provide adequate justification for prescribing the BSA under the DDA and remove the likelihood of dual regulation. If this is not determined, consumers are likely to use the DDA to seek further progress in captioning targets.
- Such an approach would keep Australia in line with international benchmarks.
- A percentage cap of revenue can be imposed to provide reasonable commercial

protection.

- The targets for AD could be determined as part of the proposed AD trial.
- Including AD quotas provides momentum for a closed AD service, including equipment provision and broadcasting standards, and allows proper business planning of new channels.
- Setting quotas and providing access provides incentives for disabled consumers to switch earlier to digital channels. Overseas experience and the Digital Taskforce's own research have identified disabled consumers as being potential late adopters of digital services.

5.2.2. Approach three: Subscription television requirements

“The Government is considering amendments to the BSA to require subscription broadcasters to meet specified captioning targets by 31 December 2014.

The Government is considering conducting a review of captioning and audio description on electronic media in Australia in 2013. This review will consider possible future captioning and audio description targets for subscription broadcasters.

The Government is seeking advice as part of this consultation process on appropriate captioning targets to be included in the amended BSA given the complexities in this area.”

The exclusion of subscription television from BSA access regulations is a legacy issue stemming from the timing of the original captioning quotas when subscription television was in a start-up phase and could argue for some commercial protection. The market for subscription services has completely changed in the ensuing 10 years and it is now appropriate for subscription television to be included in BSA quotas.

Reasons for subscription TV inclusion in the BSA include:

- There is a growing blur between the nature of services and content offered between subscription television and FTA television, particularly with the advent of FTA multi-channels that offer specialised programming that is more akin to subscription content. From the consumer perspective the services are the same content, it is just that in some cases a payment has to be made.
- From an operational perspective the costs and ability to use pre-captioned/ pre-described programming are very similar between channels.
- Australia is alone in treating subscription and FTA television differently. In the UK, Canada and the US they are all treated as television services and the access quotas are based on turnover, years of operation and percentage of revenue caps.
- The current arrangements whereby consumers are forced to use the DDA to achieve access have resulted in mixed levels of access that are not providing real choice and in some cases poor value for money depending on which subscription package is chosen. The table below illustrates the range of captioning access by package (NB: some of the package offerings have changed since the research, but the magnitude of difference remains the same).
- The current arrangements have led to popular channels being uncaptioned (such

as Fox Sports) and priority channels singled out in the FTA BSA regulations (such as Sky News) being uncaptioned.

- Channels that are captioned in their entirety, such as BBC News, are uncaptioned in Australia, despite some of the captioning actually being undertaken from Sydney. Similar lack of transfer exists for sports and music channels. It is estimated that at least 30% of Fox Sports could be provided with captions purely by streaming existing captions, which is how ESPN achieves most of its captioning.
- At present blind consumers are shut out of the AHRC process, despite Foxtel already providing AD-equivalent services on The Comedy Channel's broadcast of *The Chaser* with an alternate soundtrack delivered via the red button facility.

An audit of captioning on Foxtel packages conducted by MAA in August 2008 found that captioning levels vary widely:

Channel Package	Captioned
Get Started	11%
My Sport	8%
My Showtime	88%
My Movie Network	37%
My Escape	17%
My Playtime	21%
My World	11%
Total across all channels	17%

This reinforces the need for amendments to the BSA to require subscription broadcasters to meet specified captioning targets.

Australia is alone, amongst the US, the UK and Canada, in subjecting subscription channels to no broadcast regulations for captioning or audio description targets at all. In the UK, under the *Code on Television Access Services* almost all subscription channels are required to caption and audio describe their content. These targets, combined with strong monitoring and regulation on the part of Ofcom, have resulted in many subscription channels not only meeting but eagerly exceeding their targets. Notably, most subscription channels are more than doubling their audio description quotas. The table below shows the performance of Sky subscription channels in the first three quarters of 2009:

Channel	Captioning		Audio Description	
	Required	Achieved	Required	Achieved
Sky News	60%	70.3%	Exempt	
Sky One	60%	66.6%	10%	22.5%
Sky Two	60%	66.0%	10%	21.6%
Sky Three	35%	67.6%	6.3%[6%]	26.1% Alt
Sky Sports 1	60%	62.0%	10%	12.4%
Sky Sports 2	60%	62.5%	10%	13.4%
Sky Sports 3	60%	65.0%	10%	14.7%
Sky Sports Extra	60%	64.4%	10%	19.8%
Sky Sports News	60%	61.4%	Exempt	
Sky Movies Action/Thriller	60%	67.7%	10%	25.7%

Sky Movies Comedy	60%	69.4%	10%	29.4%
Sky Movies Classics	60%	62.6%	10%	21.1%
Sky Movies Drama	60%	64.9%	10%	23.1%
Sky Movies Family	60%	71.5%	10%	27.6%
Sky Movies Indie	60%	74.0%	10%	25.1%
Sky Movies Modern Greats	60%	64.2%	10%	24.1%
Sky Movies Sci-Fi/Horror	60%	68.7%	10%	23.5%
Sky Movies Premiere	60%	73.0%	10%	27.3%

The table above demonstrates that audio description is highly feasible when deployed on a vast number of channels and that the costs, even when combined with the costs of captioning, are affordable for broadcasters.

The suggested timeframe for a review by 2014 has presumably been set in the expectation that the Australian Human Rights Commission (AHRC) will grant the Australian Subscription Television & Radio Association (ASTRA) a further five-year exemption from the *Disability Discrimination Act 1992*. The latest exemption application from ASTRA is currently being reframed and is expected to be presented to the Commission and for public comment in the next few months, but there is no guarantee that it will be granted at all, or for the full five years that is proposed.

In any case, it should be noted that the AHRC may only grant temporary exemptions and that these agreements are, by nature, not permanent solutions or targets that provide regulatory certainty. A reliance on these temporary exemptions will lead to more confusion for industry and consumers alike and are not an appropriate long term alternative.

Recommendation 7:
Subscription television should be included in the same quota system as FTA.

5.2.3. Approach four: Audio description

“The Government is considering conducting a technical trial of audio description on the ABC before digital switchover.”

MAA strongly supports an AD trial on the ABC before switchover. This trial should be conducted as soon as possible to allow maximum opportunity for industry to take advantage of changes to equipment, technical standards and knowledge of AD from Europe.

A trial should be seen as part of an industry-wide scoping study, overseen by ACMA. A trial forms a valuable precursor to a full rollout of an audio description service on digital television. The trial needs to provide a sufficient lead in so that the ABC can explore options for the delivery of audio description. ACMA also needs to be involved from the outset to investigate, on behalf of the Government, technical and logistic issues prior to industry-wide rollout. This study should include the following.

- Initial and ongoing consultation with consumers and consumer groups.
- Evaluation of the overseas experience, particularly the UK and Ofcom’s AD

awareness campaign.

- Evaluation of the technical issues involved in setting up an AD service (including the possibility that MHEG-5 middleware, to be adopted by Freeview in 2010, could deliver AD).
- Evaluation of costs, both start-up and ongoing.
- Equipment issues, especially those facing the blind and vision impaired, who will be the main users of the service.
- Formulation of appropriate AD standards.
- Investigation of the feasibility and cost of utilising overseas AD files.
- Identification of priorities when deciding what programs should be audio described.
- Regular reports issued on findings.
- A timetable developed for the introduction of regular AD services.

The Government can also benefit greatly from the lessons learned in the UK introduction of audio description. The Ofcom report *Access Services, Audio Description: Research into awareness levels* discusses a number of mistakes made during the introduction of audio description in the UK including⁶:

- The lack of appropriate equipment and equipment standards for the receiving of audio description on digital terrestrial channels.
- The late arrival of audio description compatible set top boxes.
- Low awareness of audio description at introduction.
- Low take up of audio description until a coordinated awareness campaign was launched.

MAA emphasises that wide consumer input will ensure that audio description in Australia not only learns from the lessons in the UK, but also meets specific needs in Australia.

Recommendation 8:

An AD trial should occur on the ABC and include: consultation with consumer groups; evaluation of overseas experience; evaluation of technical issues; evaluation of start up and ongoing costs; equipment issues; AD standards; use of existing AD files; priorities for AD content; regular public reporting; timetable for regular AD services.

5.2.4. Approach five: Multi-channel television captioning

“The review of content and captioning rules as they apply to multi-channelled television commercial broadcasting services will be conducted before 1 January 2010. A discussion paper seeking comments from the public, industry and other interested parties will be released in the second half of 2009. The Government is also considering conducting a review of captioning and audio description on electronic media in Australia in 2013. This review will consider future captioning and audio description targets for multi-channels.”

MAA has made a submission to the *Review of Program Standards and Captioning Requirements on Digital Multi-channels* and will outline its position on audio description

⁶ A copy of the report is available from
http://www.ofcom.org.uk/research/tv/reports/access_services_audio/ad_report.pdf

and closed captioning on multi-channels here.

Existing regulations have been clear for a long period of time that when analog switches off the captioning requirements apply to digital multi-channels. These regulations have been a strong signal to broadcasters and consumers that once a region is digital only, channels are to be treated and regulated the same way. There is no doubt that broadcasters and consumers are now well aware of the requirements. It should be noted that even with these regulations, the amount of captioned programming as a proportion of total programming in Australia has fallen during the course of digital switchover. Nowhere else in comparable markets, particularly the US, the UK and Canada, has the proportion of captioning fallen in this process.

Consumers have, therefore, had a long-held expectation that these services would be captioned once analog was switched off. Freeview and FreeTV have upheld these expectations by promoting these multi-channels as an important part of the digital product offering rather than promoting them as secondary or inferior offerings.

