

## Investigation report no. BI-643 and BI-644

<b>Summary</b>	
<b>Licensee</b>	Channel Seven Brisbane Pty Limited (the <b>Licensee</b> )
<b>Relevant legislation/ standard</b>	<i>Broadcasting Services Act 1992</i> (the <b>BSA</b> ) <i>Broadcasting Services (Television Captioning) Standard 2013</i> (the <b>Standard</b> )
<b>Finding</b>	Breach of subsection 130ZZA(4) of Part 9D of the BSA [compliance with captioning standard by a commercial licensee] Breach of paragraph 7(1)(o) of Schedule 2 of the BSA [licence condition to comply with Part 9D]
<b>Programs</b>	<i>Sunrise</i> (5:30am to 9:20am) and <i>6PM News</i> (6pm to 7pm)
<b>Date of broadcast</b>	4 June 2021
<b>Type of service</b>	Commercial—television
<b>Attachments</b>	A – Extract of complaint to the ACMA B – Relevant provisions of the Standard C – Tables of distinct program segments in the broadcasts of 4 June 2021 with summary of findings D – Extracts of Licensee’s submissions to the ACMA

## Background

On 4 June 2021, Channel Seven Brisbane Pty Ltd (**the Licensee**) broadcast the *Sunrise* program (**Program 1**) and the *6PM News* (**Program 2**).

On 7 June 2021, the Australian Communications and Media Authority (the **ACMA**) received a complaint, alleging that the captions provided for Program 1 and Program 2 were of poor quality, not timely and not displayed long enough to be comprehensible. An excerpt of the complaint to the ACMA is at **Attachment A**.

On 31 May 2022, the ACMA commenced an investigation under the BSA into the captioning of Program 1 and Program 2.

The ACMA has investigated the Licensee's compliance with:

- > subsection 130ZZA(4) of the BSA, relating to quality under the Standard
- > the licence condition at paragraph 7(1)(o) of Schedule 2 to the BSA.

## The Programs

Program 1 is an Australian-produced light entertainment show, with distinct program segments including news stories, weather reports, finance reports, sports news, entertainment news and other informative content. Many of these segments are repeated throughout the program, and sometimes updated with live reports or interviews.

Program 2 is an Australian-produced news and current affairs program with distinct program segments comprising news stories with live reports and interviews, weather reports, finance reports and sports news.

## Legislative framework

Subsection 130ZZA(4) of the BSA imposes an obligation on commercial television broadcasting licensees to comply with the Standard determined by the ACMA under subsection 130ZZA(1) of the BSA.

The Standard establishes minimum requirements relating to the quality of captioning services, to ensure that captions are meaningful to deaf and hearing-impaired viewers<sup>1</sup>. Specifically, the Standard requires captions to be readable,<sup>2</sup> accurate<sup>3</sup> and comprehensible.<sup>4</sup>

A 'captioning service' is defined in section 4 of the Standard as 'a service in which captions are provided for programs that enable the viewer to follow the speakers, dialogue, action, sound effects and music of a program'.

'Captions' is defined in section 4 of the Standard as 'the visual translation of the soundtrack of a program in English, in word form'.

The Standard stipulates that the quality of a captioning service for a program must be considered in the context of the program as a whole.<sup>5</sup> When determining the quality of a captioning service for a program, the cumulative effect of the readability, accuracy and comprehensibility of the captions must be considered.<sup>6</sup>

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<sup>1</sup> Section 3 of the Standard.

<sup>2</sup> Paragraph 7(a) of the Standard.

<sup>3</sup> Paragraph 8(a) of the Standard.

<sup>4</sup> Paragraph 9(a) of the Standard.

<sup>5</sup> Paragraph 6(a) of the Standard.

<sup>6</sup> Paragraph 6(c) of the Standard.

Compliance with the Standard by a commercial television broadcasting licensee is required under subsection 13OZZA(4) of the BSA. Subsection 13OZZA(4) is in Part 9D of the BSA and therefore compliance with the Standard is a licence condition for commercial television broadcasting licensees under paragraph 7(1)(o) of Schedule 2 to the BSA.

Subsection 13OZZA(7A) specifies circumstances in which a breach of subsection 13OZZA(4) (captioning standards) can be disregarded.

Relevant provisions of the BSA and the Standard are set out in **Attachment B**.

## Assessment of distinct program segments

The definition of 'program' in section 4 of the Standard includes both a television program, and a distinct program segment within a television program.

Paragraph 6(b) of the Standard states:

When determining the quality of a captioning service for a program that is a distinct program segment within a television program, the captioning service must be considered in the context of that distinct program segment on its own.

The Explanatory Statement to the Standard states:<sup>7</sup>

Paragraph (b) of section 6, and the definition of 'program' in section 4, together have the effect that the quality of a captioning service for a program that is a distinct program segment within a television program will be considered in the context of that distinct program segment on its own, provided that the segment is unrelated to other program segments. So, for example, a current affairs program may consist of several segments which are each distinct from and unrelated to other segments in that program.

Read together, the definition of program in the Standard and paragraph 6(b) of the Standard requires that, in the case of a program with distinct program segments, the quality of the captioning service must be considered in the context of each distinct program segment.

Similar to a current affairs program, a news program generally consists of segments, which may be distinct and unrelated to other segments.

## Assessment of live captioning

The Explanatory Statement to the Standard states:<sup>8</sup>

The ACMA recognises that broadcasters and narrowcasters may use different methods of captioning, such as live captioning and pre-prepared captioning. The ACMA takes the view that it is important to consider whether the captioning service provided with a program is what would be expected in the context of the program as a whole.

Factors to consider include the circumstances of the broadcast and the nature of the program being broadcast. For example, it is reasonable to expect that during the live broadcast of a fast-paced sporting match, there would be a time lag between the captions and the soundtrack, and the caption lines may not end at natural linguistic breaks.

In determining the quality of captioning, the ACMA takes into account, among other factors, the circumstances of the broadcast, including the nature of live captioning and the fact that delays may occur. The ACMA had regard to this in the present investigation, but also notes that, regardless of the method of captioning, the captioning provided for a program must be meaningful to deaf and hearing-impaired viewers.

