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SUBMISSION

The Australian Communications and Media Authority (the ACMA)
Review of the Television Captioning Standard

18 DECEMBER 2015

Background

Access Innovation Media Pty Limited ("Ai-Media") thanks the ACMA for the opportunity to comment on the issues set out in the ACMA Review of the Television Captioning Standard Discussion Paper (November 2015) ("ACMA Discussion Paper"), and follows Ai-Media's participation in the Citizen Conversation forum on live captioning on 15 September 2015, and Ai-Media's response to the initial consultation in October 2015.

This submission reflects the views of Ai-Media only, and does not reflect the views of its clients, or third party stakeholders.

Founded in 2003, Ai-Media is an independent for profit social enterprise dedicated to ending the experience of exclusion faced by people with disability.

Ai-Media's innovative technology solutions are aimed improving access with accurate speech-to-text (captioning) services, audio description and related analytics. We also provide captioning for a range of non-broadcast environments, including schools, universities, workplaces, conferences, webinars and events.

Australia's leading producer of broadcast captioning, Ai-Media delivers thousands of hours of offline (pre-recorded) captioning, and live captioning using both stenocaptioners and respeakers.

In 2013 Ai-Media became the first Australian captioning provider to appoint an independent auditor to measure captioning quality across all of our services. Evaluated on the international NER scale (Number, Edition error and Recognition error), we have scored over 99% over seven successive quarters. We also report uptime, which is expressed as minutes of captioning delivered, divided by minutes of captioning attempted to be delivered. Ai-Media's uptime scores have exceeded 99.9% over the last seven quarters.

Ai-Media acknowledges the support of the Australian Government through the Commercialisation Australia program to develop our education and online captioning product, Ai-Live.

Executive Summary

Ai-Media has considered the relevant issues raised in the ACMA Discussion Paper, within the context of the legislative framework, international approaches to regulation, consultations with industry, expert knowledge, compliance and enforcement activity, and requirements to educate and inform the community about captioning.

In this context, Ai-Media supports Option 1 within the ACMA Discussion Paper, and the insertion of the suggested Note on page 22, at the end of paragraph 6 of the Standard as follows:

> *Note: Whilst noting that a lower quality of captioning service is not acceptable for a kind of program or program material, in determining this Standard, the ACMA has considered the differences (including time constraints for live content) between providing captioning services for live and pre-recorded television programs, and wholly live or wholly pre-recorded television programs and television programs that include both live and pre-recorded material.*

The ACMA Discussion Paper notes that this approach has two main disadvantages:

> "> The 'meaningful' test is less precise and more subjective than a metric based test.
> > The 'meaningful' test does not support clearly measured quality improvement over time."

To alleviate these disadvantages, Ai-Media suggests a further extension to the proposed Note as follows:

> *Note (continues): In determining the quality of captioning services, the ACMA may have regard to evidence presented by a broadcaster or narrowcaster of its own measures to ensure a quality captioning service, and measures to improve quality over time.*

This proposed extension to the Note allows the ACMA to retain important and valuable flexibility in assessing quality, while encouraging industry to pursue initiatives that provide evidence of compliance with, and improvements to, the provision of "meaningful access" over time, including by way of best-practice metrics.

Detailed Submission

Introduction

In making this submission we note that the Standard has been drafted *"to allow the ACMA, when determining the quality of a captioning service, the cumulative effect of the following factors: the readability of the captions, the accuracy of the captions and the comprehensibility of the captions".*

We also note that the Standard requires captions to be *"readable, accurate and comprehensible, so that they are meaningful to viewers".*

As Ai-Media has noted in previous submissions, there is an inherent tradeoff between these aims, and professional judgment is required to assess overall compliance with the Standard.[1]

While Ai-Media has argued previously that "the ACMA should *take into account* NER, or an alternative industry standard, when measuring captioning quality"[2], we do not believe the evidence supports the ACMA *totally replacing* its "meaningful access" standard with a metrics-based standard.

Ai-Media's initial response to the initial consultation was as follows:

> "Ai-Media supports the continuing evolution of laws governing the delivery of captioning services on television with a view to providing the best access for viewers within sustainable commercial parameters, while minimising the regulatory and compliance burden for broadcasters, in an environment of rapid technological change.

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[1] http://www.ai-media.tv/wp-content/uploads/2014/12/2014-12-10-Ai-Media-Captioning-Submission-Final.pdf pp5-6.
[2] Ibid, p5, emphasis added.

On the specific question of this consultation, Ai-Media does not believe the current Standard needs to change to account for differences in live and pre-recorded captioning, as this is captured in Clause 6(a) of the standard "in the context of the program as a whole".

Ai-Media notes that whilst the ACMA is not authorised to determine that a lower quality of captioning service is acceptable for a kind of program or program material, there is little benefit in pursuing definitional issues of different kinds of captioning service."