These new digital channels are showing the same range of programming that is shown on existing channels and it is all able to be captioned, including multiple sports broadcasts and any other live programming. There are no technical, logistical or other impediments to compliance with the captioning regulations.

Unlike program standards, captioning is content-neutral. It can be applied to the full range of programming on all channels to give people access to a channel and a choice between all channels.

The costs associated with captioning requirements have been known for a considerable period of time and a proper commercial business evaluation would have included these requirements. Particular groups of consumers should not be left out as a result of poor business planning.

The Digital Television Taskforce has properly identified that people living in regional areas, disabled people, seniors and other vulnerable consumers are less likely to voluntarily switch to digital. Government decisions should not have the effect of reducing access and incentives for these groups of people to drive a timely digital switchover

In short, there is no compelling reason to change the current regulations and to include multi-channels in any future quotas. There is a consumer expectation, based on clear and longstanding captioning requirements, that these channels will provide captions. Some channels are already providing captioning at levels close to those required after analog switch off. The broadcasters have had adequate notice to plan and prepare for meeting the regulations. The reality is that multi-channels are national channels produced centrally with common content across the country. The current requirements would not impose a specific burden on a regional license holder switching off analog in early stages.

Recommendation 9:

The existing regulations should apply to multi-channels and they should be included in any quota system.

5.2.5. Approach six: Caption quality

“The Government will facilitate the finalisation of existing draft voluntary quality guidelines or the development of a code of practice for television before digital switchover.”

Caption quality is a critical issue, as it ensures that captioning quantity requirements are meaningful. There is also a wide variance in levels of caption quality ranging from very poor/no provision (in some regional news broadcasts, including the NBN broadcasts identified in the ACMA complaints) to consistently excellent (DVD and cinema captioning generally).

Under the regime of a voluntary industry code of practice (FTA television) consumers have had poor outcomes and a resistance to making meaningful change and quality issues transparent. In fact in its submission to the Media Access Review, FreeTV claimed that some broadcasters would seek to reduce quality in the event of captioning quotas being established. Furthermore, despite more than two years of discussions, industry has failed to provide quality guidelines that are even barely acceptable to consumer organisations. These are clear signals of market failure and where the Government needs to intervene and provide concrete, enforceable standards that deliver proper services for consumers.

The proposed process could also include quality standards for DVD, cinema and other forms of captioning, noting that the same access providers supply these markets and have overwhelmingly delivered high quality captioning and audio description.

One of the elements of the proposed AD trial could be to review AD quality standards to develop an enforceable code covering AD as well.

Recommendation 10:

Caption quality should be under a compulsory code and should make reference to all types of captioning (including for DVD, cinema, online). AD quality should be included in the AD trial.

6. COMMENT ON CHAPTER FOUR: DVDS AND CINEMA FILMS

6.1. Comments and clarifications

6.1.1. Cinema access systems available

The reports states that “Dolby Laboratories produces a similar access system to the DTS access system, and this is in use in the UK and USA.” This system, Dolby ScreenTalk, is no longer in production although it is still in some cinemas internationally.

The report states that “Rear window captioning is also compatible with DTS access system.” This is true, however the film is required to undergo an extra process before being available to exhibitors to screen.

Probably the most significant development in cinema access is the provision of digital cinema. This allows captions to be provided as a ‘menu option’ more akin to DVD than traditional film projection. In this case all digital projectors become caption capable as the captions (or other language subtitles) are selected and then projected as an open-caption format. With the proliferation of digital cinema across the world, more movies are providing digital versions of captions, including 3D movies.

The official international technical standard for digital access is expected to be published in April 2010, but is already being used and implemented. Digital screenings are showing captioned presentations, including 3D versions of *Avatar* and *A Christmas Carol* in open-captioned formats. The Rear Window closed-captioning system is compatible with some digital formats, including the popular Doremi system.

At present the cinema industry is in a transitory phase with a mix of traditional 35mm and digital formats. The provision of access is mirroring that format transition and ultimately once the decision has been made to make content accessible, then the provision of multiple formats for a movie release also includes the provision of different formatted versions of the access materials.

The provision of audio description is the same, whereby AD soundtracks are provided as a menu option on digital cinema and then delivered via headphones to the audience.

6.1.2. Cinema Access in Australia

The report states “Each cinema will show two to three captioned screenings per week, while audio description will be available at any showing of the designated movie.” To clarify this, audio description will be available at any showing of the designated movie on the accessible screen (i.e. where the DTS equipment is installed).

The report states that “Representatives of the independent cinema industry estimate that the nominal cost to facilitate the screening of captioning and audio description is \$40,000 per location.” The average cost to outfit the 12 independent cinemas under the Department of Health and Ageing’s grant, Helping Older Australians Enjoy the Movies: Accessible Cinema, was \$A22,905. This cost was for all capital equipment, including headsets for the reception of audio description. The equipment, all of which was imported from the US, was

purchased⁷ at a time in 2008 when the \$A1.00 exchanged for \$US0.66. At a more current exchange rate of \$A1.00 = \$US0.90, the same capital equipment would now cost \$A16,797. The latest versions of the DTS cinema projection systems include the access provisions as standard, as does digital projection equipment. The only additional costs required then are for a projector (for open captions) or closed caption device (such as Rear Window system) and headphones and a possible modification of the sound playback system for AD.

The switch to digital is more of an issue for independent cinemas, which may not have the financial capability of fitting out digital projection on all screens. This can be contrasted with the major chains which are planning a rollout across Australia. According to Inside Film, Hoyts will be converting 373 screens across 32 sites during 2010 and Amalgamated Holdings (Event, BCC and Greater Union) will convert 450 cinemas over the next three years. The numbers for Village have not been published.

With the advent of digital cinema, the issue for the provision of access is less about the cost of equipment and more about the willingness of cinema operators to provide captions and AD.

The report states that “By way of international comparison, in May 2009, the US had 530 accessible cinemas (all with captions, and most with audio description) and in December 2010 the UK had approximately 307 accessible (all with captions, and almost all with audio description)”.

The table below compares accessibility of cinema locations in Australia and the United Kingdom. The table compares the UK benchmark with three Australian scenarios: the current number of accessible cinemas; the proposed number of accessible cinemas with the rollout of major chain locations as proposed to the Australian Human Rights Commission; and the number of accessible cinemas needed to be on a par with the UK.

Location	Population	Number of accessible cinemas	People per accessible cinema
UK	61,399,000	307 (now)	199,997
Australia	21,374,000	24 (now)	890,583
Australia	21,374,000	47 (proposed rollout)	454,766
Australia	21,374,000	107 (to be on par with the UK)	199,757

6.1.3. Digital Versatile Discs (DVDs) and Blu-ray discs

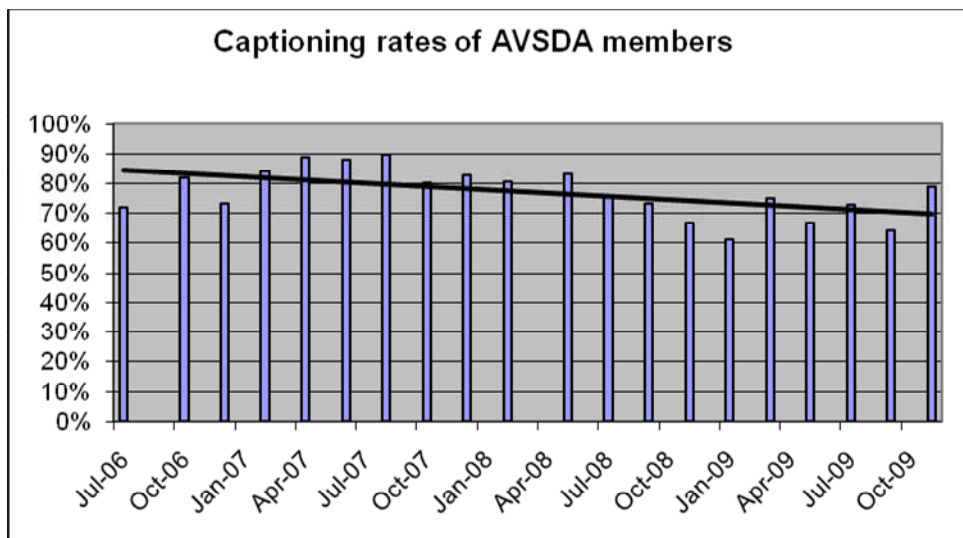
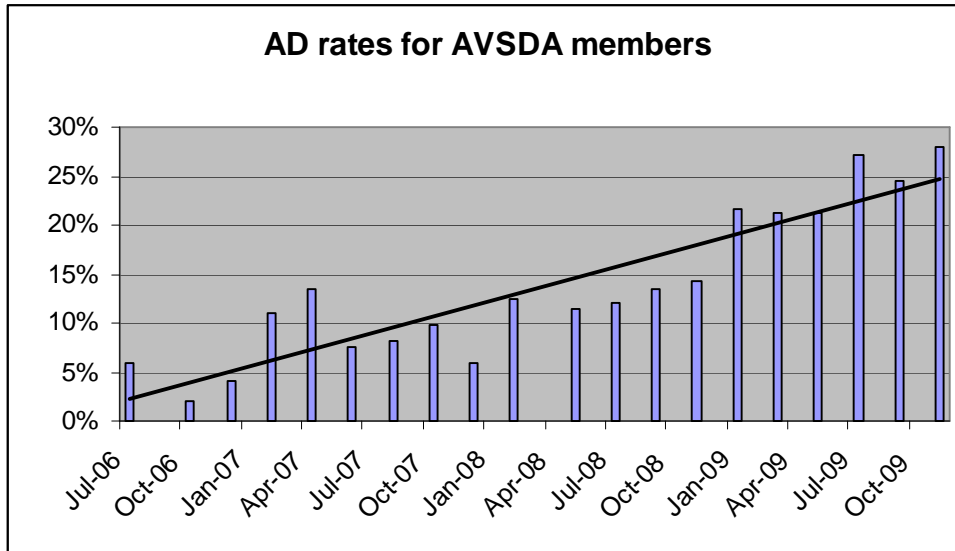
The report quotes from AVSDA’s submission that “its members are increasing the amount of captioned and audio described titles made available”.

