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MEDIA ACCESS AUSTRALIA REPORT SERIES

ACCESS ON DEMAND: CAPTIONING AND AUDIO DESCRIPTION ON VIDEO ON DEMAND SERVICES



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ABOUT MEDIA ACCESS AUSTRALIA

Media Access Australia is Australia's only independent not-for-profit organisation devoted to increasing access to media for people with a disability.

We promote inclusion by providing information and expertise on the accessibility of mainstream technologies to government, industry, educators, consumer organisations and individuals.

We work as a catalyst for change across television, video, cinema, the arts, education, digital technology and online media, with a primary focus on people who are blind or vision impaired, or Deaf or hearing impaired.

Media Access Australia grew out of the Australian Caption Centre (ACC), which was founded in 1982. As the ACC we provided captioning services for all Australian television networks, as well as the captioning of live theatre, videos and DVDs. The captioning and other commercial operations of the ACC were sold to Red Bee Media in 2006.

ABOUT THE AUTHOR

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A NOTE ON TERMINOLOGY

'Video on demand' (VOD) is the most commonly used generic term for video delivered to a user over the internet. It can be divided into four main categories:

- **Catch-up television:** a service provided by a broadcaster, sometimes in conjunction with another party (e.g. the Seven Network and Yahoo!'s Plus7 service), with the content predominately consisting of programming which was broadcast a short time before being made available online.
- **Ad-supported video on demand:** a service which is free to access and supported by advertising (e.g. YouTube).
- **Transactional video on demand:** a service where the consumer pays for temporary access to content, or content they can download and keep (e.g. BigPond Movies).
- **Subscription video on demand:** a service where users gain access to content via a weekly or monthly subscription (e.g. Stan).

In addition to these, there are also a number of VOD sites which are entirely free to use. Those available in Australia are listed below.

INTRODUCTION

2015 has been widely touted in the media as a watershed year for video on demand (VOD) in Australia, with a proliferation of new services, and in particular the launch of a local version of the American VOD giant Netflix in March. Media Access Australia therefore decided it was time to revisit the issue of accessibility on VOD, the subject of an earlier report, *Captioning on video on demand services: It's time for Australia to catch up*¹, released in 2013.

This new report begins by looking at the situation with VOD services and captioning in the UK and the US (where a combination of legislation and litigation has resulted in the highest levels of VOD captioning in the world). It then looks at the take-up of VOD in Australia; the levels of captioning on all the services currently available here, both Australian and international; and the forthcoming trial of audio description on the ABC's iView service. It concludes with recommendations for the next steps to increase accessibility on VOD services.

The rapid growth of video on demand VOD services over the last decade or so has changed the way many people watch television. No longer are viewers tied to TV schedules or the TV set in the lounge room. If they miss a program, they can often go online and watch it using one of the catch-up services that all the major broadcasters provide. They can rent or purchase newly-released movies and TV series from video stores like

iTunes, or pay a subscription of as little as AU\$8.99 a month for access to hundreds of titles from services like Stan and Netflix. Fans of sport can subscribe to niche services which allow them to watch live events on their mobile devices. And there is a large amount of content available for free on overseas VOD services that can be accessed locally.

The missing element in this, all too often, is accessibility. While three of the five free-to-air network catch-up TV services in Australia now offer captions, most of the other VOD services do not. And no VOD services as yet offer audio description, although this will change with a trial on the ABC's iView service that commenced in April 2015.

Captioning began on Australian television in 1982, with a few hours of programs captioned each week. In July 2014, thanks to caption quotas included in the *Broadcasting Services Act*, it finally reached 100% on programs broadcast on the network's primary channels between 6 am and midnight. This is a good result for Deaf and hearing impaired Australians who rely on captions to watch TV (although Australia is still behind the situation in the US and UK, where captioning on most channels reached 100% across 24 hours years ago).

However, just as captioning has reached high levels on TV, Deaf and hearing impaired viewers are dismayed to find they are often entirely absent on VOD

services. Those turning to catch-up services to watch programs they have missed often find the captions missing, even though they were captioned for their original broadcast.

EXECUTIVE SUMMARY

In the UK, 16 out of 90 VOD services provided captions in 2014, and four provided audio description. The Authority for Television on Demand (ATVOD) has told VOD providers that they have two years to voluntarily increase captioning levels or they will face legislation.

In the US, legislation ensures that all programs broadcast on television with captions are captioned when distributed over the internet. In addition to this, a lawsuit against the VOD provider Netflix was settled when the company agreed to caption all of its content by the end of 2014.

50% of Australian internet users have watched TV programs and movies online, and 66% of 16 to 24 year olds watch TV content online.

Among VOD services, the catch-up TV services have the greatest awareness among consumers. Only three of these services (ABC iview, SBS On Demand and Plus7) currently provide captions.

Netflix launched in Australia in March 2015, with captioning at or close to 100%. Other subscription VOD services, including Presto, Stan and Quickflix, do not offer captions. The transactional VOD services iTunes, Google Play and Xbox Video provide captions on 48% to 97% of their content.

The high levels of captioning on Netflix, iTunes, Google Play and Xbox Video can mainly be attributed to legislation in the US. In other words, Deaf and

hearing impaired Australians are directly benefitting from this legislation, and this clearly demonstrates the important role that legislation plays in ensuring adequate levels of access to media.