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<sup>7</sup> Explanatory Statement for the *Broadcasting Services (Television Captioning) Standard 2013*.

<sup>8</sup> Explanatory Statement for the *Broadcasting Services (Television Captioning) Standard 2013*.

## Assessment of broadcasts of Programs 1 and 2

The ACMA has assessed whether the captioning service for Programs 1 and 2 broadcast on 4 June 2021 complied with the requirements relating to quality set out in the Standard. The outcome of this assessment determines whether the Licensee has complied with the Standard and, therefore, the licence condition.

As part of its assessment, the ACMA reviewed copies of the broadcasts of Programs 1 and 2 provided by the Licensee, which contained distinct program segments, as follows:

- > Program 1 ran for 3 hours and 47 minutes (including commercials) and consisted of 80 distinct program segments
- > Program 2 ran for one hour (including commercials) and consisted of 32 distinct program segments.

The investigation focused on 60 minutes of Program 1 (excluding commercials) which amounts to 40 of the 80 segments (50% of distinct program segments), and 30 minutes of Program 2 (excluding commercials) which amounts to 24 of the 32 segments (50% of the duration of Program 2).

The quality of the captioning service has been assessed in the context of each distinct program segment. The tables at **Attachment C** list the relevant captioning issues in relation to the 40 and 24 distinct program segments in Programs 1 and 2, respectively. Having identified preliminary breaches in the distinct program segments that were assessed, the ACMA decided (in the interest of time saving) that it was not necessary to review the entire broadcasts of Programs 1 and 2.

The ACMA has assessed the captioning quality in the broadcasts at the level of distinct stories in the news, sport, finance and weather segments.

The ACMA found that many of the news stories in the broadcasts were unrelated to other news stories in the same broadcast and thus were distinct program segments for the purposes of the Standard.

The ACMA also considers that a more granular approach to assessing news programs is appropriate, given the importance placed on news in terms of the policy objectives of the captioning rules under the BSA, as reflected in the requirement that news programs are to be captioned 24 hours a day, 7 days per week on free-to-air primary channels.

Thus, the way in which the ACMA applies the definition of 'distinct program segment within a television program' in determining the quality aspects of a news program is to consider whether each news item is meaningful to deaf and hearing-impaired viewers.

## Issue 1: Did the Licensee comply with the Standard and, accordingly, comply with subsection 130ZZA(4) of the BSA?

### Finding

#### Program 1: *Sunrise*, 4 June 2021

The captioning service for the Program did not meet the requirements relating to quality imposed by the Standard and, accordingly, the Licensee failed to comply with subsection 130ZZA(4) of the BSA.

### Reasons

The ACMA's assessment of the 40 distinct program segments in Program 1 found that there were issues in 26 distinct program segments of the Program. These issues are set out in the table at **Attachment C**.

The ACMA considers the cumulative effect of the issues relating to the readability, accuracy and comprehensibility of the captions in the 26 distinct program segments were significant enough to limit the access of deaf and hearing-impaired viewers to those segments.

Examples include, but are not limited to the following:

#### Readability of the captions

In segment 17, *Covid headlines*, the positioning of the captions against displayed graphics between timestamp 30:34 and 31:29 made them difficult to read and hence it was difficult to follow the story (subparagraph 7(b)(iv) of the Standard).

#### Accuracy of the captions

In multiple segments, captioning did not accurately recreate the soundtrack because captions were omitted (subparagraph 8(b)(i) of the Standard). For example:

- > In segment 21, *Covid disaster grant*, the spoken content at timestamp 35:28 was not captioned: *'He'll also ask the states to make it compulsory for all aged care workers to receive a covid vaccine.'*
- > In segment 22, *Qld vaccine blitz*, the spoken content at timestamp 36:33 was not captioned: *'The TGA has announced 8 new clotting cases, 4 of them definitely linked to AstraZeneca, another 4 probable cases.'*
- > In segment 24, *Sydney bikie arrests*, the spoken content at timestamp 37:16, *'including an underwear model'*, was not captioned, making it difficult to follow the story, which featured 2 still shots of the underwear model who was arrested.

In multiple segments, captions did not accurately recreate the soundtrack as they were not verbatim and did not reflect the actual meaning of the spoken content (subparagraphs 8(b)(ii) and (iii) of the Standard). For example:

- > In segment 11, *Queen to meet US President*, at timestamp 16:34, the speaker explained that *'Buckingham Palace'* confirmed the Queen would meet the US President, whereas the caption referred to *'Kensington Palace'*.
- > In segment 22, *Qld vaccine blitz*, at timestamp 36:22, the spoken content:

*Queensland Health are not encouraging walk-ins but plenty of people are doing just that. There were long lines here at Rocklea yesterday with people very eager to get the jab, now that is despite concerns over blood clots. The TGA has announced 8 new clotting cases, 4 of them definitely linked to AstraZeneca, another 4 probable cases. But this is very important to note, more than half of all the blood clotting cases have now left hospital.*

was captioned as:

*Plenty of people are trying to line up or the vaccine, able are eager to get the jab and that is despite. For them linked. More than half of all the blood clotting cases have now left hospital.*

- > In segment 38, *Finance*, at 1:05:50: *'The Knight Frank house price index which measured property prices across 56 countries rose by 7.3%'*, was captioned as: *'The house price index which measured property prices across the city's measured 3.6%'*.

### Comprehensibility of the captions

In multiple segments, colour coding was not used in captions to identify and distinguish the correct individual speakers (subparagraph 9(b)(i) of the Standard).

- > For example, in segment 19, *Melbourne vaccine push*, at timestamp 33:03, the correct colour coding was not used to indicate a new speaker's comments. Also, in segment 73, *Q&A with press*, at timestamp 3:10:25, the same colour was used for both the Acting Premier's answer and the journalist's question.

The captions also changed colour on an intermittent basis for no observable reason (subparagraph 9(b)(i) of the Standard). For example:

- > In segment 73, *Q&A with press*, at timestamp 3:12:37, different colours were used to caption content spoken by the same speaker, that is, for the Acting Premier's answers to questions.