While it is true that the proportion of AVSDA titles with audio description is increasing, the proportion with captioning is actually decreasing, as shown by the graphs below. A further important factor is that the levels of access vary significantly between different AVSDA

⁷ Equipment was purchased from Edge Digital Technology, an Australian importer of the DTS Access System.

members. The table below shows the different trends for each distributor. This is presented in more detailed graphical form as an Appendix.

The behaviour of proactive distributors such as Roadshow demonstrated that access can be easily achieved where there is a willingness and interest to further access, which is often just a case of making the effort to request and source existing access components from overseas affiliates and partners. Titles included in the tables below are from AVSDA members⁸.



⁸ The graphs display the percentages of access for each feature to new rental releases on the shelves of a suburban DVD store at the time visited. AVSDA members represented in these graphs are 20th Century Fox, Disney, Madman, Paramount, Roadshow, Sony, Universal and Warner Bros. The graph does not include some smaller AVSDA members or members that have not been members for the duration of the chart.

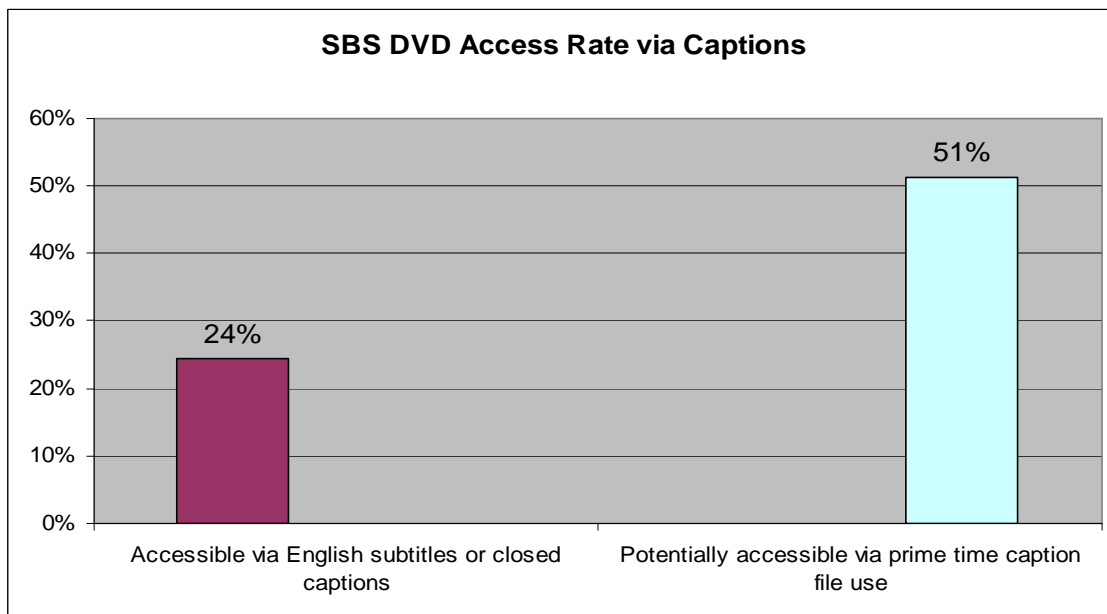
Table: Access trends by distributor 2006-09

Distributor	AD trend	Captioning trend
20 th Century	Increasing	Slight increase
Disney	Slight increase	Decreasing
Madman	Nil AD	Decreasing
Paramount	Increasing	Decreasing
Roadshow	Increasing	Increasing
Sony	Increasing	Increasing
Universal	Static	Decreasing
Warner	Slight increase	Decreasing

The report states “Consumers increasingly expect that if content is captioned at the cinema or on television it will be available with these access features when distributed via internet download or DVD.”

It makes business sense to use access files for any subsequent versions of a program or film. The cost of reformatting an original file for a subsequent media format can be up to 60% less than creating a file from scratch. Similarly, it is becoming more commonplace for distributors of content to identify where access will be provided and to order the different formats from its access supplier. For example, a movie distributor may agree that the cinema (35mm and digital versions), DVD and Blu-ray releases will be accessible and the access supplier will produce the different versions at the same time, resulting in considerable cost savings.

As an example of consumer expectations not being met, below is a graph that represents DVD titles released by SBS since 2008: 24% of the 111 titles researched were accessible. (NB: this figure is largely made up of foreign language titles with English subtitles which are considered as access for these purposes). If the available captions (which were broadcast on TV) had been utilised, 51% of those same titles would have been accessible. None of the titles provided AD.



The report states that “The combined domestic consumer market size for access features is larger than the domestic market for other languages such as Italian, Mandarin, Cantonese, etc”.

As an example, according to EzyDVD's website, Icelandic subtitles appear on 692 DVDs in Australia's Region 4 market, but audio description features on only 77 of those. A key to gaining more access on Region 4 DVD titles is recognition of the Australian markets for other features, such as foreign languages, compared to audio description and captioning markets. The table below illustrates how the market for Icelandic subtitles is in the order of 100,000 times smaller than that for AD (and the number of blind and vision impaired people is increasing whereas the Icelandic population is pretty static):

Feature	Australian market ⁹
Captioning/English subtitles	3,500,000
Audio description	530,900
Italian subtitles	312,296
Spanish subtitles	96,804
German subtitles	74,667
French subtitles	42,645
Icelandic subtitles	Less than 500

The report states that “DVD distributors claim that a lack of storage capacity on DVDs limits their ability to include access without reducing the existing special features available”. A single-layer DVD holds approximately 4.7GB of data. A dual-layer DVD, on which most films with extras are now released, holds 9.4GB of data. A two-hour movie on MPEG-2 standard definition takes up about 4GB of data. Audio description and caption files take up comparatively little space – 160MB and 70MB respectively. There is therefore room for

⁹ Sources: 2006 Australian Bureau of Statistics Census Languages Spoken at Home by Proficiency in Language/Spoken English; Wilson (1997) and Australian Hearing (2005) report in Listen Hear! The economic impact and cost of hearing loss in Australia (2006); Vision Loss in Australia - Hugh R Taylor, Jill E Keeffe, Hien T V Vu, Jie Jin Wang, Elena Rochtchina, M Lynne Pezzullo and Paul Mitchell; Consulate-General of Iceland.

both on a single-layer DVD, and plenty of room on a dual-layer DVD.

6.1.4. Australian television series and films on DVD funded through Screen Australia

The report states that “producers who receive feature film investment funding are required to put aside a portion of their budget to caption for cinema and DVD release. These funds do not extend to providing appropriate captioning files suitable for internet download purposes”.

One caption supplier contacted by MAA said that they have a sliding scale of rates for caption files which have been repurposed. Thus, for Screen Australia clients they charge \$20 per minute for the caption file for use in cinemas, \$14 per minute for that file to be converted to go on a DVD, and \$12 per minute for a file to use with the downloadable version. Another supplier said they would charge about \$10 per minute to convert an existing caption file to a download version. Even with the very low volumes of work undertaken by Australian film producers, the cost efficiencies are significant. With increasing volumes, significant discounts can be achieved and by comparison, television producers would secure rates many times lower than these.

6.1.5. Non-Australian television series and films on DVD

MAA would like to update the data provided in Table 6 of the report:

Type of access	Australia	International
Captions/English subtitles	57%	74%
Audio description	9%	11%

6.2. Comment on approaches for consideration

6.2.1. Approach seven: Cinema

“The Government recognizes that the refurbishment of cinemas is a commercial decision for cinema operators.”

With the advent and rapid uptake of digital cinema, it is expected that any significant refurbishment of a cinema in Australia would include the provision of digital projection. With digital projection the capability of provision of access is part of the equipment as the captions and AD are provided as a menu item. There is some additional cost for projecting captions (but commercial data projectors are only a few thousand dollars) and the possible need to modify the cinema sound system to provide a secondary audio channel to distribute the AD (and the need for headphones as well). However, this means that access costs are reduced to a few thousand dollars per screen rather than more than ten thousand dollars per screen.

Fundamentally the provision of accessible screenings is far less about capital costs (particularly in a digital environment) and more about exhibitor willingness to screen and properly market accessible movies. This includes the exploration of closed-captioning options, such as Rear Window, if there are concerns about non-deaf patrons finding open-captions off-putting (although this assumption has never been rigorously tested anywhere in the world).

6.2.2. Approach eight: Cinema

"The Government is considering conducting a review of captioning and audio description on electronic media in 2013. This review will consider captioning and audio description in cinemas."

It is expected that the consumer organisations will outline acceptable targets for the provision of cinema access across the country. It is also noted that the existing exemption application from the major exhibitors is with the Australian Human Rights Commission, but this is subject to further questioning and response from the industry and it is not guaranteed that the exemption will be granted.

However, rather than wait until 2013, there are several steps that the Government can undertake to assist the process of expanding cinema access:

Use Screen Australia as an industry leader

Government could achieve a number of developments that are possible now through Screen Australia. Specifically it could:

- Mandate Screen Australia to include audio description in its current access policy which only covers captioning.
- Encourage Screen Australia, distributors and exhibitors to ensure that all feature movies made accessible under Screen Australia's access policy are programmed into all accessible cinemas nationally, if that cinema is programming the film without access features.
- Mandate Screen Australia to expand its access policy to include documentaries and short films.