The trial of audio description on the ABC's iview service represents the first time that audio description has been created solely for a catch-up TV service, and the trial should provide valuable information about extending the service to other VOD services.

RECOMMENDATIONS:

- All catch-up TV services should provide captions by the end of 2015, and if they fail to do so, the Federal Government should make this compulsory through legislation.
- The captioned content on Netflix and other VOD services shows that it is possible to provide captions on these services. The VOD industry should be given until the end of 2016 to provide acceptable levels of captioning on a voluntary basis, and if it fails to do so, the Federal Government should make this compulsory through legislation.
- VOD providers must clearly promote and indicate captioned content.
- The Federal Department of Communications should consult with stakeholders and use the feedback from

the ABC iview trial to plan the introduction of audio description on all catch-up TV services.

1 VOD ACCESSIBILITY IN THE US AND UK

1.1 VOD ACCESSIBILITY IN THE US

1.1.1 LEGISLATION

The United States is the only country so far to introduce legislation covering the provision of captioning on VOD services with the *21st Century Communications and Video Accessibility Act (CVAA)*, which was passed in 2010. Prior to the requirements in the CVAA coming into effect, levels of captioning on American VOD services were quite low. A survey by Media Access Australia conducted in June 2011 found, for example, that only 35% of TV shows available on Hulu, and 32% of content on Netflix, were available with captions.

The CVAA introduced a requirement that any TV program that was broadcast with captions must also be captioned when distributed over the internet, and gave the Federal Communications Commission (FCC) the power to determine deadlines for this to take place. The deadlines were eventually set as follows:

- 30 September 2012: All pre-recorded, non-archival programming not edited for internet distribution
- 31 March 2013: All live and near-live non-archival programming
- 31 September 2013: All pre-recorded, non-archival programming edited for internet distribution

- 31 March 2014: All archival programming

In December 2012, eight deafness advocacy groups, including the National Association of the Deaf and the Deaf and Hard of Hearing Consumer Advocacy Network, filed a report² with the FCC on the initial compliance with the first of these deadlines. This found that 82% of VOD services were in compliance.

The initial rules set by the FCC only covered full-length video programming, but in July 2014 it voted to introduce rules covering short video clips. From 1 January 2016, individual video clips which have been lifted from pre-recorded programs will have to be captioned, while montages of clips, and clips from live and near-live programs, will have to be captioned from 1 January 2017. In the case of live and near-live clips, there will be a 'grace period' of 12 hours and 8 hours after broadcast respectively before the captions have to go online.

At the moment, these rules will only apply to websites owned or controlled by the original TV distributor of the clip. However, the FCC has signalled that it will be looking at whether they will be extended to third parties. It is also asking whether the grace periods should eventually be phased out, whether the rules should apply to mashups, and how they should be applied to advance clips which are posted before TV broadcast.

FCC Commissioner Jessica Rosenworcel said, "I appreciate compliance with the new rules will take work, but we must be more than just the steward of the status quo."³

1.1.2 LITIGATION

Netflix

In 2011, Netflix was sued by the National Association of the Deaf (NAD) for failing to provide captions on most of the titles on its 'Watch Instantly' service. The NAD's case was strengthened in June 2012, when the District Court of Massachusetts held that the *Americans with Disabilities Act (ADA)* applies to website-only businesses.

Following a brief experiment when Netflix attempted to caption some of its content by crowdsourcing, it reached an agreement with the NAD in October 2012. By then, 90% of Netflix content was captioned, and the company agreed to increase this to 100% by 2014.

While theoretically all of the content on Netflix is now captioned, the quality of some of the captioning has been heavily criticised. In an article on *The Week* website, 'How Netflix alienated and insulted its deaf subscribers', John Christian wrote, "By and large, closed captions on Netflix's instant streaming service are loaded with nonsense characters, transcription errors, and dialogue so implausible that it's hard to believe they're actually transcription errors. Many obscure the opening credits,

1 VOD ACCESSIBILITY IN THE US AND UK (CONTINUED)

line up poorly with spoken lines, or linger into uncomfortable stretches of silence.”

A Netflix spokesman told Christian that the captions were generally acquired from the same place as the video content. They were the same captions that were broadcast on television, and Netflix does not have the right to alter them and fix errors. (After the article was posted, another Netflix spokesman said, “While we don’t have the rights to make edits to subs/captions we do, in fact, request redelivery of subtitles or captions when we discover errors.”⁴)

The issue raises some questions. If a VOD service is redistributing captions as provided on a video’s TV broadcast, and these were faulty in the first place, to what extent is it fulfilling its obligations under the legislation, and who should bear the cost of fixing the mistakes?

CNN

In 2011, the Greater Los Angeles Agency for Deafness (GLAAD) brought a putative class action against CNN and its owner Time Warner, accusing them of violating the rights of the disabled by not providing captions on its online videos (which were not covered by the CVAA captioning requirements). They argued specifically that CNN was breaching the *Disabled Persons Act* (DPA) which requires disabled people to equal access to “places the public is invited”, and California’s *Unruh Civil Rights Act*.