With the benefit of reviewing the ACMA Discussion Paper, we note the discussion on pages 8-9 on the difference between live and pre-prepared captioning, and support the ACMA's interpretation of international regulation as recognising the difference between live and pre-recorded captioning.[3] Furthermore, we welcome the ACMA's interpretation of the existing legislation that quality "be considered in the context of the program as a whole" as providing "a degree of flexibility to cater for a variety of circumstances" including different quality outcomes for live and pre-recorded captioning.[4]

We welcome and support the ACMA's preferred Option 1, and suggest a further addition to the proposed Note to ameliorate the listed disadvantages, by allowing the ACMA to take into account evidence presented by broadcasters or narrowcasters when assessing quality under the Standard. Such evidence could include a metric based assessment, which the ACMA would then be free to evaluate on its merits, without the need to privilege, define, or be constrained by, any particular metric.

Legislative Framework & Community Education and Information

Ai-Media supports the ACMA's priority to clarify the legislative framework in order to improve community education and information, a key aim of evidence-informed regulation.[5]

As we noted in our December 2014 submission, the failure in the existing legislative framework to allow for any differentiation between the quality of live and pre-recorded captioning in the Standard causes confusion to consumers, as the quality of live captioning will always be lower than the quality of pre-recorded captioning, which should be 100% accurate.[6]

Ai-Media welcomes the ACMA's comprehensive discussion of the differences between live and pre-recorded captioning in the ACMA Discussion Paper as a significant clarification for consumers, and supports the ACMA's proposed changes to the legislation via Option 1.

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[3] ACMA Discussion Paper, page 18.
[4] ACMA Discussion Paper, page 21.
[5] http://www.acma.gov.au/~/media/Office%20of%20the%20Chair/Information/pdf/ACMA%20EvidenceInformed%20Regulation%20The%20ACMA%20Approach.PDF , page 3.
[6] http://www.ai-media.tv/wp-content/uploads/2014/12/2014-12-10-Ai-Media-Captioning-Submission-Final.pdf p5.

International Approaches to Regulation

Ai-Media thanks the ACMA for its review of international approaches to regulation covering Canada, the United Kingdom and the United States, as part of its evidence-informed regulation practice. Ai-Media supports the ACMA's conclusion that evidence from the UK and Canada does not support switching from a "meaningful access" to a "metrics-based" standard.[7]

Consultations with Industry, and Incorporation of Expert Knowledge

Over the last 12 months, the ACMA has engaged in deep and wide-ranging consultations with industry, including the ground-breaking Citizen Conversation forum on live captioning on 15 September 2015 which sought to harness expert knowledge for the benefit of consumers, as well as participation in peak industry conferences including the Media For All Conference at Western Sydney University 16-18 September[8].

We note the positive feedback from the ACMA live captioning forum.[9]

Ai-Media believes the value of this consultation is borne out in the quality of the ACMA Discussion Paper, which addresses the largest issues with the Standard, and charts a helpful course forwards.

Regulatory Burden, Compliance and Enforcement Activity

In line with the Government's stated deregulation agenda, Ai-Media supports a legislative framework for captioning quality that does not impose unnecessary compliance burdens, or set up costly enforcement activity.

Evidence from the UK and Canada suggests that a switch to a metric based framework could increase both compliance and enforcement costs without providing an increase in the quality of captioning for consumers, or certainty for the industry.

Rather, by retaining the flexibility of the "meaningful access" standard, the regulator can encourage the market to deliver its own solutions to the problems of subjectivity and measurement. Recent evidence supports this view.

In 2013, Ai-Media adopted the internationally recognised NER quality standard to benefit the Company's clients and consumers, and elected to appoint an independent quality auditor, in order to provide assurance to our clients and viewers. This has now been provided for seven successive quarters at no cost to the regulator, or the government.

We chose the NER quality model because it is based on robust independent consumer research, it is the emerging international standard, and it produces consistent quantitative scores that align with viewers' quality perceptions, while recognising that not all errors are equal.

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[7] ACMA Discussion Paper, p19.
[8] http://www.uws.edu.au/mediaforall/home/program
[9] http://165.191.2.88/theACMA/engage-blogs/engage-blogs/Broadcast/Live-captioning-we-talked-and-listened

That said, metric based models continue to evolve, and the NER system must be matched with information about delay, caption positioning, and caption uptime to give a full assessment of viewer experience.

While we believe the NER system to be the best model currently available, we believe it would be as big a mistake for the ACMA to mandate its use, as it was for the Canadian regulator to adopt its verbatim standard.

In an environment of rapid technological change, flexibility within the regulatory framework, is key.