Look at funding/partial support of equipment

The Federal Government provided a grant for equipment and marketing of cinema access for 12 independent cinemas via MAA. This program could be expanded to provide either full or partial-funding of equipment for other independent or mainstream cinemas. This funding model was used to drive uptake in the UK and involved a provision of up to 50% of the capital cost of equipment for access. Other funding by countries within the UK (i.e. Wales, Scotland and Northern Ireland) provided additional funding for cinemas within those countries. In the case of digital cinemas, this could be limited to the provision of projectors, headphones and partial funding of systems such as Rear Window.

Government acting as a broker

It would be a better policy outcome if any review of 2013 showed that cinema had already delivered, or was well on the way to delivering, consumer expectations in terms of access, thus negating the need for Government intervention. Clearly there is a combative relationship between consumers and cinemas and a different approach may provide better outcomes than the slow rollout to date. The Government, perhaps as part of its disability strategy, could act as a broker to properly identify the costs, barriers to adoption and development of goodwill between the parties. This could be a simpler, more cost-effective

alternative to future actions that the Government may need to adopt if access is not expanded (such as specific legislation covering cinema access).

Recommendation 11:

Screen Australia could play a leading role in: including AD in its access policy; programming funded accessible movies into accessible cinemas; expanding its policy to include documentaries and short films.

Recommendation 12:

Government could look at partial funding support for cinema access.

Recommendation 13: Government acts as a broker between consumers and industry to create goodwill and progress.

6.2.3. Approach nine: Accessibility of non-broadcast media

The Government is considering consulting with stakeholders including producers and distributors to develop a voluntary industry standard requiring distributors of imported and locally made DVDs to include captions and audio description, where these are already available. The voluntary industry standard would also require labelling of DVDs that have captions and audio description.

MAA notes that AVSDA already has a voluntary standard (called a ‘framework’) which covers utilising overseas caption and AD files when available, and correct labelling of DVDs.¹⁰ This voluntary code has achieved mixed results. Some distributors have clearly embraced access and make a determined effort to both secure existing access components and to expand overall access by commissioning captioning and AD from scratch (Roadshow’s efforts with television series is a notable example). Other distributors have achieved no increases in access and are clearly not motivated by a voluntary code.

Steps that could be undertaken

In a similar position to the approach for access to cinema, the Government could take several steps to improve the levels of access in the lead up a review at the end of 2012. It is understood that consumer organisations will be putting forward concrete, measurable targets for different categories of DVDs and it would be useful for industry to have a clear outline of how improvement will be measured by the Government. Thus the consultation process could be more proactive in assisting industry meet reasonable targets and could include:

- What are the barriers that prevent Australian distributors from obtaining overseas AD and caption files and including them on Australian releases?
- Are distributors adhering to the current voluntary code, and if not what are the specific issues for that distributor that are preventing this?
- Is labelling consistent? If not, what are the issues for a distributor in not labelling DVDs?
- What are appropriate benchmarks for overall levels of captioning and AD on

¹⁰ A copy of the framework is available from <http://www.avsda.com.au/dvdaccess.asp>

Australian DVDs?

- Setting up an independent monitor and regulator of the code.

Recommendation 14:

The Government consultation process for DVDs should be more proactive, including: identifying barriers and solutions to overcome them; what issues are preventing distributors from labelling DVD access features; what are appropriate benchmarks for levels of captioning and AD; setting up a monitoring process.

6.2.4. Approach ten: Accessibility of non-broadcast media

The Government will also consider whether further regulatory measures are required in the future if availability does not improve by the end of 2012.

- Providing a lead-in period to allow the DVD industry to make positive change is a welcome approach by the Government and should lead to a responsible approach by the industry, particularly those distributors who have failed to provide any increases in access. However, for the review to be meaningful and for a clear path to be set for industry, the Government needs to identify in consultation with consumer organisations clear targets for different categories of DVDs. It is expected that consumer organisations will provide some indications of what they consider to be reasonable targets in their submissions.

MAA would expect that targets would cover:

- Access features that are available in other markets to be included in Australia.
- DVDs released/distributed/produced/funded by Government agencies (including SBS and the ABC) to be accessible.
- Any access provided on cinema release of movies to be provided on DVD versions.
- Any access provided on television broadcast content to be provided on DVD versions (as a particularly egregious example, to remove the possibility of the release of *First Australians* by SBS without captions on DVD from ever happening again).
- Access on education DVDs to be a priority.

Recommendation 15:

Government needs to consult with consumers about setting targets for different categories of DVDs, including: overseas DVDs; Government agency DVDs (including SBS and ABC); accessible cinema to DVD releases; accessible broadcast content going to DVD; education DVDs.

6.2.5. Approach eleven: Accessibility of non-broadcast media

The Government will encourage industry to partner with the disability representative groups to develop a business case analysis for including captions and audio description on DVDs distributed in Australia by the end of 2013.

A business case analysis was developed by Media Access Australia in May 2007 and

submitted to DVD distributors, via AVSDA. This was included as an appendix to MAA's original submission to the Media Access Review in June 2008. The key points of the business case analysis are:

- The average cost of producing caption and audio description files from scratch for a 100-minute feature film is \$5,000 per title (\$1,500 for the caption file, \$3,500 for the AD).
- The cost of reformatting an existing caption file for DVD is considerably less (\$300-\$750).
- The average wholesale price of a DVD is \$15.96.
- In order to cover the \$5,000 cost of captioning and AD from scratch, 313 units need to be sold.
- In 2010, Australia will have approximately 622,500 blind and vision impaired people, and approximately 4 million Deaf and hearing impaired people. This represents up to 20% of the population.
- The combined market for languages other than English in Australia is less than that for access features.
- Approximately 14.7% of vision and hearing impaired Australians have access to DVD players, so this represents the percentage of the population who will benefit from accessible DVDs.
- The current level of access on DVDs is 60% for captioning, 2-3% for AD.
- The cost of providing access needs to be balanced against the potential costs of complaints against producers, retailers and rental outfits, on the basis that they have breached the *Disability Discrimination Act 1992*.

It is interesting to note that at the time this business case analysis was undertaken there were no complaints by industry about the accuracy or magnitude of the figures provided. Please note that the figures are conservative and apply to providing access from scratch, not importing existing access components (which would be considerably cheaper).

MAA agrees that it would be timely to update this business case analysis, especially as some of the costs will have reduced in the ensuing 2 years since that study was undertaken. The analysis could be completed very quickly and should be undertaken as part of the process of identifying realistic access targets for DVD. This analysis could be undertaken by Screen Australia or the Department of Arts, in consultation with industry, consumers and expert organisations (such as MAA).

Recommendation 16:

The Government consultation process should include updating MAA's business case for access to DVDs.

7. COMMENT ON CHAPTER FIVE: THE INTERNET

7.1 Comments and clarifications

7.1.1. Content distributed via the Internet

The report states, in relation to the lack of specific DDA requirements for the captioning or audio description of audio-visual internet content that “this includes television programs subsequently distributed via the internet after being broadcast on television”.

MAA would emphasise that Internet television is not just about audio-visual content delivered online after broadcast, but also the delivery of new audio-visual content over the Internet and IPTV programming through the NBN.

The report states that “The Australian Government is committed to improving accessibility for all people, and promotes the use of Web Content Accessibility Guidelines 1.0—a web standard developed by the World Wide Web Consortium (W3C)”.

The WCAG 1.0 standard has been an unenforced policy across the websites of Australian governments on federal, state and territory levels and, as a result, has been poorly implemented. A key reason is the lack of a legislative requirement for web accessibility of government websites, unlike the US, EU, Canada and NZ.

The report states that “The revised web standard (version 2.0) was released in December 2008. The Department of Finance and Deregulation is currently reviewing this standard, with the Australian Human Rights Commission, to determine best practice approaches for online accessibility for government agencies, businesses and the Australian public in coming years.”

The EU government adopted WCAG 2.0 on the day of its release, followed closely by subsequent adoptions by the governments of the US, Canada, NZ. This quick uptake of the guidelines by these reflects the significant development and review that occurred between first discussions in 2001 and final release in December 2008. In Australia, WCAG 1.0 continues to apply to government websites despite the new guidelines now being more than one year old, while the Department of Finance and Deregulation and the Australian Human Rights Commission continue to review these guidelines.

The delay in the Australia government’s adoption of WCAG 2.0 leaves Australian government information particularly inaccessible, given that even the level A, the lowest level, of WCAG 2.0 compliance requires videos be captioned. Currently, the New Zealand Government has adopted level AA of WCAG 2.0 for government agencies¹¹.

The report states that “industry representatives, including broadcasters, Google and Telstra, maintain that any legal requirement to add captions and audio description to internet material would hinder the flexibility needed to facilitate industry efforts to overcome the technical challenges present at this time“.

¹¹ <http://www.webstandards.govt.nz/time-based-media-under-wcag2/>

This is a point which may have been true two years ago, but it certainly is not true now. The National Center for Accessible Media (NCAM) has shown that Flash, Windows Media, QuickTime, Ogg and RealPlayer all support captions and many of the players are standardised. In addition, Google itself will soon be able to roll out captions on anything thanks to Google Voice. Although issues may remain with quality, there is no argument that pre-recorded captioning presents a technical challenge that impedes captioning on Internet material. Furthermore, for most of the movies that are shown on services such as BigPond caption (and now AD) files are available. These can be repurposed at less cost than captioning/AD from scratch.

The report quotes from the ABC's submission: "It is important to note that re-purposing content for delivery on other broadcast output or online content invariably requires re-captioning the content."

This is not true, especially in a digital environment. Caption files can be re-purposed for Internet downloads or streaming video, and caption suppliers have rates for doing this. In the UK, the BBC re-purposes broadcast caption files for its iPlayer, and no doubt so will the ABC for its iView, which it says will have captions from March 2010 (as settlement of a DDA complaint by Michael Lockrey).