In February 2014, a three-judge panel in the U.S. Court of Appeals for the Ninth Circuit dismissed some of the GLAAD suit’s discrimination claims. It found that CNN’s decision not to provide captioning on clips was an editorial decision, and GLAAD had not shown that CNN had an intent to discriminate based on disability. In making this ruling, it invoked a Californian statute, known as the anti-SLAPP statute, which provides for “the early dismissal of meritless lawsuits arising from a defendant’s conduct in furtherance of its free speech rights”.

While the court found in CNN’s favour, it did reject some of the constitutional challenges it had made to the discrimination claims, ruling that closed captioning was not an “impermissible burden” to the network.

The court did leave one element of the suit unresolved, however. It has requested that the California Supreme Court look at the question of whether state law, which requires that disabled individuals have equal access to “places of public accommodation”, covers non-physical places such as websites, saying it was “an important question of Californian law and raises an issue of significant public concern”.⁵

1.2 VOD ACCESSIBILITY IN THE UK

VOD services in the UK (with the exception of the BBC’s iPlayer) are regulated by the Authority for

Television on Demand (ATVOD). Unlike Ofcom, the regulator for broadcast and subscription television, ATVOD does not have any legal powers to enforce rules, although this may change in the future, but it has a duty to “encourage service providers to make their On Demand Programme Services (‘ODPS’) more accessible to people with disabilities affecting their sight or hearing or both”. ATVOD produces an annual report entitled ‘Provision of Video on Demand Access Services’, with the latest released in December 2014.⁶

In 2014, for the first time, it was compulsory for VOD providers to report to ATVOD on their levels of access, and the 2014 report incorporates responses from all 90 of them. The highest increases in captioning (called ‘subtitling’ in the UK) were on catch-up TV websites, including those of Channel 4 (4oD), Channel 5 (Demand 5) and ITV (ITV Player). These had captions on 65%, 72% and 74% of their programs respectively.

A number of VOD providers also began to provide captions on programs delivered on other platforms. Channel 5 now offers them on 72% of programs available via its Windows app, and 62% via its iOS app, while STV offers captions on 78% of programs available via its Windows app. Nickelodeon, Viaplay and Digital Theatre also provide captions via apps.

The only VOD providers to currently provide audio

1 VOD ACCESSIBILITY IN THE US AND UK (CONTINUED)

description are the BBC's iPlayer, 4oD (which provided audio description on 15% of programs in 2014), Channel Entertainment (7% of programs in 2014) and Sky (which did not provide comprehensive figures to ATVOD). Channel 5 and ITV have expressed an intention to introduce the service. ATVOD states that encouraging the provision of audio description will be a particular focus for it in 2015.

ATVOD does not report on accessibility on the BBC iPlayer because it has no jurisdiction over it, but the BBC website reports that all content on the iPlayer has captions if viewed on a desktop.⁷

Most BBC channels are now regularly providing audio description on 20% or more of their programs.⁸ Several sources suggest that most of this is also made available when the programs move to the iPlayer.⁹

Noting that many VOD services remain inaccessible, the ATVOD report discusses the barriers to providing access which were raised by VOD providers. These included:

- Logistical and technical issues, including the challenges of providing access services for programs originally broadcast live
- Issues with sourcing content with access services, or acquiring the rights for them
- Confusion over whether the content provider or the

delivery platform should be responsible for providing access

- Technical difficulties arising from the diverse range of content providers and delivery platforms

To counter the last issue, ATVOD continues to facilitate the sharing of information between service providers through its Working Group on Access Services. This is promoting the use of a technical standard for captions (EBU-TT), which enables captions to be more easily transferred across different platforms. EBU-TT (EBU-Timed Text) is a format published by the European Broadcasting Union.¹⁰ It supersedes (and is backwards compatible with) the EBU-STL standard, which has been used in Australia since digital broadcasting began. The standard has now been adopted by NBC Universal and several other service providers.

Speaking at the Future of Subtitling Conference held in London on 10 November 2014, ATVOD's CEO Peter Johnson said the VOD industry has two years to voluntarily introduce captioning, or it will face regulation.¹¹

In a recent development, Amazon Instant Video (formerly LoveFilm) responded to a petition, organised by access campaigner Stephanie McDermid and signed by 15,000 people, by announcing that it would begin adding captions to its content by the end of 2014.

In February 2015, the advocacy group Action On Hearing Loss reported that, while there had been some technical glitches, 40% of Amazon's content was now captioned, and the company's ultimate aim was to raise this to 100%.¹²

2 UPTAKE OF VOD SERVICES IN AUSTRALIA

Overall, broadcast television still accounts for the majority of television viewing in Australia. (On average, broadcast television viewers who also had access to VOD services spent 11.6 hours a week watching the former, and 2.6 hours watching the latter.)¹³ Nevertheless, viewing habits are rapidly changing. At the end of 2014, 50% of Australian internet users had watched movies or TV programs online, and the younger they were, the more VOD content they were likely to have seen. Among 16 to 24 year olds, around 66% now watch TV content online, compared to 75% who watch broadcast television. They are also more likely to own an internet-connected TV.

