

## Investigation report no. BI-697

<b>Licensee</b>	Channel Seven Adelaide Pty Ltd (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 2023</i> (the <b>Standard</b> )
<b>Findings</b>	Breach of subsection 130ZZA(4) in Part 9D of the BSA [which requires a commercial television licensee to comply with the Standard]  Breach of paragraph 7(1)(o) of Schedule 2 to the BSA [licence condition requiring compliance with applicable provisions of Part 9D of the BSA]
<b>Program [type]</b>	<i>7News Adelaide</i> [News]
<b>Date of broadcast</b>	20 June 2024
<b>Type of service</b>	Commercial – television
<b>Attachments</b>	<b>A</b> – Extract of complaint to the ACMA <b>B</b> – Relevant provisions of the BSA and the Standard <b>C</b> – Table of distinct program segments in the broadcast of 20 June 2024 with summary findings <b>D</b> – Table of breaches in distinct program segments in the broadcast of 20 June 2024, assessed against the Licensee's claims to apply section 130ZZA(7A) of the BSA [disregard provision] <b>E</b> – Extracts of Licensee's submissions to the ACMA

## Background

On 18 July 2024, the Australian Communications and Media Authority (the **ACMA**) commenced an investigation under the BSA into a broadcast of *7News Adelaide* (the **program**).

The program, a one-hour news bulletin, was broadcast by the Licensee on 20 June 2024 and employed both pre-prepared and live captions.

The ACMA received a complaint, alleging that the captions provided for the program were of poor quality. An excerpt of the complaint to the ACMA is at **Attachment A**.

The ACMA has investigated the Licensee's compliance with subsection 130ZZA(4) of the BSA, and the licence condition at paragraph 7(1)(o) of Schedule 2 to the BSA.

## 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. Subsection 130ZZA(4) is in Part 9D of the BSA and therefore compliance with the Standard is a licence condition for commercial television broadcasting licensees imposed by paragraph 7(1)(o) of Schedule 2 to the BSA.

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

A 'captioning service' is defined in section 6 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 6 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>3</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>4</sup>

Subsection 130ZZA(7A) specifies circumstances in which a breach of subsection 130ZZA(4) (captioning standards) is to be disregarded, to the extent to which a failure by a licensee to comply with a standard determined under subsection (1) is attributable to significant difficulties of a technical or engineering nature for the licensee, which it could not reasonably have foreseen.

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 6 of the Standard includes both a television program and a distinct program segment within a television program.

Paragraph 9(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.

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<sup>1</sup> Section 5 of the Standard.

<sup>2</sup> Paragraphs 10(a), 11(a) and 12(a) of the Standard.

<sup>3</sup> Paragraph 9(a) of the Standard.

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

The Explanatory Statement to the Standard states:<sup>5</sup>

Paragraph (b) of section 9, and the definition of “program” in section 6, 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. For example, a current affairs program may consist of several segments which are each distinct from and unrelated to other segments in that program.

Accordingly, 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 from, and unrelated to, other segments.

## Assessment of live captioning

The Explanatory Statement to the Standard states:<sup>6</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. As suggested by the note to section 9, it is reasonable to expect that during the live broadcast of, for example, a fast-paced sporting match there would be a time lag between the captions and soundtrack and the caption lines may not end at natural linguistic breaks.

The ACMA notes the Licensee’s submission of 8 July 2024, where the ACMA was advised that:

The program was captioned using a hybrid captioning method, incorporating both pre-prepared captions and live respoken captions.

[...]

The live respoken captions that appeared at various points of the program exhibited delays of up to 15 seconds which was caused by an unforeseen technical fault involving the specific captioning equipment in use.

The ACMA also notes the Licensee’s submission of 13 August 2024, where the ACMA was advised that:

Seven and Ai Media determined that the captioner’s hardware had suffered a technical failure which resulted in delays in the transmission of the respoken captioning content within the Broadcast.

[...]

The content most impacted by accuracy was the weather update. The captioner omitted some script information while trying to resolve the technical issue, which resulted in 6 out of 24 sentences of weather content not being captioned. The on-screen graphics remained on-air and accurate and would therefore have augmented a deaf or hearing-impaired viewer’s ability to meaningfully interpret the content.

In determining the quality of captioning, the ACMA takes into account, among other factors, the circumstances of the broadcast including the difficulties that, in some circumstances, may occur with live captioning. The ACMA had regard to this in the present investigation. However, regardless of the method of captioning employed, the captioning provided for a program must be meaningful to deaf and hard-of-hearing viewers.