It should be noted that the BBC will achieve parity in 2010 for its captioned content made available online (i.e. the same levels as broadcast) and is hoping to do so with AD as well.

The report states "Disability stakeholder groups accept that the internet presents new technical challenges and impediments to access, but argue that there are solutions. For example, one solution is to provide content in two downloadable versions, one with captioning and/or audio description and one without. A parallel download solution avoids the need for consumer-end technology. Avoiding consumer-end technical solutions to audio description is disability stakeholder groups' preferred approach."

Pre-recorded captioning should not require a parallel solution, as it is fully supported in both software and hardware. Live and streaming captioning, as well as audio description, may still require a parallel option. In fact, the BBC iPlayer provides the AD versions of its programs as an open-AD video (and separately identified on the AD section of the website), whereas captioning is delivered in a closed format on the main iPlayer program section.

The report states "Industry is working toward improving the accessibility of (I)nternet material... new version of Microsoft Windows 7 is expected to support the recording and playback of captions from television through the use of a television card... playback of audio description."

There are many examples of accessibility features of software, hardware and Internet sites and they are well documented and updated frequently on MAA's website in the New Media section:

http://www.mediaaccess.org.au/index.php?option=com_content&view=article&id=416&Itemid=10.

The real issue is that existing features are not enabled or utilised that would provide access

easily and at no additional cost. Television cards have had caption decoding and recording capabilities for many years. The real value of the Windows 7 operating system is that it incorporates many basic access features as standard.

7.2. Comment on approaches for consideration

7.2.1. Approach twelve: Internet accessibility

The Government will continue to monitor international developments in this area to inform future policy development.

It is very positive that the Government recognises that the area of Internet accessibility is very fluid and improving almost daily. A concern about this approach though is that it is very general and does not provide a structure or platform for identifying developments, analysing them and having a system in place to adopt/proliferate them. Furthermore, the Government has a strong leadership role as both a creator of websites and downloadable content (including through public media organisations, ABC and SBS) and as a major purchaser of goods and services. The US Government has taken a particular lead in using its purchasing power to drive accessibility and provide a viable commercial market for mainstream products that are accessible. This is part of the reason for the explosion in mainstream accessible technology, such as Windows 7 and the Apple iPhone.

There are two broad issues that need to be addressed: access features on video downloads and streaming videos; and website accessibility (encompassing all facets of a website, whether it includes video content or not).

1. Video downloads and streaming videos

Video downloads and streaming videos are becoming increasingly accessible around the world. In the UK, the BBC's iPlayer provides captions on all programs, and AD on approximately 40 hours of programs per week. In the US most if not all programs on NBC and ABC are available as downloads with captions, as are streamed videos on the PBS website and Hulu.

In Australia, the ABC has recently agreed to provide caption for programs from ABC1 and ABC2 on its iView streaming video service from March 2010. This leadership from the ABC is to be commended as it will help to identify issues and create a level of competition for all accessible video product.

In addition to this, all content on Federal Government websites should be available with captions and AD.

The Government should be actively encouraging the TV industry to match overseas efforts, monitor progress and report on this in 2012.

2. Web accessibility

The most important international development in Internet Accessibility policy has been the W3C's development of WCAG 2.0 (NB: MAA is a member of W3C and has been actively involved in accessibility discussions and developments). One of

the positive aspects of implementing WCAG 2.0 is that most of the software and hardware tools needed to comply exist in mainstream products and it is really a matter of education, training and commitment to an implementation of these standards.

No changes have been made to WCAG 2.0 since its release but the Australian Government continues to review WCAG 2.0 while governments in other nations adopted the most up-to-date standards over a year ago.

In other nations, governments have driven online accessibility and led by example. This is evident in many initiatives, most notable of which is Section 508 of the *Rehabilitation Act of 1973*, which requires that US Federal agencies' electronic and information technology is accessible to people with disabilities, and has been in force since 1998. In the UK, the Disability Rights Commission supplemented the *Disability Discrimination Act 1995* with formalised duty to promote disability equality in Statutory Code of Practice, the current version of which has existed since 2005¹².

These are key international developments that, as yet, have not been adopted in Australia.

Australia is also undertaking its own developments and improvements. For example, MAA launched AWARe in late 2009 (Australian Website Access Review – www.aware.org.au) which is a simplified, quick version of assessing a website for accessibility by ordinary users. This is based on WCAG 2.0 guidelines and is intended to be a 'check' rather than a full-blown audit and helps to identify major issues that can be addressed in a more detailed form (if needed). This approach was taken rather than insisting that every website undergoes an expensive, time-consuming full-blown WCAG 2.0 audit, as incremental change can be achieved quickly and most issues are straightforward to identify and rectify.

The approach that could be taken as a catalyst for improving Internet accessibility is for the Federal Government to immediately adopt WCAG 2.0 Level A and agree to have all websites under its control (including agencies and funded Statutory Authorities) meeting those standards within 2 years. This would create momentum for change and an incentive for the developer industry to learn about and utilise the range of existing tools for access.

Recommendation 17:

All audio-visual content on Government websites should be captioned and audio described.

Recommendation 18:

Government should encourage content providers to match overseas offerings on accessible online services and report back by 2012.

Recommendation 19:

Government should adopt WCAG 2.0 level A immediately and fully implement its provisions within 2 years with public reporting of progress.

¹² The code of practice can be accessed from http://www.equalityhumanrights.com/uploaded_files/the_duty_to_promote_disability_equality_statutory_code_of_practice_england_and_wales.pdf

7.2.2. Approach thirteen: Internet accessibility

“The Government will encourage industry to partner with the disability representative groups to improve online accessibility by the end of 2013.”

The reasoning behind the timing of this approach is unclear. 2013 does not bear any specific relevance to Internet accessibility. In the EU, Article 3c of the Audiovisual Media Services (AVMS) Directive was already adopted by EU states in December 2009 and requires governments to encourage media companies under their jurisdiction to make audiovisual content increasingly accessible. In Australia, the Government will remain more open to complaints under DDA until it works with industry to improve online accessibility.

A better approach would be (in conjunction with the Government taking the lead with websites and content under its own control) to include formal monitoring, reporting, targets and staged outcomes as part of its National Disability Strategy and implementation of the National Broadband Network. This could be set up in a similar fashion to the range of expert groups advising the Digital Switchover Taskforce, covering both industry and consumers. MAA would be very willing to engage with and contribute to such a group(s).

Recommendation 20:

Expert groups for consumers and industry should be set up for Internet access, using the successful Digital Switchover Taskforce model.

8. COMMENT ON CHAPTER SIX: ADVERTISING CONTENT

8.1. Comments and clarifications

8.1.1. Emergency broadcasts

The report states that “Currently emergency broadcasters are only required to caption ‘wherever practicable’.”

The “whenever practicable” approach to accessible announcements under the existing code of practice is unacceptable to these people because timeliness underpins the usefulness of essential information in emergencies, disasters and safety events. It is unacceptable that during an emergency, a person with a vision or hearing impairment cannot access essential information with the same ease and at the same time as all other viewers simply because their broadcast service provider failed to make reasonable adjustments to make that service accessible.

MAA has sought advice from ACMA to clarify whether ‘emergency announcements’ under clause 1.24.4 of the *Commercial Television Industry Code of Practice 2010* are considered to be news or current affairs programs for purposes of clause 38(1) of Schedule 4 to the BSA. The ACMA’s advice is that it is possible that some such announcements would meet this definition while others would not. In these cases, broadcasters of emergency broadcasts would not be subject to a ‘whenever practicable’ requirement but rather subject to a must-caption requirement under the BSA.

8.2. Comment on approaches for consideration

8.2.1. Approach fourteen: Emergency broadcasts

“The Government will consider mandating captioning or subtitling of all pre-produced emergency, disaster or safety announcements broadcast on television and introduce a voiceover requirement for essential information such as contact numbers. For emergency warning requests, that are not pre-produced the priority remains for the warning to be broadcast without delay. However, the Government acknowledges the community need for captioning and audio support for such warnings, and will work with industry to ensure that such a capability is developed so that warnings can be broadcast with these features in a timely and effective manner.”

The report states that the priority remains for the warning to be broadcast without delay. MAA agrees that this should be the priority for all viewers. A trade-off between the accessibility and timeliness of emergency broadcasts can be avoided simply by ensuring that broadcasters and access service providers are adequately prepared to caption or voiceover at short notice. This is the case in the United States, where it is mandatory for broadcasters to adequately prepare for, and provide, accessible emergency announcements. Broadcast television forms one of the platforms for providing information and it is difficult to predict which medium a viewer will use to access a warning. In light of this, the United States Federal Communications Commission (FCC) has taken strong steps

to reinforce the absolute importance of using captions to assist hearing impaired people. As recently as September 2009, the FCC has reinforced its position:

In light of the present hurricane season, as well as the Southern California wildfires, the Commission issues this Public Notice to remind video programming distributors – including broadcasters, cable operators, satellite television services, and “any other distributor of video programming for residential reception that delivers such programming directly to the home” – of their obligation to make emergency information accessible to persons with hearing and vision disabilities in accordance with section 79.2 of the Commission’s rules... There are no exemptions to section 79.2, and all video programming distributors that air emergency information are required to make it accessible.¹³

The FCC’s notice should be a stark reminder for Australian broadcasters, given the Victorian bushfires in the past year. Ultimately, the essential nature of the service is reinforced by the FCC requirement to resort to hand-written information if electronic systems break down¹⁴. Given that free-to-air television is a widely accessible service, an important component of emergency warning, and given the level of captioning, there is a strong community expectation and need for accessible warnings in Australia as well.

Recommendation 21:

Accessibility of emergency broadcasts should be mandatory and an enforcement approach similar to the FCC in the US should be taken.