Of the various VOD services available in Australia, the catch-up TV services have the greatest awareness among viewers (84% of VOD users are aware of at least one, which most of them use). 56% of VOD users watch catch-up TV, while 60% use ad-supported services (mainly YouTube).

Research conducted by Australia's communications regulator, the Australian Communications and Media Authority (ACMA), found that the ABC's iView was by far the most popular of the catch-up TV services, accounting for 71% of visits by catch-up users. It was followed by SBS On Demand (32%), TENplay (22%), Plus7 (17%) and 9Jumpin (13%).¹⁴

27% of homes now have TVs which can be connected to the internet. The introduction of HbbTV (Hybrid broadband television) is likely to be another driver to increased VOD use. HbbTV is a broadcast platform which allows for a seamless transition between broadcast and internet-delivered programming (this is the platform on which Freeview Plus runs). HbbTV-enabled televisions went on sale in July 2014, and while sales of these have so far been modest, retailers expect them to increase significantly by the end of 2015.¹⁵

Many Australians have also taken advantage of VPNs (virtual private networks) to circumvent geo-blocking and access overseas VOD services, with the number who have accessed the US Netflix service estimated to be as high as 200,000. Speaking at a trade conference in January 2015, Netflix's vice president of product innovation, Todd Yelland, cast doubt on this figure, saying, "We think the rumours are a little exaggerated because no one really knows." Yelland also denied reports that Netflix had begun to cut off services to people who were bypassing geo-blocking, in the lead-up to the Australian version of Netflix being launched. Yelland said Netflix's ultimate goal was to eliminate regional rights arrangements and have a "global Netflix".¹⁶

3 VOD SERVICES AVAILABLE IN AUSTRALIA

3.1 CATCH-UP TV SERVICES

3.1.1 ABC IVIEW

The ABC's iView has the largest range of content of the catch-up services. Captions have been available on prime-time programs from ABC1 and ABC2 since March 2010, while the iView app for iPads was enabled for captions in July 2011.

In February 2015, there were 325 hours of program content available to watch on iView (plus a continuous streaming of ABCNews24). Of the 325 hours, 209 hours, or 64%, had captions. The majority of programs which were uncaptioned were children's programs. The state-based half-hour news bulletins were also uncaptioned.

It is possible to bring up a list of all programs, with captioned programs marked with the 'CC' symbol, making them easy to locate.

A trial of audio description on iView commenced on 14 April 2015 (see section 5).

3.1.2 SBS ON DEMAND

Captions were introduced on SBS On Demand in June 2012, after SBS, working in conjunction with the British company Softel (which supplies its captioning equipment and software) developed an automated process which integrates the caption files produced for television broadcast with the online version of the program.

In February 2015, there were 164 hours of English-language TV programs, excluding news programs, on the service, of which 53 hours or 32% had captions. The full-length version of SBS World News was captioned, but individual segments from it were not.

There was also a library of 200 movies which could be streamed. 52 were English-language, and nine of these had captions.

Captioned programs are identified by a 'CC' in the synopsis, but there is no way to search for them.

3.1.3 PLUS7

The Seven Network's Plus7 service, which is managed by Yahoo!, introduced captioning in February 2014 to coincide with the beginning of that year's rating season. Generally, the top-rating programs are provided with closed captions.

In February 2015, there was approximately 241 hours of program content available, of which 22.25 hours, or 9%, had captions. The programs that had captions were *Better Homes and Gardens*, *Border Security*, *Grey's Anatomy*, *Home & Away*, *Malibu Country*, *Keeping Up Appearances*, *Million Dollar Minute*, *My Kitchen Rules*, *Pawn Stars*, *Pie in the Sky*, *Paleo Way* and *Winter*.

There is no way to search for captioned programs, and captions are not available on the Plus7 app.

3.1.4 9JUMPIN

In February 2015, 121 programs were available on 9Jumpin, ranging from one or two episodes to entire series. No content was captioned.

3.1.5 TENPLAY

In February 2015, 47 programs were available on TENplay, with up to three episodes of each series available, along with short clips and other material. No content was captioned, although a 'CC' button appears on the media player, indicating it is enabled for closed captions.

3.1.6 FOXTEL GO

Foxtel's online service which allows subscribers to watch selected Foxtel channels either live or as catch-up programs. No content is captioned.

3.2 AD-SUPPORTED VOD SERVICES

3.2.1 BIG STAR MOVIES

Streamed movies and documentaries. If a subscription of \$4.99/month is paid, the ads are removed and HD versions are available. No captioned content, but foreign-language movies are subtitled.

3.2.2 SMH.TV/THEAGE.TV

These are libraries of TV programs and movies which can be watched on the *Sydney Morning Herald* and *The Age* websites. Between 2,500 and 3,000 titles can be watched as streaming videos, with the content skewed towards

3 VOD SERVICES AVAILABLE IN AUSTRALIA (CONTINUED)

documentaries and other factual material. Some content is provided by the BBC, CNN, Ovation and Vice. No captioned content.

3.2.3 7SPORT

An online service featuring on-demand content including live-streamed events, plus news, live scores and other content. No captioned content.

3.2.4 YOUTUBE

Automated captions created by speech-to-text software have been available on YouTube videos since 2010, but the limitations of the software, combined with the poor audio quality of many of the videos, mean they are notoriously inaccurate.