In multiple segments, the captions were not comprehensible because they were not displayed for a sufficient length of time to allow the viewer to read them and follow the segment (subparagraph 9(b)(ii) of the Standard). This issue was caused by the captions quickly appearing, disappearing, and then reappearing on the screen. For example:

- > In segment 34, *Vic Covid scaremongering*, between timestamp 54:22 and 54:58, and in segment 35, *Vic quarantine facility*, between timestamp 55:47 and 56:04.

Some words were not spelt correctly and caused the program segment to be incomprehensible when taken in the context of the segment as a whole (subparagraphs 9(b)(v) and (vi) of the Standard). For example:

- > In segment 22, *Qld vaccine blitz*, at timestamp 36:02, '*another thing here*' was captioned as '*nothing here*'. In segment 29, *New car sales*, at timestamp 40:34, '*instant asset*' was captioned as '*insert asset*', '*Isuzu*' was captioned as '*I do do*', and '*Kia*' was captioned as '*K*'. And in segment 35, *Vic quarantine facility*, at timestamp 55:44, '*Melbourne*' was captioned as '*Eldon*', and '*beds*' was captioned as '*ads*'.

There were many instances of captions that were delayed, with the latency in these captions ranging between 4 and 19 seconds. For example, in segment 21, *Covid disaster grant*, from timestamp 34:30, there was a delay of between 10 and 15 seconds. The cumulative effect of these latencies often meant that:

- > viewers were not able to associate captions with the correct individual speakers (subparagraphs 9(b)(i), (iii), (iv), (viii) and (ix) of the Standard)
- > captions over-ran into the next program segment, resulting in the viewer not being able to associate captions with the correct story (subparagraphs 9(b)(viii) and (ix) of the Standard)
- > viewers had difficulty in associating captions with the visuals (subparagraphs 9(b)(iii) and (iv) of the Standard).

## **Conclusion**

The ACMA finds that the cumulative effect of the issues relating to readability, accuracy and comprehensibility of the captions in the 26 distinct program segments (amounting to approximately 49 minutes and 22 seconds) resulted in the captioning service for those distinct program segments in Program 1 not meeting the requirements relating to quality imposed by the Standard.

### Program segmentation

The Licensee submitted on 9 September 2022 that the ACMA erred in its preliminary finding regarding its assessment of 'distinct program segments' and that the quality of captioning should be measured against 14 distinct program segments in Program 1, not 26 segments:

On a preliminary basis, the ACMA has equated the concept of "distinct program segment" with "program story" and found that the Sunrise Broadcast comprises 73 distinct segments and the 6PM News Broadcast comprises 24 distinct segments. This approach is inconsistent with the wording and effect of the definition of "distinct program segment within a television program" used in the Standard and effectively makes compliance with the Standard almost impossible given that any instance of material error within a "segment" will automatically lead to a breach finding. The approach is also inconsistent with typically accepted notions of "segments" within news and current affairs programs for the ordinary reasonable viewer.

Seven submits that viewers would understand the division of such programming as follows:

1. In the case of morning news and current affairs programs such as Sunrise:
  - a. Seg 1: Start to first ad break comprising major news headlines (as introduced in the opening scenes), each of which involves one of the hosts introducing a story, accompanying film images and live news crosses and a brief live cross with the weather reporter;
  - b. Seg 2 and subsequent: further news stories and discussions between each ad break and which have generally been foreshadowed at the end of the preceding segment as "Coming Up" (or similar terms);
  - c. Seven acknowledges that in the case of the Sunrise Broadcast, the Covid Update (numbered segment 3) could be considered as a separate segment, as could the Covid press conference (numbered segments 72 and 73).

Applying the approach outlined above, there are usually around 14 separate segments in each Sunrise broadcast. Seven submits that it is entirely unrealistic to suggest that parts of a program comprising a matter of seconds would be considered to be distinct segments, especially parts of an introductory or summary or headline nature (eg numbered segments 1, 15, 16 etc) or each short news story in an unbroken string of stories (eg numbered segments 4 to 11, 17 to 22, 23 to 33, 34 to 35 etc).

The Licensee's submission that the quality of captioning should not be addressed at the level of each individual story is not accepted by the ACMA.

The ACMA considers that the Licensee's approach to assessing the quality of captioning in a news or current affairs program is inconsistent with the definition of a distinct program segment within a television program in the Standard and the policy objectives of the BSA.

The ACMA's position is that news and current affairs programs generally consist of segments which may be distinct and unrelated to other segments. The ACMA assesses the captioning quality in broadcasts at the level of distinct stories. The ACMA's view is that many of the stories in news and current affairs programs are unrelated to other news stories in the same program and thus are distinct program segments in terms of the Standard.

The ACMA considers that a more granular approach to assessing news and current affairs programs is appropriate, given the importance placed on news and current affairs in terms of the policy objectives of the captioning rules under the BSA, as reflected in the requirement that news and current affairs programs must be captioned 24 hours a day, 7 days per week on free-to-air primary channels.

Thus, the way in which the ACMA applies the definition in determining the quality aspects of a news or current affairs program is to consider whether each distinct item, or story, is meaningful to deaf and hearing-impaired viewers.

*The ACMA found that many of the stories in the Program were unrelated to other stories in the same Program and thus were distinct program segments in terms of the Standard.*

## Technical limitations

The Licensee also submitted that the ACMA should consider the technical and operational limitations captioners experience when providing live-captioning services:

[...] more weight should be given to the context surrounding the circumstances of the broadcast segments under review [...]

[...]

Whilst hybrid captioning is – generally – a very accurate way to provide viewers with a captioning service, it has the following unavoidable limitations:

- Captions cannot be timed to shot changes because the broadcast is edited live. Therefore, captioners cannot predict when shots will change.
- Small amounts of latency are unavoidable in the chain of transmission to air for live-captions. This small amount of latency exists since captioners must verify that each line in the caption has actually been spoken by the speaker before it goes to transmission. The only means available to captioners to avoid this latency is to have the captions sent to them prior to the words being spoken during the broadcast.
- If a script changes, is missing, or there is an unscripted segment, a captioner is required to:
  - o recognise that a change has occurred;
  - o switch their program to take live-captioning input from respeaking;
  - o begin respeaking;
  - o wait for the captions to transmit; and
  - o switch back to cued captioning.