8.2.2. Approach fifteen: Advertising content

“The Government will consider holding discussions with the Australian Association of National Advertisers (AANA) to look at strengthening existing requirements regarding the captioning of advertising content.”

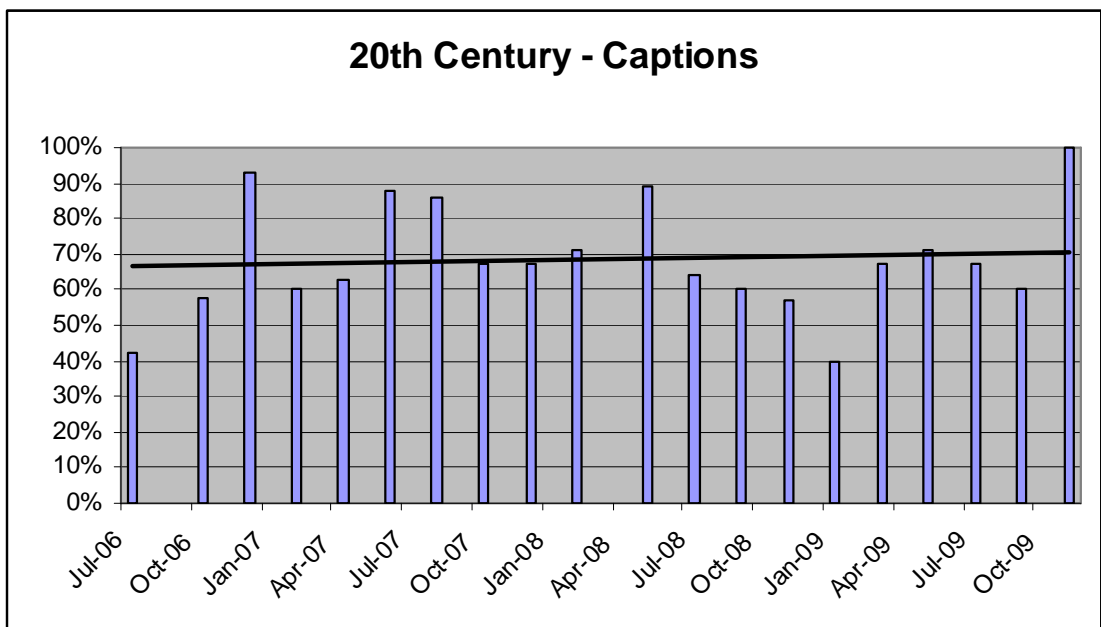
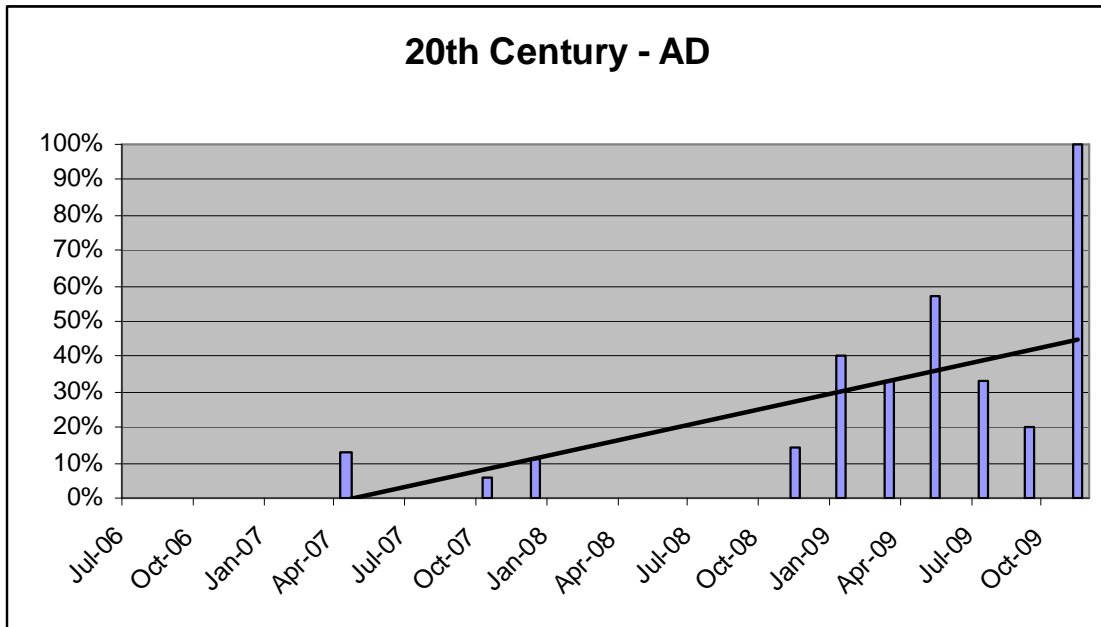
MAA has no comment on the captioning of advertising content, beyond stating that it makes good business sense to include captions on advertising content, particularly when the cost of captioning is a few hundred dollars per commercial and the potential audience is up to 3.5m people.

¹³ *Reminder regarding video programming distributors’ obligation to make emergency information accessible to persons with hearing or vision disabilities,*

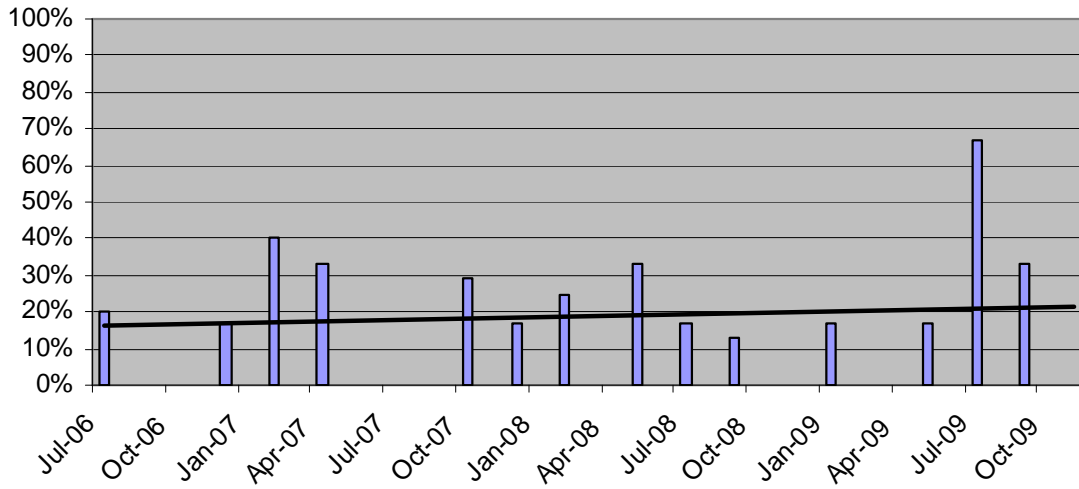
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2014A1.pdf

¹⁴ *Public Notice DA 09-995,* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-995A1.pdf