Owners of YouTube videos can add accurate captions to their videos in four ways:

- Correcting the automated captions
- Uploading a transcript to YouTube, which will then be automatically timed to the video to create captions
- Creating captions from scratch, using software which is now built into YouTube's 'video manager'
- Uploading a pre-existing caption file

3.2.5 VIEWSTER

A free, worldwide on-demand service, based in Switzerland, featuring movies and TV series. A few videos have closed

captions, but these can only be found by hovering your cursor over the upper edge of the screen (a tab will appear if captions are available). Viewster has said it plans to increase the amount of captioning in the future.¹⁷

3.3 SUBSCRIPTION VOD SERVICES

3.3.1 AFL LIVE PASS

An app for the live and on-demand streaming of AFL matches and other content. Subscriptions are \$14.99/month. No captioned content.

3.3.2 BBC IPLAYER

A global version of the BBC iPlayer, available as an iOS-only app for iPad, iPhone or iPod Touch. About 2,000 hours of programs are available, and subscriptions cost \$8.99/month. Unlike the UK version of the iPlayer, no captions are available.

3.3.3 BEAMAFILMS

A streaming service specialising in independent and arthouse films. Subscriptions are \$5.99. No captions available, although some titles are subtitled.

3.3.4 CRICKET AUSTRALIA LIVE STREAMING

An app for the live screening of cricket matches. Subscriptions are \$4.99/week. No captioned content.

3.3.5 EPL ON DEMAND

On-demand English Premier League matches. Subscriptions

are \$5/week. No captioned content.

3.3.6 FOX SPORTS PREMIUM

On demand replays of sporting events, including cricket, AFL, NRL, etc. Subscriptions are \$5/month. No captioned content.

3.3.7 INDIEFLIX

A US-based service with streamed content available worldwide, which features independent (mostly short) films. Subscriptions are \$5/month. These are provided by the filmmakers, who can supply closed caption files if they have them, but none of the 45 titles listed on the site in March 2015 had captions (although some foreign language films are subtitled). Titles cannot be searched for captions.

3.3.8 MUBIE

International service with on-demand independent and classic movies. Subscriptions are \$4.99/month. No captioned content but foreign language films are subtitled.

3.3.9 NBA LEAGUE PASS

Live NBA games and related content. Subscriptions are \$32.99/month. No captioned content.

3.3.10 NBL.TV

Live NBL games (including games simulcast on Ten) and other on-demand content. Subscriptions are \$23/month. No captioned content.

3 VOD SERVICES AVAILABLE IN AUSTRALIA (CONTINUED)

3.3.11 NRL DIGITAL PASS

Streamed NRL games and other related content. Subscriptions are \$1.99/week. No captioned content.

3.3.12 NETFLIX

Netflix launched in Australia in March 2015. While at launch the local version of Netflix offered 7,000 fewer titles than the American version (which offered 8,487 titles) the company has continued its commitment to captioning, as it has in other countries where Netflix has been launched.

Media Access Australia understands that some of the content on the local site may lack captions, but a survey of 100 TV series and 100 movies carried out in March 2015 found that all of them did.

In April 2015, Netflix became the first subscription VOD provider in the world to provide audio description. The first described program was *Daredevil*, a series about a blind superhero, and the company has announced that others will follow. The described version of *Daredevil* was made available in Australia at the same time as the US.

The high levels of captioning on Netflix, and its introduction of audio description, represent major advances in online accessibility in Australia.

Netflix is offering a basic subscription for \$8.99 per month, which allows access to standard definition versions of all its TV and movie content.

3.3.13 PRESTO

Foxtel's streaming video service, a joint venture between Foxtel and Seven West Media, launched in March 2014. Content derives from HBO and Showtime, including first-run programs. An entry-level subscription costs \$9.99/month, and content is available on PC, Mac and iPads. No captioned content.

3.3.14 QELLO CONCERTS

On-demand streaming of concerts and music documentaries, available worldwide. Subscriptions are \$4.99/month. According to its website, "Qello is working to include closed captioning on as many programs as possible, including, without limitation, where such long-form closed captioned program has been shown on TV."¹⁸

3.3.15 QUICKFLIX

Quickflix began as a DVD rental service which delivered DVDs to its subscribers by mail, and introduced streaming video in 2011. It offers over 60,000 movies and TV shows, and has over 130,000 customers. No captioned content.

3.3.16 STAN

Stan is a joint venture between Nine Network and Fairfax Media which launched in February 2015. Content derives from ABC, Sony Pictures, MGM, CBS Studios and BBC Worldwide. No captioned content.

3.3.17 WATCH AFL GLOBAL PASS

Live AFL games and related content. Subscriptions are \$25/month. No captioned content.

3.4 TRANSACTIONAL VOD SERVICES

3.4.1 DENDY DIRECT

Dendy Direct is a streaming VOD service run by the independent cinema chain Dendy. It launched in 2014, with 517 movies and 17 TV series.¹⁹ Most content is available for purchase or rental, and in standard definition or high definition formats. A new-release movie in HD costs \$29.99 to own, or \$6.99 to rent. The Dendy cinema chain does not have captioned sessions, and no captions are available on Dendy Direct.