The Licensee's submission that more weight should be given to the surrounding context of the segments under review and, in particular, to the 'unavoidable' limitations of hybrid captioning listed by the Licensee, is not accepted by the ACMA.

The ACMA notes that hybrid captioning describes a captioning service that switches between pre-prepared and live captioning. While the ACMA accepts the Licensee's submission that the limitations of hybrid captioning applied to the Program, the ACMA notes that the Standard is made in accordance with subsections 130ZZA(2A) and (2B) of the BSA. Consequently, the Standard cannot be taken to allow a lower quality of captioning service for a specific kind of program or program material, such as where hybrid captioning is used for a program that includes both live and pre-recorded material.

The Licensee's view is that 'the instances of latency and the appearance / disappearance of the captions in which the ACMA has based a number of breaches [...] are justified by the context of the Broadcast as a whole'.

The ACMA accepts that the use of hybrid captioning may present challenges of the kind set out by the Licensee when providing a captioning service. However, when captions are not closely synchronised with speech, combined with captions speeding up and missing and/or inaccurate captions, the quality of such a captioning service, when assessed against the Standard, is likely to be of an insufficient quality and to cause confusion for a deaf and hearing-impaired audience, making the captioning service less meaningful to deaf and hearing-impaired viewers.

Table 1 identifies multiple instances of latency and other breaches of the Standard that are not reasonably explained by technical issues. These include instances of latency up to 19 seconds (as in segment 3), instances where key sections of spoken content were not captioned (as in segment 21) and instances where captions were significantly inaccurate (as in segment 38).



## Block captioning

The Licensee made a further submission in relation to block captioning:

Seven agrees that issues with captioning services that extend to a poor reflection of the natural flow of the spoken words are not ideal for deaf and hearing-impaired viewers. However, Seven disagrees with the ACMA's conclusion that the block captions within the 17 identified segments in the Report amounted to a breach under subparagraph 7(b)(ii) of the Standard [render the captions entirely unreadable]. The captions accurately reflected the words spoken and appeared on screen in plain English. Seven submits that there should be no finding of a breach under the Standard as the captioning services remain meaningful to deaf and hearing-impaired viewers, irrespective of the minor identifiable issues [...]

The ACMA agrees with the Licensee's view that block captioning is not prohibited in the Standard, and notes that the preliminary report did not find any segment was in breach due to block captioning alone. Breaches were found in segments where block captioning was used, however, the breaches related to other issues, such as latency or accuracy errors, which made the captioning service less meaningful to deaf and hearing-impaired viewers.

In response to the Licensee's concern that one viewer's preference against block captioning has been given undue weight, all 18 references to block captioning have been removed from Tables 1 and 2. Importantly, however, this does not reduce the number of segments found to be in breach in either Program 1 or Program 2.

## Method for determining accuracy

The Licensee further submitted that a more appropriate method for determining accuracy is the NER Analysis:

[...] there was little consideration of the fact that deaf and hearing-impaired viewers are able to infer meaning even where words are spelt incorrectly, there is a grammatical error or some information is omitted. Seven submits that the NER Analyses undertaken by its captioning service provider [...] to assess quality of captioning, should be a relevant consideration when applying the Standard.

The NER model is not relevant in this instance, as it is not used in assessing licensees' compliance with the quality requirements imposed by the Standard. As mentioned above, when assessing whether licensees have complied with the quality requirements imposed by the Standard, the ACMA has regard to the characteristics for each factor of readability, accuracy and comprehensibility that are set out in the Standard (see **Attachment A**).

The Licensee made specific arguments about the adequacy of captioning provided in segments 21 and 22, however, the ACMA maintains that the quality of the captioning service for both segments contained inaccuracies and other errors that made the segments less meaningful to deaf and hearing-impaired viewers.

## **Finding**

### **Program 2: 6PM News, 4 June 2021**

The captioning service for the Program did not meet the requirements relating to quality imposed by the Standard and, accordingly, the Licensee failed to comply with subsection 130ZZA(4) of the BSA.

## **Reasons**

The ACMA's assessment of the 24 distinct program segments in Program 2 showed that there were issues in 6 distinct program segments of the Program. These issues are set out in the table at **Attachment C**.

The ACMA considers the cumulative effect of the issues relating to the readability, accuracy and comprehensibility of the captions in the 6 distinct program segments were significant enough to limit the access of deaf and hearing-impaired viewers to those segments.

Examples include, but are not limited to the following:

#### Accuracy of the captions

Some captioning did not accurately recreate the soundtrack because captions were omitted (subparagraph 8(b)(i) of the Standard). For example:

- > In segment 3, *Direct Control*, at timestamp 7:21 - 'A start says Labor' was not captioned, and in segment 16, *Police officer*, at timestamp 32:23 - 'The former senior constable was placed on a 6-month good behaviour bond' was not captioned.

Other captions did not accurately recreate the spoken soundtrack of the segment because they were not verbatim or did not reflect the actual meaning of the spoken content (subparagraphs 8(b)(ii) and (iii) of the Standard). For example:

- > In segment 3, *Direct Control*, at timestamp 6:56: 'And absolute agreement on divvying up the costs of the new COVID disaster payments for workers and business supports, with the states paying the lion's share' was captioned as: 'And agreements reached on Victoria's new quarantine centre and COVID lockdown payments for workers and businesses, with the states paying the lion's share.'

Later in segment 3, at timestamp 7:23, 'But where it will be built is yet to be decided' appeared twice and was not part of the spoken content.

- > In segment 16, *Police officer*, the captions at timestamp 32:27, 'David can now apply to rejoin the force', was not part of, and was additional to the spoken content.