Proposed Addition to the ACMA's suggested Note

While supporting the ACMA's broad proposals, we agree that Option 1 has two main disadvantages:

> "> The 'meaningful' test is less precise and more subjective than a metric based test.
> > The 'meaningful' test does not support clearly measured quality improvement over time."[10]

To alleviate these disadvantages, Ai-Media suggests a further extension to the proposed Note as follows:

> *Note (continues): In determining the quality of captioning services, the ACMA may have regard to evidence presented by a broadcaster or narrowcaster of its own measures to ensure a quality captioning service, and measures to improve quality over time.*

This proposed extension to the Note allows the ACMA to retain important and valuable flexibility in assessing quality, while simultaneously encouraging industry to pursue initiatives that provide evidence of compliance with, and improvements to, the provision of "meaningful access" over time.

This would allow broadcasters, narrowcasters, and captioning service providers to submit evidence to the ACMA of the use of industry best-practice metrics to measure captioning quality, and for the ACMA to take this into account when evaluating the quality of a captioning service.

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[10] ACMA Discussion Paper p22.

Review of Questions

This section provides responses to the specific questions posed in the ACMA Discussion Paper, and summarises the issues discussed earlier in this submission.

Option 1: A non-metric standard for determining the quality of captioning services

1. *Under Option 1, do you consider it would be acceptable for the ACMA to continue to use the test of 'meaningful' access to assess the quality of captioning services? What are the benefits or disadvantages of this approach?*

    Ai-Media urges the ACMA to continue the test of 'meaningful access' to assess the quality of captioning services, with an amendment which is detailed under 3. Alternative Option, below.

    Benefits:

    - Provides necessary flexibility for the ACMA

    - Allows for professional judgement in assessing inherent trade-offs

    - Does not require definition of particular metric based standard in legislation

    - Does not unnecessarily constrain assessments by the ACMA

    - Does not increase compliance costs for industry

    - Can incorporate industry-led metric based evaluations without costs to the regulator

    Disadvantages:

    - Less precise and more subjective than metric based test

    - Does not support clearly measured quality improvement over time

2. *Do you consider it would be acceptable for the ACMA to continue to consider the nature of captioning services (such as the length and content of a program) in looking at the context of the program as a whole under Option 1? What are the benefits or disadvantages of this approach?*

    Ai-Media considers it necessary for the ACMA to continue to consider all relevant issues when looking at the context of the program as a whole.

    Benefits:

    - Provides important context for assessing captioning quality

    - Allows the ACMA to address the key differences in types of programming (including time constraints for live content) that affect the acceptable quality level for a given program

    Disadvantages:

    - Less precise and more subjective

3. *What additional factors in the Standard, if any, under:*
    a. *readability*
    b. *accuracy*
    c. *comprehensibility*

    do you think could be added under Option 1?

    Ai-Media does not recommend adding further factors to the Standard.

4. *What do you consider are the advantages and disadvantages of Option 1 for live, part-live and pre-recorded television programs?*

   <u>Advantages</u>:

   - The context of each program type will influence the ACMA's determination of an appropriate quality standard
   - Consistent with international approaches to regulation
   - Consistent with expert knowledge
   - Minimises regulatory burden, compliance costs and enforcement activity
   - Facilitates the ACMA to educate and inform the community about captioning

   <u>Disadvantages</u>:

   - Less precise and more subjective

Option 2: Metric standards for determining the quality of captioning services

A one-size-fits-all metric model, which would establish metrics at least for the following factors:

   a. **Readability**
   b. **Accuracy**
   c. **Comprehensibility**

5. **In your submission, if you are recommending a metric model, please specify the:**

a. **Suggested metric for each factor, noting that the metric would apply for captioning services for all live, part-live and pre-recorded television programs and how the metric will be calculated.**

b. **Impact (if any) you consider the model may have on the quality of captioning for viewers.**

c. **Impact (if any) you consider the model may have on the ACMA in regulating the quality of captioning.**

d. **Impact (if any) you consider the model may have on broadcasters required to ensure compliance with the model.**

Ai-Media does not believe a metric based model can or should be imposed by the ACMA.

3. Alternative option

Based on the information contained in this discussion paper, do you have an alternative option(s) that will take into account the differences between captioning services for all programming without lowering the quality of captioning services for different types of television programs or program material?

Proposed Addition to the ACMA's suggested Note

While supporting the ACMA's broad proposals, we agree that Option 1 has two main disadvantages:

> "> The 'meaningful' test is less precise and more subjective than a metric based test.
> > The 'meaningful' test does not support clearly measured quality improvement over time."[11]

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This would allow broadcasters, narrowcasters, and captioning service providers to submit evidence to the ACMA of the use of industry best-practice metrics to measure captioning quality, and for the ACMA to take this into account when evaluating the quality of a captioning service.

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[11] ACMA Discussion Paper p22.