3.4.2 EZYFLIX

EzyFlix has a selection of about 2,000 titles which can be bought and rented, including titles which have not yet had a DVD release. Movies cost \$3.99 to rent or \$8.99 to buy. No content is captioned.

3.4.3 FETCH TV

Fetch TV is an IPTV subscription service which offers 35 channels, including some channels which are also available on Foxtel, and some foreign language channels. The service operates through a user's internet service provider, and Fetch TV also provides a set-top box with video recorder.

3 VOD SERVICES AVAILABLE IN AUSTRALIA (CONTINUED)

Captions on TV programs are passed through when available, but Fetch TV has no captioning infrastructure of its own. Because it is classed as a subscription television service by the Australian Communications and Media Authority (ACMA), it is subject to the caption requirements in the *Broadcasting Services Act*. In cases where this means it would have to provide captions on a channel, or add to the captioning already available, it has applied to the ACMA for exemptions (most recently in January 2015), and these have been granted on the grounds that providing captioning would represent an ‘unjustifiable hardship’.

In addition to TV channels, Fetch TV also has a library of over 3,500 movies on demand. 30 movies per month are available for free as part of subscriptions, while additional movies can be rented for \$3.95–\$6.95. None of these are available with captions.

3.4.4 FOXTEL MOVIES ON DEMAND

Foxtel launched captions on its On Demand movies in October 2013.²⁰ A survey of the ‘Box Office’ section of Foxtel’s website in March 2015 found all titles had captions, however, once titles are moved out of ‘Box Office’ into the archived movie library, the captions are lost. Movies can be rented for \$5.50 each.

3.4.5 GOOGLE PLAY

Google Play is the official app

store for the Android operating system, but it also serves a VOD service with movies and TV programs available for rent or purchase. Movies are generally \$12.99–\$17.99 to buy, and \$3.99–\$5.99 to rent. TV programs are \$2.99 per episode.

Media Access Australia conducted a survey of captioned content on Google Play in March 2015. Of 100 movie titles surveyed, 48% had captions. A separate survey of 13 Australian movies found none had captions.

Of 100 TV programs surveyed (in the drama and comedy categories), 46% had captions. (These included one Australian series, *Gallipoli*, which had captions.)

Captioned content cannot be searched for.

3.4.6 ITUNES

Media Access Australia conducted a survey of 100 movies and 100 TV series available from the Australian iTunes store in March 2015.

Of the 100 movies surveyed, 48% had captions.

Of the 100 TV series surveyed, 79% had captions. The majority of those that didn’t were British and Australian series. (Only one Australian series out of six – *Gallipoli* – had captions.)

When we last surveyed iTunes in 2013, captioned movies could be searched for, but this is no longer the case.

3.4.7 SONY ENTERTAINMENT NETWORK

Sony movies and TV programs (available the day after first broadcast) can be bought or rented via the PlayStation Store, and played on games consoles, smartphones, tablets and internet-connected TVs. New release movies are \$5.99 to rent and \$19.99 to buy. No captioned content.

3.4.8 TELSTRA BIGPOND

Telstra BigPond is the oldest VOD service in Australia, with over 9,000 movies and episodes from around 50 TV series currently available. These can be watched on a smart TV, laptop, tablet, smartphone or a TV connected to a T-Box (Telstra’s proprietary set-top box). New release movies can be rented for \$5.99, while older titles are generally \$3.99. TV episodes are generally \$1.99.

Telstra’s Disability Action Plan (2010-2012) included a commitment to “Explore commercially viable introduction of captioning and audio description on BigPond Movies and BigPond TV”, including “Capability of BigPond and Telstra systems and media player software/devices to present suitable captions for download”.

In September 2014, Telstra released 14 BigPond movies with captions.²¹ These did not have closed captions, which can be turned on and off on the media player. Instead, they

3 VOD SERVICES AVAILABLE IN AUSTRALIA (CONTINUED)

are separate, open captioned versions of the movies, with the captions always present when the movie is played, regardless of the media player or device. Telstra stated that more titles would follow, but this has not happened as yet.

3.4.9 VIMEO ON DEMAND

Streamed movies, documentaries and a few series available for rental or purchase at varying prices. Five titles out of 85 (6%) surveyed in March 2015 had captions.

3.4.10 XBOX VIDEO

A video store with a large catalogue of recently-released movies and TV shows available for rental or purchase at various prices (a new movie costs \$3.99 to rent or \$14.99 to buy in standard definition). Content is stored in the cloud and can be accessed via a Microsoft account.

A survey of 100 movie titles and 95 TV series carried out in March 2015 found captioning levels were 97% for movies, and 66% for TV series. Captioned content cannot be searched for.

3.5 FREE VOD SERVICES

3.5.1 4ME TV

An Australian site with free streaming of lifestyle programs (and a shop where associated products can be purchased). No captioned content.

3.5.2 ANIMELAB

A service providing streamed Japanese anime which was free

as of March 2015. All content has English subtitles.

3.5.3 CRACKLE

A US-based service with free streaming movies and TV programs, including some original programs. Most content is captioned.