#### Comprehensibility of the captions

In some segments, captioning was not comprehensible because captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment (subparagraph 9(b)(ii) of the Standard). For example:

- > In segment 11, *Weather*, at timestamp 17:12; in segment 14, *Diana's dress*, at timestamp 24:20; and in segment 19, *Supersonic jets*, at timestamp 35:01.

There were also many instances of captions that were delayed, with the latency in these captions ranging between 5 and 10 seconds. For example, in segment 2, *Queensland vaccine rollout*, from timestamp 5:00, there was a delay of 10 seconds. The cumulative effect of the latencies meant that:

- > viewers were not able to associate captions with the correct individual speakers (subparagraphs 9(b)(i), (iii), (iv), (viii) and (ix) of the Standard)
- > captions continued into the next distinct program segment, resulting in the viewer not being able to associate captions with the correct story (subparagraphs 9(b)(viii) and (ix) of the Standard)
- > viewers had difficulty in associating captions with the visuals (subparagraphs 9(b)(iii) and (iv) of the Standard).

## Conclusion

The ACMA finds that the cumulative effect of the issues relating to accuracy and comprehensibility of the captions in the 6 distinct program segments (amounting to approximately 6 minutes and 40

seconds) resulted in the captioning service for those distinct program segments in Program 2 not meeting the requirements relating to quality imposed by the Standard.

In response to the ACMA's preliminary investigation report, on 9 September 2022, the Licensee submitted that the ACMA erred in its assessment of 'distinct program segments' for Program 2 and that the quality of captioning should be measured against fewer distinct program segments in Program 2 (i.e. either each segment between ad breaks or the 3 segments of News, Sport and Weather).

As mentioned above, the ACMA considers that the Licensee's approach to assessing the quality of captioning in a news bulletin is inconsistent with the definition of a distinct program segment within a television program in the Standard and the policy objectives of the BSA.

The Licensee made specific arguments about the adequacy of captioning provided in segments 3, 11 and 16 of Program 2. However, the ACMA maintains that the quality of the captioning service for both segments contained inaccuracies and other errors that made the segments less meaningful to deaf and hearing-impaired viewers.

## Finding

### Remaining distinct program segments for Programs 1 and 2

There were 14 of the 40 distinct program segments in Program 1, and 18 of the 24 distinct program segments in Program 2, where the captioning service met the requirements relating to quality in the Standard and, accordingly, the Licensee complied with subsection 130ZZA(4) of the BSA in relation to those distinct program segments.

## Reasons

While the ACMA identified a number of issues relating to the quality of the captioning service provided in the distinct program segments in Programs 1 and 2, the captioning for these segments was considered, on balance, to still be meaningful to deaf and hearing-impaired viewers (see unshaded rows in **Attachment C**). The key issues identified are highlighted below:

- > **Delayed captions:** The captions for some segments were delayed and, consequently, ran into the next segment, but this did not affect the overall comprehensibility of those segments.
- > **Repeated captions:** Some captions were repeated in several segments, but this did not affect the overall comprehensibility of those segments.
- > **Missing captions:** Some captions were missing from some segments, but this did not affect the overall comprehensibility of those segments.
- > **Inaccurate captions:** The captions were inaccurate in some segments, but this did not affect the overall comprehensibility of those segments.
- > **Speed of captions:** The captions were not displayed for a sufficient length of time in some segments, but this did not affect the overall comprehensibility of those segments.
- > **Identification of speakers:** There were some readability issues in some segments, relating to inconsistent colour coding for the identification of speakers, but this did not affect the overall comprehensibility of those segments.

## **Issue 2: Did the Licensee comply with paragraph 7(1)(o) of Schedule 2 of the BSA?**

### **Finding**

The Licensee did not comply with the licence condition at paragraph 7(1)(o) of Schedule 2 to the BSA.

### **Reasons**

By failing to comply with the requirements relating to quality imposed by the Standard under subsection 130ZZA(4) of the BSA, the Licensee has failed to comply with the licence condition under paragraph 7(1)(o) of Schedule 2 to the BSA.

## **Complaint**

### **1. Extract from complaint to the ACMA dated 7 June 2021**

'... captions are not easy to read because they appear in block form and not flowing word form. The captions are not timely and are not displayed for sufficient length of time, often they appear after the next story is presented. When this happens the captions for the preceding story are discontinued. Hence it is not easy to understand and comprehend the news/story.

The above complaints do not occur in isolation they occur every day for every transmission. This has been ongoing for months.'

## **Relevant provisions**

### ***Broadcasting Services Act 1992***

#### **Section 130ZR of Part 9D of the BSA**

##### **Captioning obligations--basic rule**

###### Basic rule

- (1) Each commercial television broadcasting licensee, and each national broadcaster, must provide a captioning service for:
- (a) television programs transmitted during designated viewing hours; and
  - (b) television news or current affairs programs transmitted outside designated viewing hours.

#### **Section 130ZZA of Part 9D of the BSA**

##### **Captioning standards**

- (1) The ACMA may, by legislative instrument, determine standards that relate to:
- (a) the quality of captioning services provided by commercial television broadcasting licensees for television programs; [...]
- [...]
- (4) A commercial television broadcasting licensee must comply with a standard determined under subsection (1).
- [...]
- (7A) A failure by a licensee or broadcaster to comply with a standard determined under subsection (1) is to be disregarded to the extent to which the failure is attributable to significant difficulties of a technical or engineering nature for the licensee or broadcaster, which it could not reasonably have foreseen.

#### **Schedule 2 to the BSA**

##### **7 Conditions of commercial television broadcasting licences**

- (1) Each commercial television broadcasting licence is subject to the following conditions:
- [...]
- (o) if a provision of Part 9D (which deals with captioning of television programs for the deaf and hearing impaired) applies to the licensee--the licensee will comply with that provision.

## **Broadcasting Services (Television Captioning) Standard 2013**

### **3 Object of Standard**

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

### **4 Definitions**

In this Standard:

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

[...]

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

- (a) commercial television broadcasting licensees and national broadcasters to provide a captioning service for programs transmitted under subsection 130ZR(1) of the Act;

[...]