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<sup>5</sup> Explanatory Statement to the *Broadcasting Services (Television Captioning) Standard 2023*.

<sup>6</sup> Ibid.

## Assessment of the broadcast

The ACMA has assessed whether the captioning service for the program broadcast on 20 June 2024 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 a copy of the broadcast provided by the Licensee.

The program was approximately one hour in duration, comprising 44 minutes of news and 16 minutes of commercials.

The ACMA found that the program consisted of 41 segments which were each distinct from, and unrelated to, other segments in the program. Accordingly, the ACMA has considered whether the captioning for each distinct news item was meaningful to deaf and hard-of-hearing viewers.

The table at **Attachment C** lists the relevant captioning compliance issues in relation to the distinct program segments assessed.

The ACMA considers that this 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 a week on free-to-air primary channels.

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

### Finding

The Licensee failed to comply with the Standard, in breach of subsection 130ZZA(4) of the BSA.

### Reasons

The ACMA's assessment of the program has found that there were captioning compliance issues in 7 distinct program segments. These issues are set out in the table at **Attachment C**.

The ACMA considers that the cumulative effect of the captioning compliance issues relating to the accuracy or comprehensibility in 7 distinct program segments is significant enough to warrant a finding that the captioning of those segments was not meaningful to deaf and hard-of-hearing viewers.

Examples of distinct program segments which contained captioning compliance issues relating to accuracy and comprehensibility include, but are not limited to, the following:

#### Distinct program segment 24 (Safe service)

- The distinct program segment began at timestamp 29:47, however, the relevant captions did not appear until 29:54, i.e., a latency of 7 seconds.
- Between timestamp 30.00 and 30.16, there was latency of up to 11 seconds. In addition, the captions did not change colour to indicate that another speaker (the reporter) had commenced speaking.
- Between timestamp 30.05 and 30.16, some spoken content was not captioned. 'I have more experiences myself on sexual harassment or assault whilst working than I can count on both hands' was captioned as 'I have experienced it more times than I can'.
- Latency persisted throughout the distinct program segment, such that captions did not synchronise with on-screen speakers. For example, on 6 occasions, new speakers were speaking to camera, but captions for previous speakers were still onscreen.
- The distinct program segment ended at timestamp 31.27, however, the captions carried over until timestamp 31:35 of the next distinct program segment, i.e. a latency of 8 seconds.



Distinct program segment 34 (Coming up in sport [outro to commercial break])

- The distinct program segment began at timestamp 42:07, however, the relevant captions did not appear until timestamp 42:19, i.e., a latency of 12 seconds.
- At timestamp 42:40, spoken content was not captioned. 'And it's fast becoming the tournament that keeps on delivering, another world class strike lights up the Euro's' was captioned as 'And it's fast'.

Distinct program segment 38 (Weather)

- The distinct program segment began at timestamp 57:07, however, the relevant captions did not appear until timestamp 57:17, i.e., a latency of 10 seconds.
- The Licensee submitted that 'the captioner omitted some script information while trying to resolve the technical issue, which resulted in 6 out of 24 sentences of weather content not being captioned'.
- For example, at timestamp 57:11, spoken content was not captioned and, where captions did appear, they were not verbatim, as shown below:

**Presenter:** Gertie, parts of the state copped a decent burst of rain overnight.

**Reporter:** They certainly did, Will. Parts of the Mount Lofty Ranges and Eastern Eyre Peninsular had around 15 to 20 millimetres.

Uraidla in the Adelaide Hills recorded 30. Point Avoird near Coffin Bay wasn't far off that mark either.

In the city we had 8 millimetres. It's cleared up though just in time for the Vinnies CEO sleep out, although it is pretty fresh outside already, it's going to drop down to 7 degrees overnight, currently it is 11. And today's top was just shy of 15 degrees.

Now a low-pressure system did trigger some light showers this afternoon to the east and north of Port Lincoln and daytime temperatures were generally slightly below average.

**was captioned as:**

The Mount Lofty Ranges

Uraidla recorded 30, though. And Point Avoird near Coffin Bay wasn't far off that mark either.

It millimetres in the city. Fortunately it's cleared up in the time for the Vinnies CEO sleepout.