3.5.4 HANNABEE

Free streaming Japanese anime, with a store where you can purchase DVDs. All content has English subtitles.

3.5.5 VIMEO

A video-sharing site popular with filmmakers as it supports high definition video. Vimeo's media player has supported captions since the beginning of 2014, so caption files can be uploaded by video owners. While Vimeo has an on-demand service where videos can be bought or rented (see section 3.4.10), most content is free.

4 LOCATING CAPTIONED CONTENT ON VOD SERVICES

Even when VOD services provide captioned content, it can be quite difficult for consumers to locate it. As noted above, the ABC's iView site has a list of programs which indicates the ones for which captions are available. For all the other VOD services which have been surveyed for this report, the only way to locate captioned content is to select a title, click on it to see the extended program information, then look for a 'CC' (for closed captions) symbol,

or some other indication that captions are available.

Providers should be encouraged to rectify this, either by providing lists of titles which clearly indicate those that have captions, or by making captioned titles searchable.

Compare Media²² (which is in a beta version as of March 2015) is a useful site which gives a snapshot of accessibility on VOD services. The site allows users to compare the different

subscription TV, IPTV and VOD services available in Australia in terms of price, content, compatible devices, etc., and also notes whether they provide closed captions or not.

5 THE ABC IVIEW AUDIO DESCRIPTION TRIAL

A trial of audio description was conducted on ABC television over three months in 2012, but a regular service has yet to be announced. Since then, Blind Citizens Australia (BCA) has lodged disability discrimination complaints against the ABC for failing to provide a regular service, and the conciliation process that resulted from these is ongoing.

In August 2014, the Department of Communications announced a trial of audio description on the ABC's iView service, and it commenced on the 14 April 2015. This will last for 15

months, and provide at least 14 hours of audio described content per week, with a mix of drama/entertainment, documentary/current affairs and children's programming.

The service is initially available on iPads and iPhones, and will expand to Android, PCs and HbbTV by July 2015. The ABC will be consulting with organisations including BCA, Vision Australia, the Australian Communications Consumer Action Network (ACCAN) and Media Access Australia on the appropriate mix of content and how to inform people who will

benefit from the trial about it. As it is expected that the trial will throw up some technical issues, the ABC will make regular progress reports during it.

The trial represents the first time in the world that audio description will be created (or a pre-existing audio description file adapted) for a catch-up TV service, rather than the original broadcast of the program, and the first delivery of audio description on a catch-up TV service outside the UK.²³

6 CONCLUSION AND RECOMMENDATIONS

The situation with accessibility on VOD services in Australia remains very mixed. Only three out of the five catch-up TV services provided by the free-to-air networks now offer captions (although captioning levels on Plus7 remain quite low). ABC, SBS and the Seven network are to be commended for introducing captions on these services when there was no legislative requirement for them to do so.

After the catch-up TV services, the most important sources of captioned content for Australian consumers are the transactional VOD services iTunes, Google Play and Xbox Video, and the subscription service Netflix. The launch of the latter in Australia is particularly significant, given that the level of captioning on its content is at or close to 100%, and access to this content (in standard definition format) costs only \$8.99 per month.

The levels of captioning on these services can be largely attributed to the workings of the *21st Communications and Video Accessibility Act 2010* in the US. This legislation may have been framed with the interests of Deaf and hearing impaired Americans in mind, but the largest VOD providers, such as Netflix or iTunes, are global enterprises, and the benefits provided in the act have flowed on to many other countries, including Australia.

We believe that the lesson to be drawn from this is that legislation and government regulation are essential factors for the adequate provision of

access services. Legislation (occasionally backed up with the threat of – or actual – litigation) is responsible for the high levels of captioning on television in the US, UK, Australia and other countries. In this context, it will be interesting to observe what happens in the UK, where the regulator has flagged an introduction of legislation if VOD services do not voluntarily introduce or increase their levels of captioning over the next two years.

As in most media, the provision of audio description on VOD services lags far behind captioning. With the exception of a small number of services in the UK, audio description on VOD around the world is virtually non-existent. This makes the trial of audio description on the ABC's iView service very significant. The results of the trial will inform future discussions around introduction of audio description to all catch-up TV services in Australia.

RECOMMENDATIONS:

1. It is clear that there are no significant barriers for television access services (such as captions) to be replicated on the online versions of those services. Three of the current free-to-air networks offer captioned content online and the others should also provide it. These catch-up services should be given the opportunity to provide captioned content by the end of 2015, and if they fail to do this the Federal Government should move

to make this compulsory through legislation.

2. The arrival of Netflix with captioned content at or near 100%, and the range of captioned content available on similar services overseas, show that it is possible to provide captioning on these services. The VOD industry should be given until the end of 2016 to provide an acceptable level of captioning on a voluntary basis, in consultation with consumers. If an adequate level is not provided within this timeframe, then the Federal Government should make it compulsory through legislation. This replicates the UK approach.
3. A key component of accessing accessible content is clear promotion and indication of accessible content. VOD and other online providers must provide clear information on which content is accessible to assist purchasing decisions.
4. The Federal Department of Communications should set up a consultation process involving industry, consumers and suppliers to review and use the experiences and feedback from the ABC iView audio description trial to determine a plan and schedule for audio description to be included on all catch-up TV services. This plan should see services commencing no later than the end of 2016.