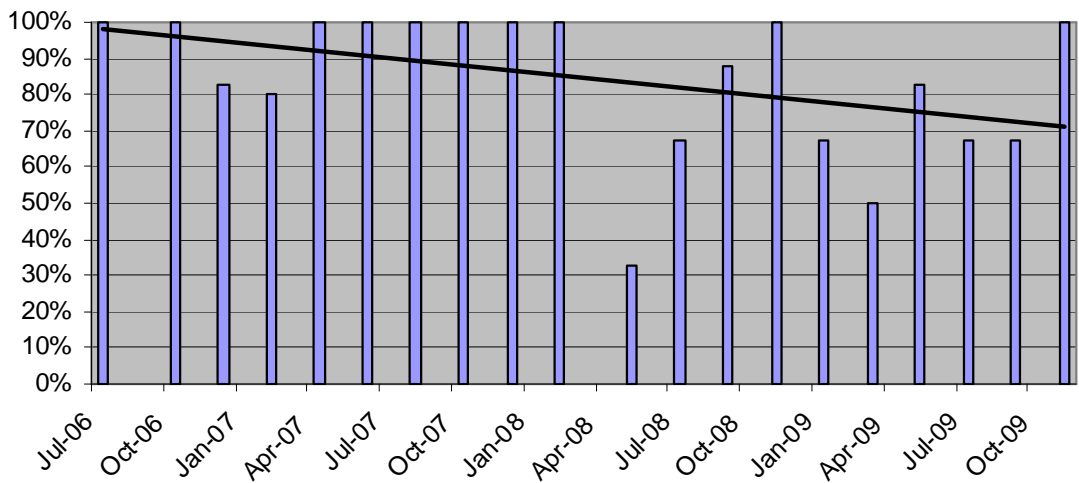
9. APPENDIX – LEVELS OF AD AND CAPTIONING 2006-09 BY DVD DISTRIBUTOR

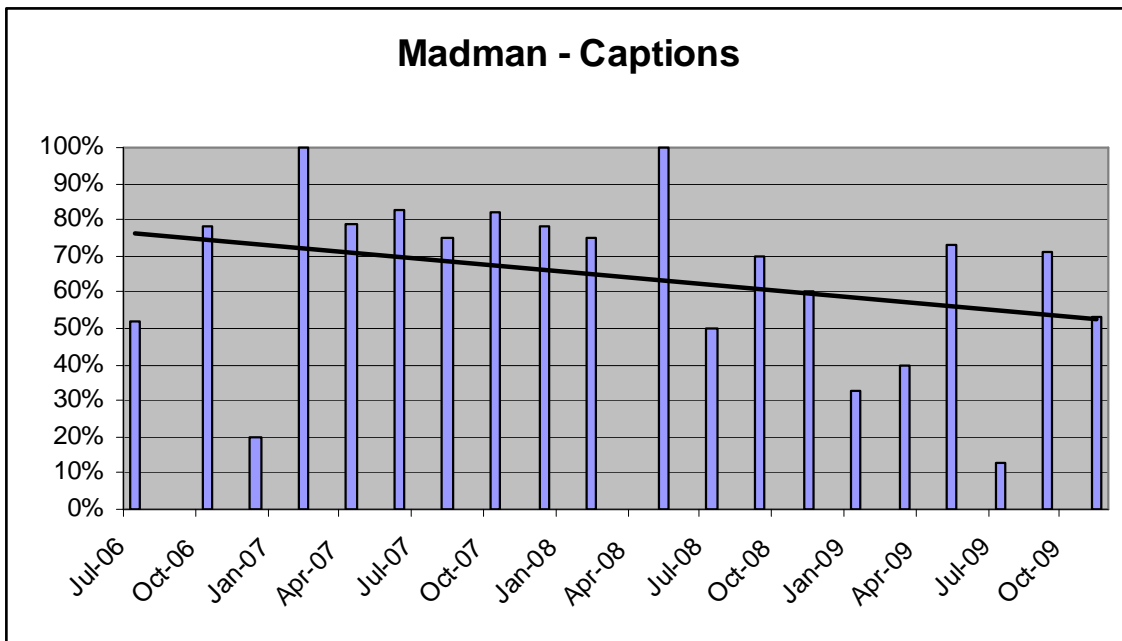
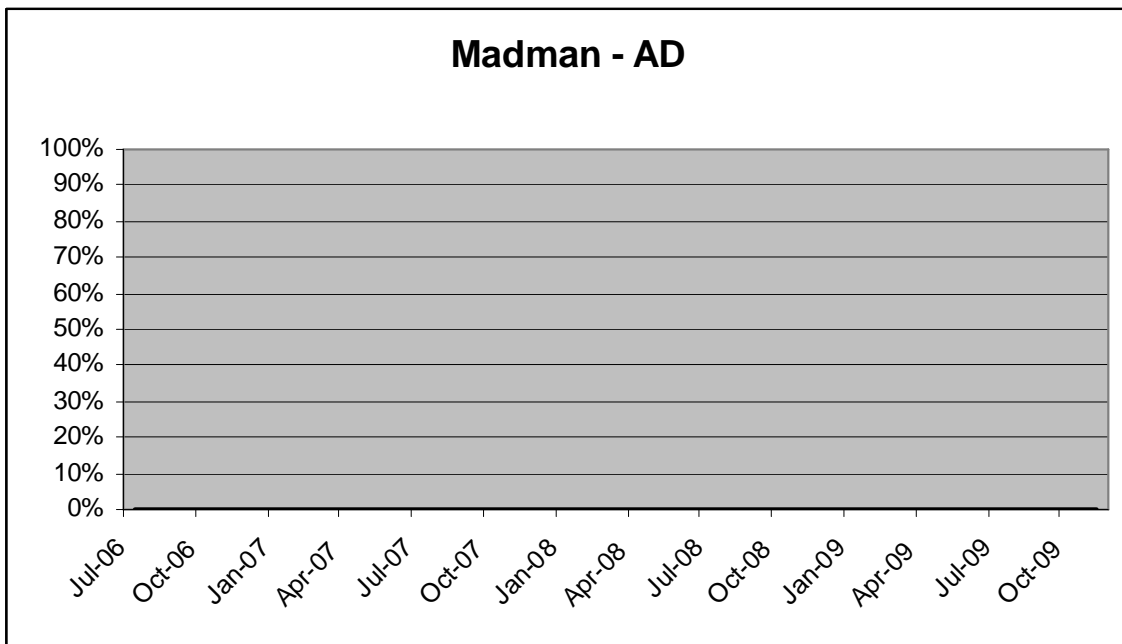


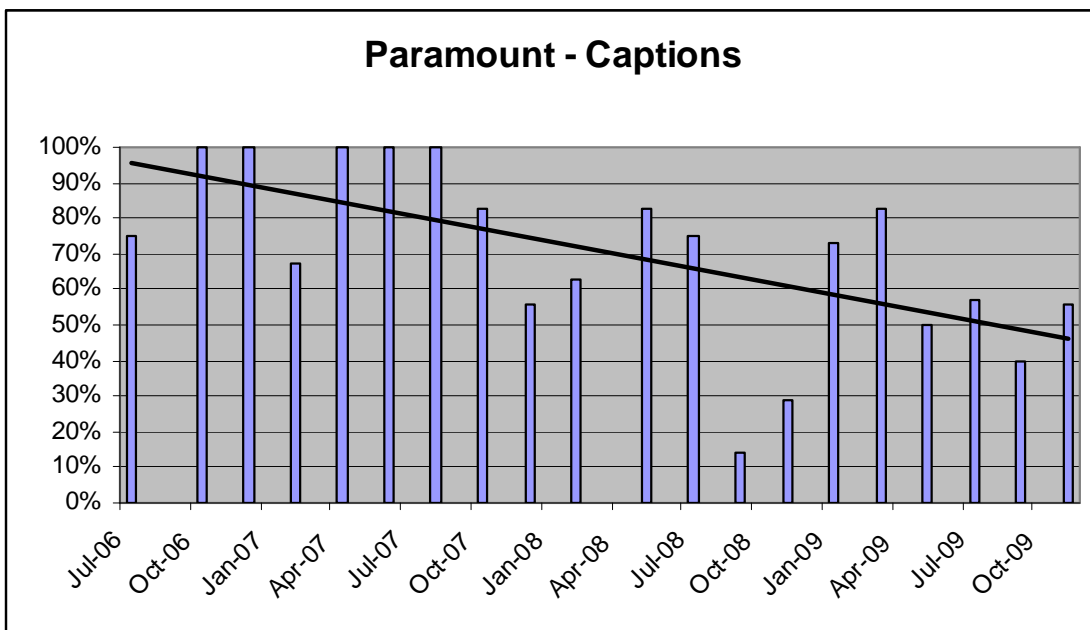
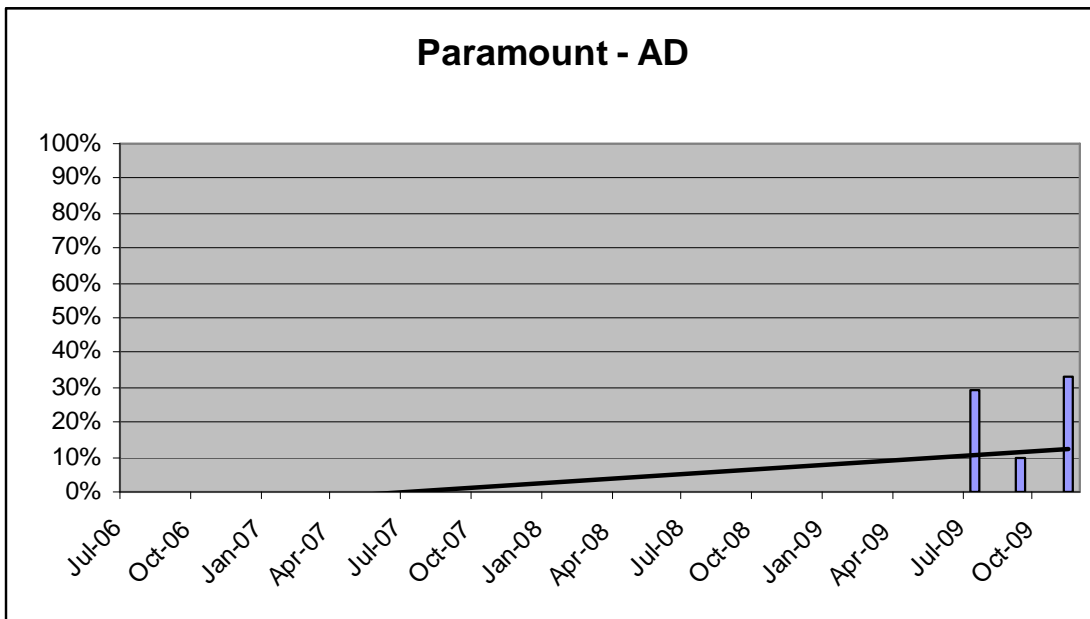
Disney - AD