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

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

**distinct program segment within a television program** means a distinct segment that is unrelated to other program segments within the same television program.

[...]

**program** includes:

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

### **5 Quality of captioning services**

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

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

### **6 Determining the quality of captioning services**

- (a) Subject to paragraph (b), when determining the quality of a captioning service for a program, the captioning service must be considered in the context of the program as a whole.
- (b) When determining the quality of a captioning service for a program that is

a distinct program segment within a television program, the captioning service must be considered in the context of that distinct program segment on its own.

- (c) When determining the quality of a captioning service, the cumulative effect of the following factors must be considered:
  - (i) the readability of the captions;
  - (ii) the accuracy of the captions; and
  - (iii) the comprehensibility of the captions.

[...]

## **7 Readability of captions**

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

## **8 Accuracy of captions**

- (a) When providing a captioning service for a program, broadcasters and narrowcasters must use captions that accurately recreate the soundtrack of a program.
- (b) When determining whether captions accurately recreate the soundtrack of a program, the following factors must be considered in the context of the program as a whole:
  - (i) whether spoken content has been captioned;
  - (ii) whether the captions of spoken content are verbatim;
  - (iii) where it is not possible for the captions of spoken content to be verbatim, whether the captions reflect the actual meaning of the spoken content;
  - (iv) where the intended target audience of a program is children and the captions are not verbatim, whether the captions reflect the actual meaning of the spoken content;



- (v) whether the manner and tone of voice of speakers has been conveyed, where practical and material; and
- (vi) whether sound effects and/or music, material to understanding the program and not observable from the visual action, have been accurately described.

## **9 Comprehensibility of captions**

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

## TABLES OF DISTINCT SEGMENTS, APPROXIMATE DURATION AND ASSOCIATED KEY ISSUES

**Bold and shaded** – Breach due to captioning issues identified. The captioning issues affected the accuracy, comprehensibility and readability of the segment in question, to the extent that it would have made it difficult for a person relying on the captions to comprehend the segment. Accordingly, the captioning was not meaningful to viewers relying on captions.

Normal and unshaded – No breach despite captioning issues identified. The captioning issues did not affect the accuracy, comprehensibility and readability of the segment in question to the extent that the errors would have made it difficult for a person relying on the captions to comprehend the segment. Accordingly, the captioning remained meaningful to viewers relying on captions.

**Table 1 – Program 1 (Sunrise): 4 June 2021**

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
1	<b>Introduction</b> (0 to 1:44) (Approx. 1 minute 44 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 5 seconds. However, the captions were comprehensible.</li> </ul>
2	<b>Roller coaster</b> (1:44 to 2:18) (Approx. 34 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li><b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 5 to 7 seconds. However, this did not cause the captions to be incomprehensible.</li> </ul>
3	<b>Covid update</b> (2:18 to 11:11) (Approx. 8 minutes 53 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li><b>Subparagraph 7(b)(iv): Caption positioning obscured other on-screen text. This made the captions unreadable.</b></li> <li><b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li><b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content.</b></li> <li><b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of up to 19 seconds made the captions incomprehensible.</b></li> <li>• <b>Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. This made the captions incomprehensible.</b></li> </ul>
4	<b>Headlines</b> (11:11 to 11:52) (Approx. 41 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 5 seconds. However, this did not cause the captions to be incomprehensible.</li> </ul>
5	<b>4 Corners</b> (11:52 to 12:46) (Approx. 54 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of up to 9 seconds made the captions incomprehensible.</b></li> </ul>
6	<b>Bob Fulton funeral</b> (12:46 to 13:08) (Approx. 22 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds. However, the captions were comprehensible.</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
7	<b>Fall of Netanyahu</b> (13:08 to 13:33) (Approx. 25 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 5 seconds. However, the captions were comprehensible.</li> </ul>
8	<b>Biden vaccine incentives</b> (13:33 to 14:52) (Approx. 1 minute 19 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li><b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li><b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> <li><b>Subparagraph 9(b)(iii): Latency within the segment of up to 8 seconds made the captions incomprehensible.</b></li> <li>Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. However, this did not cause the captions to be incomprehensible.</li> </ul>
9	<b>Peanut butter</b> (14:52 to 15:16) (Approx. 24 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 7 seconds. However, the captions were comprehensible.</li> </ul>
10	<b>Diana's wedding dress</b> (15:16 to 16:36) (Approx. 1 minute 20 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li><b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> <li><b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
11	<p><b>Queen to meet US President</b> (16:36 to 17:51) (Approx. 1 minute 15 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> <li>• Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. However, this did not cause the captions to be incomprehensible.</li> <li>• <b>Subparagraph 9(b)(ix): Appearance/disappearance of the captioning didn't coincide with the relevant shot and made the captions incomprehensible.</b></li> </ul>
12	<p><b>Weather update at the zoo</b> (16:59 to 19:50) (Approx. 2 minutes 51 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> <li>• <b>Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. This made the captions incomprehensible.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
13	<b>Cash cow</b> (19:50 to 20:10) (Approx. 20 seconds)	Accuracy, Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim but did reflect the actual meaning of the spoken content.</li> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds. However, the captions were comprehensible.</li> </ul>
14	<b>Sport</b> (22:58 to 25:42) (Approx. 2 minutes 44 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim. However, despite this issue, the captions still convey the intended meaning.</li> <li><b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li><b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
15	<b>Headlines</b> (25:42 to 26:02) (Approx. 20 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 7 seconds. However, the captions were comprehensible.</li> </ul>
16	<b>Developing now/ coming up</b> (28:35 to 30:01) (Approx. 1 minute 26 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
17	<b>Covid headlines</b> (30:01 to 31:45) (Approx. 1 minute 44 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li><b>Subparagraph 7(b)(iv): Caption positioning obscures other on-screen text and made the captions inaccurate.</b></li> <li><b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> </ul>
18	<p><b>Melbourne Covid error</b> (31:45 to 32:51) (Approx. 1 minute 6 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> <li>• Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. However, this did not cause the captions to be incomprehensible.</li> </ul>
19	<p><b>Melbourne vaccine push</b> (32:51 to 33:17) (Approx. 26 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
20	<p><b>Vic new quarantine hub</b> (33:17 to 34:30) (Approx. 1 minute 13 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
21	<p><b><i>Covid disaster grant</i></b>  <i>(34:30 to 35:40)</i>  <i>(Approx. 1 minute 10 seconds)</i></p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of up to 15 seconds made the captions incomprehensible.</b></li> </ul>
22	<p><b><i>Qld vaccine blitz</i></b>  <i>(35:40 to 36:56)</i>  <i>(Approx. 1 minute 16 seconds)</i></p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
23	<p><b><i>Sydney drug sting</i></b>  <i>(36:56 to 37:12)</i>  <i>(Approx. 17 seconds)</i></p>	Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> </ul>



Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
24	<b>Sydney bikie arrests</b> (37:12 to 37:36) (Approx. 14 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 5 seconds. However, this did not cause the captions to be incomprehensible.</li> </ul>
25	<b>Four Corners strife</b> (37:36 to 38:34) (Approx. 58 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
26	<b>Bob Fulton funeral</b> (38:34 to 38:59) (Approx. 25 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds. However, the captions were comprehensible.</li> </ul>
27	<b>Diana's wedding dress</b> (38:59 to 39:32) (Approx. 33 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
28	<b>Finance</b> (39:46 to 40:08) (Approx. 22 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> </ul>
29	<b>New car sales</b> (40:08 to 41:22) (Approx. 1 minute 14 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> </ul>
30	<b>Coming up</b> (41:57 to 42:11) (Approx. 14 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 5 seconds. However, the captions were comprehensible.</li> </ul>
31	<b>Sport</b> (45:45 to 47:50) (Approx. 2 minutes 5 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, the captions were comprehensible.</li> </ul>
32	<b>Zoo/ weather</b> (47:50 to 50:08) (Approx. 2 minutes 18 seconds)	Accuracy, Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim, but do reflect the actual meaning of the spoken content.</li> <li>• Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, the captions were comprehensible.</li> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 7 seconds. However, the captions were comprehensible.</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
33	<b>Coming up</b> (50:08 to 50:26) (Approx. 18 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 7 seconds. However, the captions were comprehensible.</li> </ul>
34	<b>Vic Covid scaremongering</b> (54:00 to 55:15) (Approx. 1 minute 15 seconds)	Readability, Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph (7)(b)(ii) Captions were repeated. This made the captions unreadable.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and do not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions do not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds made the captions incomprehensible.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
35	<b>Vic quarantine facility</b> (55:15 to 56:17) (Approx. 1 minute 2 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds made the captions incomprehensible.</b></li> </ul>
36	<b>Coming up</b> (56:17 to 56:33) (Approx. 16 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 9 seconds made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(ix): The appearance/disappearance of the caption didn't coincide with the relevant shot and made the captions incomprehensible.</b></li> </ul>
37	<b>News headlines</b> (1:00:41 to 1:04:39) (Approx. 3 minutes 58 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim, but do reflect the actual meaning of the spoken content.</li> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 6 seconds. However, the captions were comprehensible.</li> </ul>
38	<b>Finance</b> (1:04:39 to 1:07) (Approx. 2 minutes 28 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
			<ul style="list-style-type: none"> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds made the captions incomprehensible.</b></li> </ul>
72	<p><b>Live press conference – acting Premier</b> (3:05:07 to 3:10:24) (Approx. 5 minutes 17 seconds)</p>	Accuracy	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> </ul>
73	<p><b>Q &amp; A with press</b> (3:10:24 to 3:16:10) (Approx. 5 minutes 46 seconds)</p>	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> <li>• <b>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds made the captions incomprehensible.</b></li> </ul>

**Table 2 – Program 2 (6PM News): 4 June 2021**

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
1	<b>Headlines</b> (1:40 to 5:00) (Approx. 3 minutes 20 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
2	<b>Queensland vaccine rollout</b> (5:00 to 5:41) (Approx. 41 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim. However, despite this issue, the captions still conveyed the intended meaning.</li> <li>• Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds made the captions incomprehensible.</b></li> <li>• Subparagraphs 9(b)(v) and (vi): A word was incorrectly spelt. However, this did not cause the captions to be incomprehensible.</li> <li>• Subparagraph 9(b)(ix): Appearance/disappearance of the caption didn't coincide with the relevant shot. However, this did not cause the captions to be incomprehensible.</li> </ul>
3	<b>Direct control</b> (5:41 to 7:33) (Approx. 1 minute 52 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 10 seconds making the captions incomprehensible.</b></li> <li>• Subparagraph 9(b)(ix): Appearance/disappearance of the caption didn't coincide with the relevant shot. However, this did not cause the captions to be incomprehensible.</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
4	<b>Construction workers protest</b> (7:33 to 9:11) (Approx. 1 minute 38 seconds)	Comprehensibility	<ul style="list-style-type: none"> <li>Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, the captions were comprehensible.</li> <li>Subparagraph 9(b)(iii): Latency within the segment of approx. 5 to 10 seconds. However, the captions were comprehensible.</li> </ul>
5	<b>Stabbing</b> (9:11 to 9:42) (Approx. 31 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
6	<b>Origin Countdown</b> (9:42 to 11:26) (Approx. 1 minute 36 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
7	<b>4G coverage/ young offenders</b> (11:26 to 11:55) (Approx. 29 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
8	<b>Drugs</b> (11:55 to 13:52) (Approx. 29 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
9	<b>NRL</b> (13:52 to 14:24) (Approx. 32 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>
10	<b>Legend</b> (14:24 to 16:54) (Approx. 2 minutes 30 seconds)	No issues identified	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
11	<b>Weather</b> (16:54 to 17:30) (Approx.36 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content.</b></li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 7 seconds made the captions incomprehensible.</b></li> </ul>
12	<b>Indooroopilly Riverwalk</b> (21:20 to 23:02) (Approx.1 minute 42 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
13	<b>Clontarf</b> (23:02 to 23:30) (Approx. 28 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
14	<b>Diana's dress</b> (23:30 to 25:17) (Approx. 1 minute 47 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim. However, despite this issue, the captions still conveyed the intended meaning.</li> <li>• Subparagraph 9(b)(i): The captions did not clearly identify speakers with different colours. However, this did not cause the captions to be incomprehensible.</li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• <b>Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds made the captions incomprehensible.</b></li> </ul>
15	<b>Truck driver recovery</b> (29:25 to 32:03) (Approx. 2 minutes 38 seconds)	No issues identified	Not applicable



Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
16	<b>Police officer</b> (32:03 to 32:27) (Approx. 24 seconds)	Accuracy	<ul style="list-style-type: none"> <li>• <b>Subparagraph 8(b)(i): Captions were omitted. This made the captions inaccurate.</b></li> <li>• <b>Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim and did not reflect the actual meaning of the spoken content. This made the captions inaccurate.</b></li> </ul>
17	<b>Bus drivers</b> (32:27 to 34:00) (Approx. 1 minute 33 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
18	<b>Shipping containers</b> (34:00 to 34:20) (Approx. 20 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
19	<b>Supersonic jets</b> (34:20 to 35:50) (Approx. 1 minute 30 seconds)	Accuracy and Comprehensibility	<ul style="list-style-type: none"> <li>• Subparagraphs 8(b)(ii) and (iii): Captions were not verbatim, but despite this issue, were accurate.</li> <li>• <b>Subparagraph 9(b)(ii): Captions were not displayed for a sufficient length of time to allow the viewer to read them and follow the action of the segment. This made the captions incomprehensible.</b></li> <li>• Subparagraph 9(b)(iii): Latency within the segment of approx. 8 seconds. However, this did not cause the captions to be incomprehensible.</li> </ul>
20	<b>Finance</b> (39:21 to 39:42) (Approx. 24 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
21	<b>Dog hero</b> (39:42 to 40:07) (Approx. 35 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
22	<b>Archibald</b> (40:07 to 41:44) (Approx. 37 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>

Segment	Name of segment (timestamp)	Key issues	Relevant provision of the Standard (bold indicates breach)
23	<b>Ballet</b> (41:44 to 42:11) (Approx. 27 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
24	<b>Just ahead</b> (42:11 to 42:43) (Approx. 32 seconds)	No issues identified	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>

## Licensee's submissions to the ACMA

### 1. Extract from Licensee's submission dated 24 June 2021

[...]

We have had no reported outages in caption services.

[...]

### 2. Extract from Licensee's submission dated 9 September 2022

[...]

On a preliminary basis, the ACMA has equated the concept of "distinct program segment" with "program story" and found that the Sunrise Broadcast comprises 73 distinct segments and the 6PM News Broadcast comprises 24 distinct segments. This approach is inconsistent with the wording and effect of the definition of "distinct program segment within a television program" used in the Standard and effectively makes compliance with the Standard almost impossible given that any instance of material error within a "segment" will automatically lead to a breach finding. The approach is also inconsistent with typically accepted notions of "segments" within news and current affairs programs for the ordinary reasonable viewer.

Seven submits that viewers would understand the division of such programming as follows:

1. In the case of morning news and current affairs programs such as Sunrise:
  - a. Seg 1: Start to first ad break comprising major news headlines (as introduced in the opening scenes), each of which involves one of the hosts introducing a story, accompanying film images and live news crosses and a brief live cross with the weather reporter;
  - b. Seg 2 and subsequent: further news stories and discussions between each ad break and which have generally been foreshadowed at the end of the preceding segment as "Coming Up" (or similar terms);
  - c. Seven acknowledges that in the case of the Sunrise Broadcast, the Covid Update (numbered segment 3) could be considered as a separate segment, as could the Covid press conference (numbered segments 72 and 73).

Applying the approach outlined above, there are usually around 14 separate segments in each Sunrise broadcast. Seven submits that it is entirely unrealistic to suggest that parts of a program comprising a matter of seconds would be considered to be distinct segments, especially parts of an introductory or summary or headline nature (eg numbered segments 1, 15, 16 etc) or each short news story in an unbroken string of stories (eg numbered segments 4 to 11, 17 to 22, 23 to 33, 34 to 35 etc).

[...]

[...] more weight should be given to the context surrounding the circumstances of the broadcast segments under review [...]

[...]

Whilst hybrid captioning is – generally – a very accurate way to provide viewers with a captioning service, it has the following unavoidable limitations:

- Captions cannot be timed to shot changes because the broadcast is edited live. Therefore, captioners cannot predict when shots will change.

- Small amounts of latency are unavoidable in the chain of transmission to air for live-captions. This small amount of latency exists since captioners must verify that each line in the caption has actually been spoken by the speaker before it goes to transmission. The only means available to captioners to avoid this latency is to have the captions sent to them prior to the words being spoken during the broadcast.
- If a script changes, is missing, or there is an unscripted segment, a captioner is required to:
  - o recognise that a change has occurred;
  - o switch their program to take live-captioning input from respeaking;
  - o begin respeaking;
  - o wait for the captions to transmit; and
  - o switch back to cued captioning.

[...]

Seven agrees that issues with captioning services that extend to a poor reflection of the natural flow of the spoken words are not ideal for deaf and hearing-impaired viewers. However, Seven disagrees with the ACMA's conclusion that the block captions within the 17 identified segments in the Report amounted to a breach under subparagraph 7(b)(ii) of the Standard [render the captions entirely unreadable]. The captions accurately reflected the words spoken and appeared on screen in plain English. Seven submits that there should be no finding of a breach under the Standard as the captioning services remain meaningful to deaf and hearing-impaired viewers, irrespective of the minor identifiable issues [...]

[...]

[...] there was little consideration of the fact that deaf and hearing-impaired viewers are able to infer meaning even where words are spelt incorrectly, there is a grammatical error or some information is omitted. Seven submits that the NER Analyses undertaken by its captioning service provider [...] to assess quality of captioning, should be a relevant consideration when applying the Standard.

[...]