APPENDIX

Table 1: Percentage of captioning on VOD services available in the UK via desktop

SERVICE	CONTENT	PERCENTAGE CAPTIONED
BBC iPlayer	BBC programs	100%
4oD	Channel 4 programs	65%
Demand 5	Channel 5 programs	72%
ITV Player	ITV programs	74%
STV Player	Scottish channel with ITV programs	78%
UTV Player	Irish channel with ITV programs	57%
SBS Discovery	Scandinavian network with international content	22%
Classical TV	Performing arts	11%
The Space	Digital artworks	67%
Viaplay	Swedish service with international content	70%
Curzon Home Cinema	Movies	67%
Digital Theatre	Performing arts	46%
British Sign Language Broadcasting Trust	Signed programs	100%
Manoto 1	International Persian language channel	14%

Table 2: Captioning on Australian catch-up TV services, February 2015

SERVICE	CONTENT	PERCENTAGE CAPTIONED
ABC iView	Programs from ABC1 and ABC2	64%
SBS on Demand	Programs from SBS1 and SBS2, plus a movie library	32% (of English language general entertainment programs)
Plus7	Programs from Seven, 7Two and 7Mate	9%
9Jumpin	Programs from Nine, Gem and GO!	0%
TENplay	Programs from Ten, Eleven and One	0%
Foxtel Go	Programs from a selection of Foxtel channels	0%

APPENDIX (CONTINUED)

Table 3: Captioning on ad-supported VOD services available in Australia, February 2015

SERVICE	CONTENT	PERCENTAGE CAPTIONED
Big Star Movies	Movies	0%
smh.tv/age.tv	TV programs and movies	0%
7Sport	Sporting events and related content	0%
YouTube	User-generated content	A large percentage of content is described as having captions, but these are mostly poor quality automated captions.
Viewster	Movies and TV programs	A small percentage of content is captioned.

Table 4: Captioning on subscription VOD services available in Australia, March 2015

SERVICE	CONTENT	PERCENTAGE CAPTIONED
AFL Live Pass	AFL games and other content	0%
BBC iPlayer	BBC programs	0%
Beamafilms	Independent films	0%, but some content is subtitled.
Cricket Australia Live Streaming	Cricket matches	0%
EPL On Demand	English Premier League matches	0%
FoxSports Premium	Sporting events	0%
IndieFlix	Independent films	0%, but some content is subtitled.
Mubie	Independent and classic films	0%, but some content is subtitled.
NBA League Pass	NBA games and related content	0%
NBL.TV	NBL games and related content	0%
NRL Digital Pass	NRL games and related content	0%
Netflix	TV programs and movies	100%
Presto	TV programs and movies	0%
Qello	Concerts and music documentaries	A small percentage captioned.
Quickflix	TV programs and movies	0%
Stan	TV programs and movies	0%
Watch AFL Gold Pass	AFL games and related content	0%

APPENDIX (CONTINUED)

Table 5: Captioning on transactional VOD services, March 2015

SERVICE	CONTENT	PERCENTAGE CAPTIONED
Dendy Direct	Independent movies	0%
EzyFlix	Movies	0%
Fetch TV movies	Movies	0%
Foxtel Movies on Demand	Movies	Box Office titles: 100% Archived titles: 0%
Google Play	Movies and TV programs	Movies: 48% TV programs: 46%
iTunes	Movies and TV programs	Movies: 48% TV programs: 79%
Sony Entertainment Network	Movies and TV programs	0%
Telstra BigPond	Movies and TV programs	<1%
Vimeo On Demand	Independent movies and other content	6%
Xbox Video	Movies and TV programs	Movies: 97% TV programs: 66%

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²³ For more information about audio description and the campaign to have it introduced to Australian television, see our Audio Description webpage: <http://www.audiodescription.com.au/>

GLOSSARY

Ad-supported VOD	A service supported by ads which typically run at the beginning of videos.
Catch-up TV	A VOD service provided by a broadcaster, sometimes in collaboration with a partner, where the content typically includes that broadcaster's TV programs, although it may include other content.
EBU-TT	A caption file format recommended for adoption by VOD services by ATVOD in the UK.
Geo-blocking	The practice of limiting access to content on a VOD service to a single geographical area. Geo-blocking may be circumvented by the use of a VPN (virtual private network).
HbbTV	Hybrid Broadband Broadcast TV – a broadcast platform that integrates broadcast television with online content.
Over-the-top	Refers to video or other content delivered over the internet.
Subscription VOD	A service where consumers pay for content via a subscription.
Transactional VOD	A service where consumers rent or buy content.

ABBREVIATIONS

ACMA	The Australian Communications and Media Authority
ATVOD	The Authority for Television on Demand (UK)
AVOD	Ad-supported Video on Demand
FCC	Federal Communications Commission (US)
HbbTV	Hybrid Broadband Broadcast TV
IPTV	Internet Protocol Television
ODPS	On Demand Programme Service (a term used in the UK)
OTT	Over The Top
OVC	Online Video Content
SVOD	Subscription Video On Demand
TVOD	Transactional Video On Demand
VOD	Video On Demand