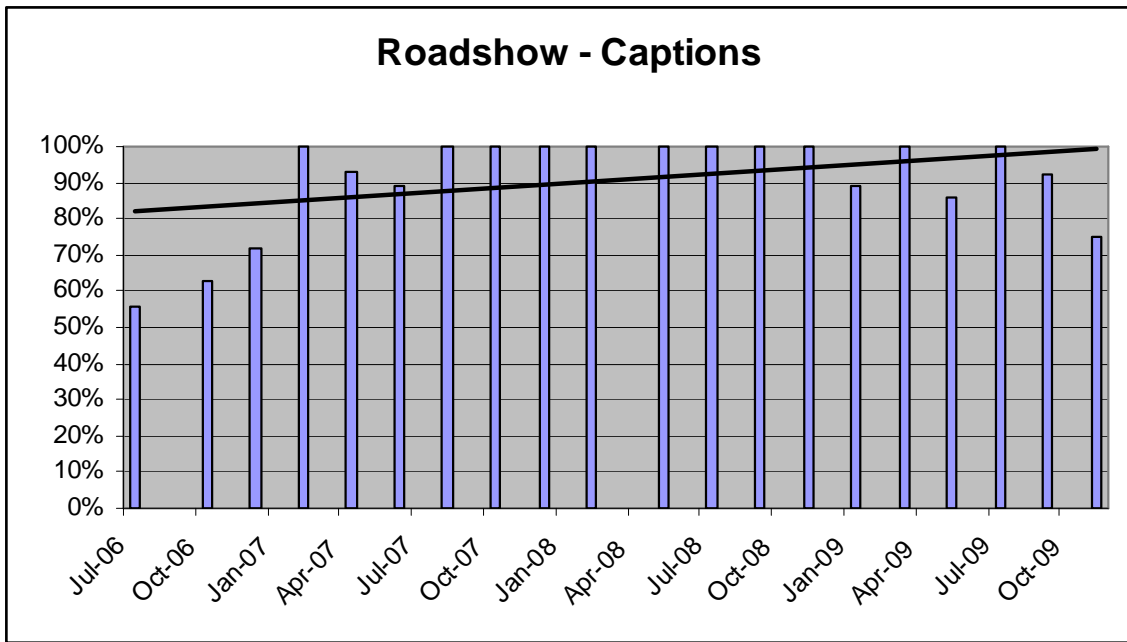
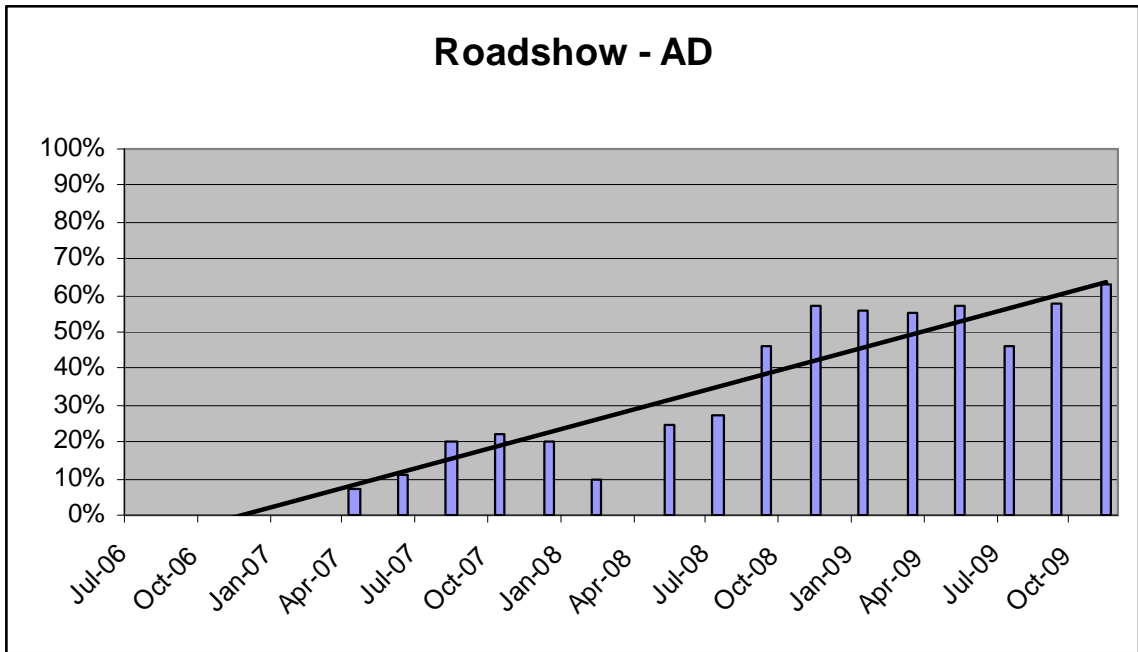


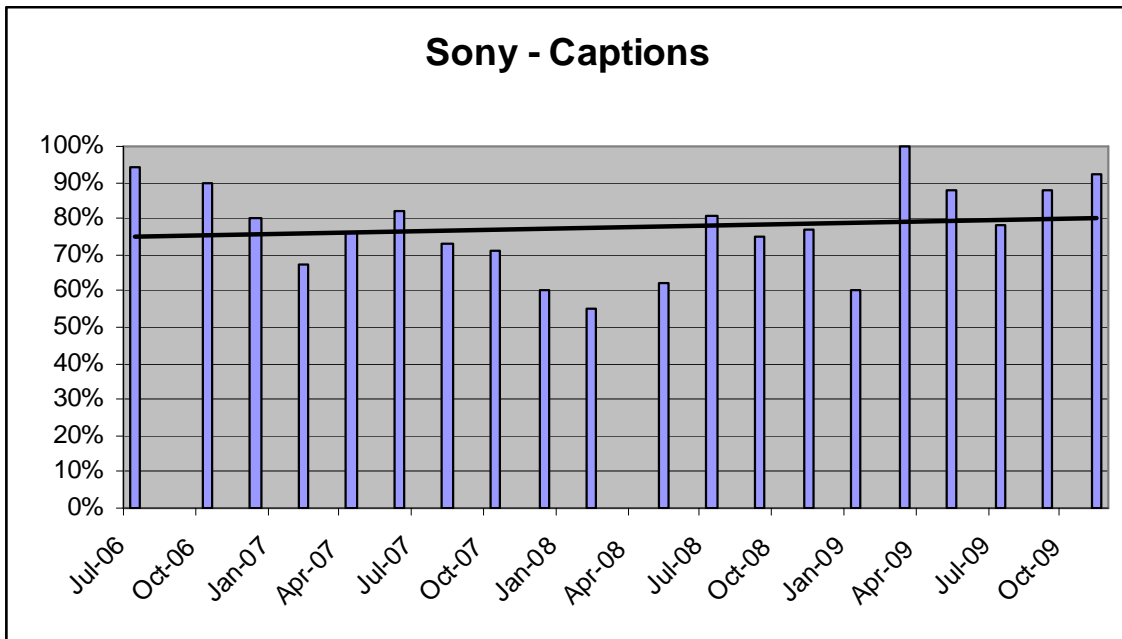
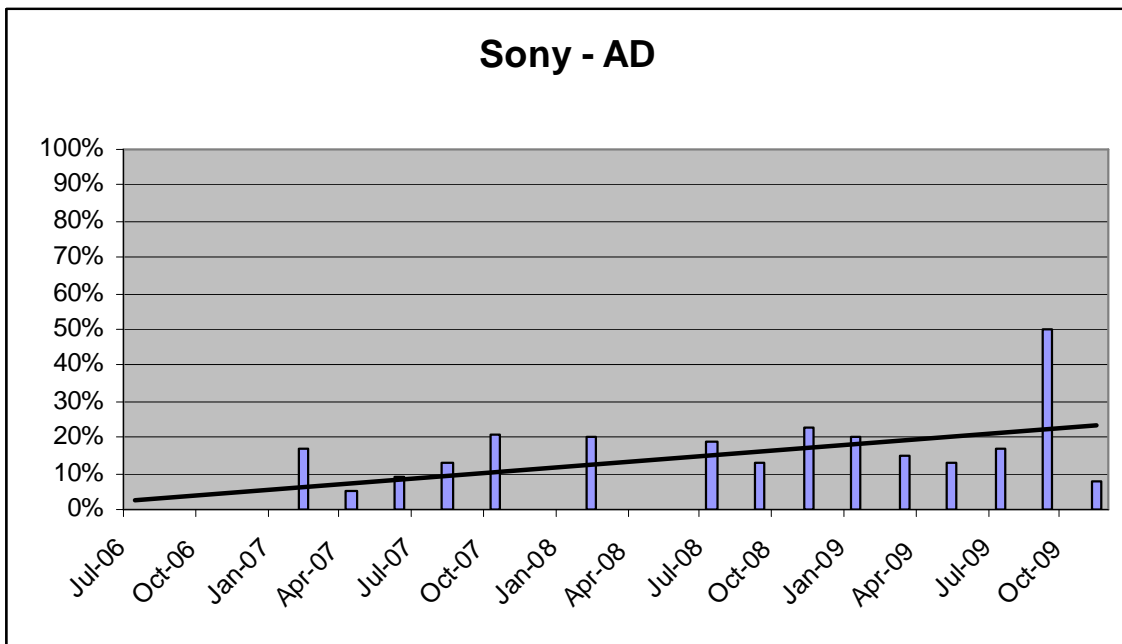
Disney - Captions



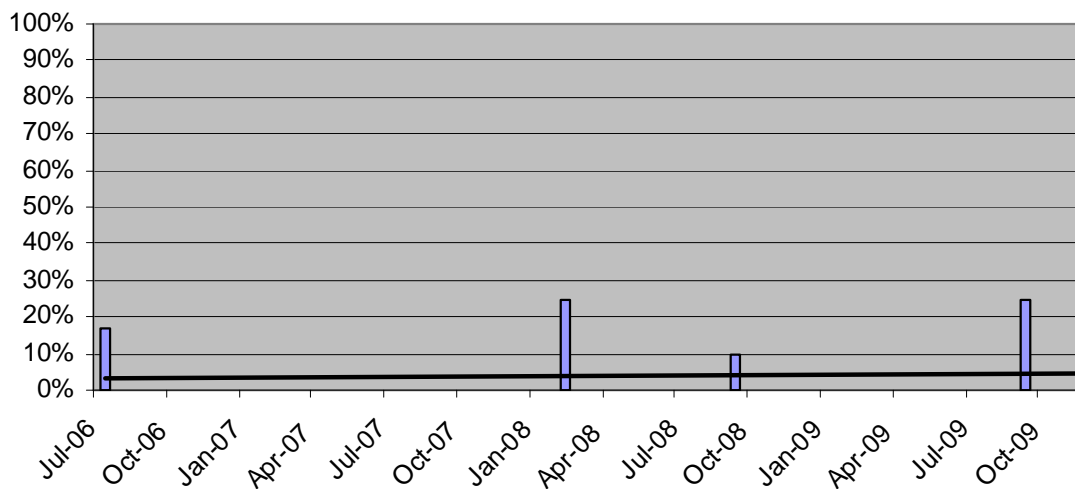








Universal - AD



Universal - Captions