It's starting to feel pretty fresh already though

The examples above reflect captioning quality issues detailed further in Attachment C in respect of program segments 4, 13, 24, 30, 33, 34 and 38. Issues such as spoken content not being captioned (subparagraph 11(b)(i) of the Standard); captions not reflecting the actual meaning of the spoken content (subparagraph 11(b)(iii) of the Standard); and captions not coinciding with the onset of speech by the corresponding speaker (subparagraph 12(b)(iii) of the Standard) were material because they made it difficult for deaf and hard-of-hearing viewers to follow the meaning of those distinct program segments. As a result, those distinct program segments were not meaningful to deaf and hard-of-hearing viewers.

With respect to distinct program segment 38 (Weather), the Licensee submitted that, despite the inaccurate captions in this distinct program segment, '[t]he on-screen graphics remained on-air and accurate and would therefore have augmented a deaf or hearing-impaired viewer's ability to meaningfully interpret the content'. While the presence of the on-screen graphics meant that some pertinent information was conveyed to deaf and hard-of-hearing viewers, the graphics did not represent the full meaning of the spoken words in the segment. The latency of the captions and their inaccuracies meant that, even with the graphics, the captioning provided for the distinct program segment would not have been meaningful to deaf and hard-of-hearing viewers.

In its submission dated 7 November 2024 to the ACMA, the Licensee indicated that it did not agree with the ACMA's preliminary view that it had failed to comply with subsection 130ZZA(4) of the BSA. The Licensee considered that 'the ACMA's approach to assessing the quality of live captions under the Standard fails to adequately consider the unavoidable technical and operational limitations that

captioners face when providing live-captioning services'. The Licensee submitted that, 'despite the clear difficulties for broadcasters in achieving compliance, the ACMA continues to apply the legislation in a way that seems to overlook the realities of live captioning'.

The ACMA notes the Licensee's submission that it had conducted an audit of the accuracy of the captions in the program and, based on an NER-style<sup>7</sup> calculation, the program had an accuracy score of 99% for the first 4 parts of the program and, once the technical fault had occurred, the accuracy of the last 2 parts had a score of 98.87%. The Licensee considered that, according to the NER Model, the score was still high and above the threshold for acceptable captioning quality. In addition, the Licensee advised that the weather update was most affected by the captioning quality issue relating to accuracy. The Licensee was of the view that, given the ongoing challenges around achieving 100% accuracy for live captioning, the ACMA should exercise its discretion and disregard any breach finding.

In relation to the Licensee's submission about application of the NER Model to assess the quality of captioning of the program, the ACMA notes that the NER Model is not relevant to assessing captioning compliance with the quality requirements imposed by the Standard. The NER model focuses on accuracy and fails to address, for example, latency and readability. 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.

## Conclusion

The ACMA finds that the cumulative effect of the captioning issues relating to accuracy and comprehensibility in 7 of the 41 distinct program segments (totalling 7 minutes 53 seconds of the 44 minutes of news footage) resulted in the captioning service for those distinct program segments not meeting the requirements relating to quality imposed by the Standard.

## Issue 2: Is subsection 130ZZA(7A) applicable to the breach of subsection 130ZZA(4)?

### Finding

The failures by the Licensee to comply with the Standard, where those failures were attributable to a significant difficulty of a technical nature, which the Licensee could not reasonably have foreseen, are to be disregarded under subsection 130ZZA(7A) of the BSA. However, failures by the Licensee to comply with the Standard, where those failures were not only attributable to a significant difficulty of a technical nature, but were compounded by and partly attributable to human error, are not to be disregarded under subsection 130ZZA(7A) of the BSA. Other failures by the Licensee to comply with the Standard, where those failures were attributable to human or procedural error and which resulted in accuracy and comprehensibility issues, are not to be disregarded under subsection 130ZZA(7A) of the BSA. There were multiple failures by the Licensee to comply with the Standard in the latter category, in breach of subsection 130ZZA(4) of the BSA.

### Reasons

Subsection 130ZZA(7A) of the BSA makes provision for a failure by a licensee to comply with the Standard to be disregarded to the extent to which that failure is attributable to significant difficulties of a technical or engineering nature for the licensee which it could not reasonably have foreseen.

The Licensee submitted on 8 July 2024:

The live respoken captions that appeared at various points of the program exhibited delays of up to 15 seconds which was caused by an unforeseen technical fault involving the specific captioning equipment in use. This equipment has been removed from service and in addition, the individual captioner has been counselled on the poor monitoring and failure to escalate to the on-shift coordinator.

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<sup>7</sup> NER is a quantitative model for measuring the accuracy of captions. The NER model (number, edition, and recognition errors) calculates the number and severity of errors in captions, which is weighted according to a subjective view about the impact on viewer comprehension in producing a metric score. The NER model is not used in assessing compliance with the Standard.

Further, the Licensee submitted on 13 August 2024:

As outlined in our email to the ACMA on 8 July 2024, the Broadcast consisted of both pre-prepared and live captions. An unforeseen technical fault impacted the live captioning for the latter part of the Broadcast. Prior to the fault, the captions in the Broadcast were accurate, comprehensible and readable. However, once the technical failure occurred, the captions became latent and, when the captioner attempted to troubleshoot the issue during the Broadcast, this in turn affected the accuracy of the captions. It should be noted that the majority of the impacted content was the weather report, which had on-screen graphics that would have assisted deaf or hearing impaired viewers to infer meaning from the spoken content.

Seven – together with its third-party captioning provider, Ai Media – has conducted a thorough investigation into the technical difficulties that arose during this Broadcast. As previously mentioned, the issue was the result of the failure of specific equipment used by the captioner which was not reasonably foreseeable.

On 9 September 2024, the ACMA sought further evidence from the Licensee of the significant difficulties of a technical nature that it considered had resulted in the captioning issues.

On 1 October 2024, the Licensee provided additional details on how the captioning failure occurred, including the following:

[The captioning provider] conducts a dynamic caption test (line check) prior to each program. Documentation of these checks only occurs in the event the test has failed, however in this case, the test was successful. [...]

The issue had not been observed prior to this Program, with the human captioner producing captions successfully as recently as 24 hours prior to the incident arising. The line check procedure [...] was successfully completed without issue, and no problems were detected in the transmission of caption text [...] to the caption inserter.

Without any previous technical issue of this nature having occurred, there was no way to foresee it happening during the Program.

[...] The latency in the transmission of live captions was not promptly noticed by the human captioner responsible for captioning the Program. While this latency issue was intermittent and not easily identifiable at first, it is acknowledged that the captioner failed to escalate or report the problem in a timely manner.

In relation to this Program, the latency in captioning transmission was the result of an unforeseen technical issue and this, combined with the captioner's failure to promptly report the fault which stemmed from the latency, impacted what would have otherwise been a normal live captioning operation. [...]

Breaches of the Standard are to be disregarded only to the extent that a licensee's failure to comply is attributable to significant difficulties of a technical or engineering nature which it could not reasonably have foreseen.

The Licensee submitted that there were unforeseeable technical difficulties with one item of captioning equipment, which caused latency issues with the captioning in live-captioned segments of the program. In addition, the Licensee advised that the captioner had attempted to troubleshoot the issue instead of escalating it to the on-shift coordinator.

The ACMA accepts the Licensee's submission (which was supplemented by evidence) that there were unforeseeable technical difficulties with one item of captioning equipment, which caused latency issues in live captioned segments of the program. However, the ACMA also notes that the captioner tried to troubleshoot the issue rather than escalate it to the on-shift co-ordinator, and this compounded the latency issues and caused dictation errors, which resulted in accuracy and comprehensibility issues in the captions. The ACMA considers that the initial technical difficulty could not reasonably have been foreseen by the Licensee. However, the captioner's failure to escalate the issue and the resultant latency and dictation errors were attributable to human error and a breakdown in procedures, rather than being attributable to significant difficulties of a technical nature.

In the Licensee's submission to the ACMA dated 1 October 2024, it was accepted that a number of identified captioning errors in segments 4, 13, 24, 33, 34 and 38 of the program were attributable to human error, and are not to be disregarded under subsection 130ZZA(7A) of the BSA. However, the ACMA considers that there were additional captioning errors in those segments that are not eligible to be disregarded under subsection 130ZZA(7A). The captioning errors which the ACMA accepts are to be disregarded are shaded in green in Attachment D. The ACMA's assessment shows that breaches

remain in 6 of the distinct program segments and, on this basis, the Licensee failed to comply with the Standard, in breach of subsection 130ZZA(4) of the BSA.

In its submission dated 7 November 2024 to the ACMA, the Licensee indicated that it did not agree with the ACMA's interpretation of subsection 130ZZA(7A) of the BSA, which it considered 'is unnecessarily narrow and impractical for broadcasters'. The Licensee submitted that failures to comply with the Standard should be disregarded in circumstances where they stemmed from unforeseeable technical difficulties. However, the Licensee considered that 'the ACMA appears to suggest that whenever a technical issue arises during a broadcast, any form of human intervention to fix the problem, will render a broadcaster unable to rely on subsection 130ZZA(7A)' of the BSA.

The ACMA notes that the Licensee quoted the purpose of subsection 130ZZA(7A) in the Explanatory Memorandum to the *Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014*, which introduced the provision in the BSA:

The proposed new subsection 130ZZA(7A) recognises that a broadcaster's captioning service may at times be affected by particular circumstances and factors that may be outside of the relevant broadcaster's control and cause a breach of a captioning quality standard determined by the ACMA under section 130ZZA.

The ACMA also notes the Licensee's submission that the 'ACMA's narrow interpretation renders the provision practically meaningless and seems at odds with Parliament's intention to provide a mechanism for relief where factors that may be outside of the broadcaster's control cause a breach'.

The ACMA does not accept that it has taken an unnecessarily narrow interpretation of the subsection. The ACMA has accepted the concessions made in the licensee's submission dated 1 October 2024 which identified a number of captioning errors that were attributable to human error and not to be disregarded under subsection 130ZZA(7A), and found some additional captioning errors that the ACMA considers are similarly not eligible to be disregarded under that subsection. The ACMA has disregarded failures by the Licensee to comply with the Standard where those failures were attributable to a significant difficulty of a technical nature, which the Licensee could not reasonably have foreseen, as intended by subsection 130ZZA(7A) of the BSA.

## **Issue 3: Did the Licensee comply with paragraph 7(1)(o) of Schedule 2 to the BSA?**

### **Finding**

The Licensee failed to comply with subsection 130ZZA(4) of the BSA, in breach of 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, the Licensee failed to comply with subsection 130ZZA(4) of the BSA. Accordingly, the Licensee also breached the licence condition at paragraph 7(1)(o) of Schedule 2 to the BSA.

### Extract of complaint to the ACMA

Another example of poor captioning in SA ch 7 news at 6pm tonight. Not good but not as bad as others in the past on different channels.

## **Relevant provisions of the BSA and the Standard**

### ***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 130ZUB of Part 9D of the BSA**

##### **Certain breaches to be disregarded**

- (1) If:
  - (a) apart from this subsection, a commercial television broadcasting licensee has breached a provision of this Division; and
  - (b) the breach is attributable to significant difficulties of a technical or engineering nature for the licensee; and
  - (c) those difficulties could not reasonably have been foreseen by the licensee;then the breach is to be disregarded in determining whether the licensee has complied with the provision.

#### **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 2023**

## **5 Object of this 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 hard of hearing viewers.

## **6 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.

[...]

## **8 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 8 of this Standard will not be eligible to be used by a broadcaster or narrowcaster to comply with its captioning obligations.*

## **9 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.

[...]

## **10 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.

## **11 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, the extent to which the captions take into account the intended audience;
  - (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.

## 12 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 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.

# TABLE OF DISTINCT PROGRAM SEGMENTS, APPROXIMATE DURATION AND ASSOCIATED KEY ISSUES

**Bold and shaded** – Breach due to captioning compliance issues identified in the distinct program segments. The captioning issues affected the readability, accuracy or comprehensibility of the distinct program segments to such an extent that they would have made it difficult for a person relying on the captions to comprehend the segment. As such, the captioning was not meaningful to viewers relying on captions.

Normal and unshaded – No breach despite captioning compliance issues identified in the distinct program segments. The captioning issues did not affect the readability, accuracy or comprehensibility of the distinct program segments to such an extent that they would have made it difficult for a person relying on the captions to comprehend the segment. As such, the captioning remained meaningful to viewers relying on captions.

Examples include, but are not limited to the following:

## Broadcast of 7News Adelaide on 20 June 2024

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
1 Intro 0:00:02 – 0:00:42	0:00:02 – 0:00:12	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
	0:00:18	Comprehensibility	Subparagraph 12(b)(i)
	0:00:22		The appearance of the captions did not clearly identify and distinguish individual speakers.
	0:00:28		
2 Sentence shock 0:00:43 – 0:02:02	0:00:33	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 11 seconds.
	0:00:43 – 0:00:54		Subparagraph 12(b)(i)
	0:01:08	Comprehensibility	The appearance of the captions did not clearly identify and distinguish individual speakers.
	0:02:02		
	0:01:21	Comprehensibility	Subparagraph 12(b)(ii)  The spoken content of '73-year-old' was displayed for less than 1 second (as a flash) and then captioned as 'So year-old'.  Captions were not displayed for a sufficient length of time for the viewer to read them and follow the action of the program.
3 Bali drugs trial	0:02:04 – 0:02:11	Accuracy	Subparagraph 11(b)(ii)  The spoken content of '73-year-old' was displayed for less than 1 second (as a flash) and then captioned as 'So year-old'  The captions for spoken content were not verbatim.
		Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
0:02:03 – 0:02:33	0:02:45	Comprehensibility	Subparagraph 12(b)(iii) / Subparagraph 12(b)(i)  The captions for this distinct program segment carried over to the next distinct program segment for approximately 7 seconds.  The appearance of the captions did not clearly identify and distinguish individual speakers.
<b>4</b> <b>Crash dash</b>	0:02:34 – 0:02:48	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 14 seconds.
0:02:34 – 0:04:15	0:02:51	Comprehensibility	Subparagraph 12(b)(i)
	0:02:57		The appearance of the captions did not clearly identify and distinguish individual speakers.
	0:03:26		
	0:03:45		
	0:04:11		
	0:04:15	Accuracy	Subparagraph 11(b)(i)  'dangerous driving' was captioned as 'dangerous'.  Spoken content was not captioned.
<b>5</b> <b>Health alert</b>	0:04:16 – 0:04:22	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
0:04:16 – 0:04:36			
<b>6</b> <b>Crisis treatment</b>	0:04:37 – 0:04:43	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
0:04:37 – 0:06:24			
<b>7</b> <b>Cop killer</b>	0:06:25 – 0:06:30	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 5 seconds.
0:06:25 – 0:07:02			
<b>8</b> <b>Armed &amp; dangerous</b>	0:07:03 – 0:07:11	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
	0:07:23	Comprehensibility	Subparagraph 12(b)(i)
	0:08:12		The appearance of the captions did not clearly identify and distinguish individual speakers.
<b>9</b> <b>Dobbed in by iPhone</b>	0:08:41 – 0:08:49	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
0:08:41 – 0:09:00	9:03	Accuracy	Subparagraph 11(b)(i)  'He's now lost his licence for a year' was captioned as 'He's now lost his licence for a'  Spoken content was not captioned.



Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
10  Funny business (includes live cross)  0:09:01 – 0:11:07	0:09:01 – 0:09:05	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 4 seconds.
	0:09:21	Comprehensibility	Subparagraph 12(b)(i)
	0:10:41		The appearance of the captions did not clearly identify and distinguish individual speakers.
11  Adelaide 500  0:11:08 – 0:12:52	0:11:10 – 0:11:14	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 4 seconds.
	0:11:29	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
12  Shooting murder charges  0:12:53 – 0:13:22	0:12:54 – 0:12:59	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 5 seconds.
13  Road rage attack  0:13:23 – 0:13:46	0:13:28	Accuracy	Subparagraph 11(b)(ii) / (iii)  'Russian president Vladimir Putin has' was captioned but not spoken.  The captions for spoken content were not verbatim.
	0:13:23 – 0:13:28	Accuracy	Subparagraph 11(b)(i)  'A 27-year-old man has been killed in a horrifying road rage attack in Sydney'.  Spoken content was not captioned.
	0:13:28 – 0:13:34	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
	0:13:28 – 0:13:56	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Security vision shows the victim clinging on to a white ute as it drove off. He held on for about 100 meters before falling as the driver continued on. Witnesses say the pair had been involved in an argument around 8:45 this morning. The victim died at the scene and the driver is still at large.'  was captioned as:  'Security vision shows the victim of a road rage attack in Sydney clinging onto white ute and held on before falling off. Witnesses say they had in involved in an argument that the round it 40 5 AM. The victim died and the driver is still at large.'  Spoken content was not captioned / captions for spoken content were not verbatim.

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
	0:13:56	Comprehensibility	Subparagraph 12(b)(iii)  Captions carried over to the next distinct program segment.
14 Russian President 0:13:47 – 0:15:20	0:13:47 – 0:13:57  0:14:12  0:15:00  0:15:16	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.  Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
15 Water infrastructure woes 0:15:21 – 0:15:50	0:15:21 – 0:15:27	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
16 Sport of kings 0:15:51 – 0:17:25	0:15:51 – 0:15:57  0:16:12  0:17:04 – 0:17:14	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.  Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.  Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
17 Coming up in Sport 0:17:26 – 0:17:55	0:17:26 – 0:17:32	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
18 Coming up (outro to commercial break) 0:17:56 – 0:18:23	0:18:08  0:18:13  0:18:17	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
Commercial break 1			
19 AFL X-Ray machines (exclusive) 0:21:30 - 0:23:24	0:21:30 - 0:21:40  0:21:53  0:23:06	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.  Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
20 Sacred target 0:23:25 - 0:24:59	0:23:25 - 0:23:30  0:23:45  0:24:34  0:24:42	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 5 seconds.  Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.



Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
21 Vandals attack mural 0:25:00 - 0:25:33	0:25:00 - 0:25:08	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
22 Vinnies CEO sleepout (includes live cross) 0:25:34 - 0:26:34	0:25:34 - 0:25:42	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
23 Coming up (outro to commercial break) 0:26:35 - 0:27:01	0:26:35 - 0:26:45	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
		Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
		Accuracy	Subparagraph 11(b)(i)  'And later why Aussies with back pain are being told to take a hike' was captioned as 'And later why Aussies with back pain'.  Spoken content was not captioned.
Commercial break 2			
24 Safe service 0:29:47 - 0:31:27	0:29:47 - 0:29:54	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.
	0:30:00 – 0:30:10	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
	0:30:11	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
	0:30:05 – 0:30:16	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 11 seconds.
	0:30:16	Accuracy	Subparagraph 11(b)(ii) / (iii)  'I have more experiences myself on sexual harassment or assault whilst working than I can count on both hands'. was captioned as 'I have experienced it more times than I can'.  Captions for spoken content were not verbatim.
	0:30:30 0:30:34  0:30:53 0:31:02  0:31:15 0:31:24	Comprehensibility	Subparagraph 12(b)(i)  Captions on screen were for the previous speaker.  The appearance of the captions did not clearly identify and distinguish individual speakers.

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
	0:31:35	Comprehensibility	Subparagraph 12(b)(iii)  Captions carried over to the next distinct program segment.
25 Landslide recovery support 0:31:28 - 0:32:24	0:31:28 - 0:31:35	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.
	0:32:16 – 0:32:26	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
26 Undercover shoppers (Choice) 0:32:25 - 0:34:01	0:32:25 - 0:32:31	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.
27 Ash Barty returns to tennis 0:34:02 - 0:34:24	0:34:02 - 0:34:09	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.
28 Coming up (outro to commercial break) 0:34:25 - 0:34:45	0:34:25 - 0:34:32	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.
	0:34:49	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
	0:34:52	Accuracy	Subparagraph 11(b)(i)  'dieticians are worried' was captioned as 'dieticians are'  Spoken content was not captioned.
Commercial break 3			
29 Get moving 0:38:00 - 0:39:38	0:38:00 - 0:38:07	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.
	0:38:23	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.
30 U.S. cancels Israel meeting 0:39:39 - 0:40:04	0:39:39 - 0:39:47	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
	0:39:58 - 0:40:08	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 10 seconds.
	0:40:04 – 0:40:14	Comprehensibility	Subparagraph 12(b)(iii)  Captions carried over to the next distinct program segment.
31 Finance (includes live cross) 0:40:05 - 0:40:48	0:40:05 - 0:40:13	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.



Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
32 Still to come 0:40:49 - 0:41:04	0:40:49 - 0:41:00	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 11 seconds.
33 Catch of the day 0:41:05 - 0:42:06	0:41:05 - 0:41:13	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.
	0:41:11	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Well, I'm off Marion Bay and these are my two great mates from Victoria. I'm showing them exactly what SA fishing is all about, what do you recon boys?'  was captioned as:  'These are my great mates I'm showing them what South fishing is about. But do you think?'  Spoken content was not captioned / captions for spoken content were not verbatim.
	0:41:20	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Beau snagged some whiting and some squid out from Hallett Cove and Elliot he got a ripper squid too fishing near Glenelg'.  was captioned as:  'Some squid near Glenelg Oval'.  Spoken content was not captioned / captions for spoken content were not verbatim.
	41:41	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Bill, Mark and Elsie they shared a gem of a Summer Trout at Coffin Bay.'  was captioned as:  'This was a gem of a summer trout.'  Spoken content was not captioned / captions for spoken content were not verbatim.
	41:45	Accuracy	Subparagraph 11(b)(i)  'Simon got a carp at Murray Bridge.'  Spoken content was not captioned.
	41:56	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Amazing photos. Thanks for showcasing your adventures with us. Keep them coming through. I'm getting very tired. We're going to have our hands full for a little bit longer. Good stuff boys. See you next week.'  was captioned as:

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
			<p>'Thank you for showcasing your adventures with us. Keep them coming through. We will have our hands full for longer.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>
<b>34</b>  <b>Coming up in sport (outro to commercial break)</b>  <b>0:42:07 - 0:42:40</b>	0:42:07 - 0:42:19	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 12 seconds.</p>
	0:42:30	Comprehensibility	<p>Subparagraph 12(b)(i)</p> <p>The appearance of the captions did not clearly identify and distinguish individual speakers.</p>
	0:42:33	Accuracy	<p>Subparagraph 11(b)(i)</p> <p>'And it's fast becoming the tournament that keeps on delivering, another world class strike lights up the Euro's'</p> <p>was captioned as:</p> <p>'And it's fast'</p> <p>Spoken content was not captioned.</p>
Commercial break 4			
<b>35</b>  <b>Sport (includes live cross)</b>  <b>0:45:56 - 0:51:26</b>	0:45:56 - 0:46:09	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 13 seconds.</p>
<b>36</b>  <b>Slimmer of the year</b>  <b>0:51:27 - 0:53:02</b>	0:51:27 - 0:51:33	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 6 seconds.</p>
<b>37</b>  <b>Coming up (outro to commercial break)</b>  <b>0:53:03 - 0:53:21</b>	0:53:03 - 0:53:11	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 8 seconds.</p>
	0:53:19	Comprehensibility	<p>Subparagraph 12(b)(i)</p> <p>The appearance of the captions did not clearly identify and distinguish individual speakers.</p>
Commercial break 5			
<b>38</b>  <b>Weather (includes live cross)</b>  <b>0:57:07 - 0:59:17</b>	57:07 – 57:17	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 10 seconds.</p>
	57:11 – 57:52	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>Presenter: 'Gertie, parts of the state copped a decent burst of rain overnight.'</p> <p>Reporter: 'They certainly did, Will. Parts of the Mount Lofty Rangers and Eastern Eyre Peninsular had around 15 to 20 millimetres.'</p>

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
			<p>Uraidla in the Adelaide Hills recorded 30. Point Avoid near Coffin Bay wasn't far off that mark either.</p> <p>In the city we had 8 millimetres. It's cleared up though just in time for the Vinnies CEO sleep out, although it is pretty fresh outside already, its going to drop down to 7 degrees overnight, currently it is 11. And todays top was just shy of 15 degrees.</p> <p>Now a low-pressure system did trigger some light showers this afternoon to the east and north of Port Lincoln and daytime temperatures were generally slightly below average.'</p> <p>was captioned as:</p> <p>'The Mount Lofty Ranges'</p> <p>'Uraidla recorded 30, though. And Point Avoid near Coffin Bay wasn't far off that mark either.'</p> <p>'It millimetres in the city. Fortunately it's cleared up in the time for the Vinnies CEO sleepout.'</p> <p>'It's starting to feel pretty fresh already though.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>
	57:52 – 58:13	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'It reached 18 in Marree and just 9 degrees in Clare.</p> <p>Tomorrow it will be under the influence of a ridge of high pressure so that would help light showers to clear across the agricultural area before a cold front brings more rain early next week.</p> <p>Interstate, a shower or two and 17 for Sydney. [Graphic on-screen]</p> <p>Mostly sunny and 25 for Brisbane. [Graphic on-screen]</p> <p>32 for Darwin. [Graphic on-screen]</p> <p>13 for Hobart.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'A top of 18 on the way for Coober Pedy and Maree. There was low pressure and light showers to the east and north of Port Lincoln. Daytime temperatures were above average. Cloudy and 17 for Roxby.</p>



Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
			<p>The showers will clear in the agricultural area. For Sydney.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>
	58:14 – 58:39	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'Back home a top of 18 is on the way for Coober Peedy and Marree. [Graphic on-screen]</p> <p>Cloudy and 17 for Roxby. [Graphic on-screen]</p> <p>16 for Woomera. [Graphic on-screen]</p> <p>A shower is possible across the Eastern and lower Eyre Peninsular.</p> <p>15 is the top for Whyalla. [Graphic on-screen]</p> <p>Partly cloudy and 16 for Port Augusta and Port Pirie. [Graphic on-screen]</p> <p>Down to just 1 in Clare, 13 is the top. [Graphic on-screen]</p> <p>14 for Renmark. [Graphic on-screen]</p> <p>15 with morning fog for Murray Bridge. [Graphic on-screen]</p> <p>15 for Edithburgh and Victor. [Graphic on-screen]</p> <p>14 for Naracoorte and Mount Gambier.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'16 for Woomera. A shower's possible across the eastern and Lower Eyre Peninsula. 15 for Whyalla. Partly cloudy and 16 for Port Augusta and Port Pirie. Down to one in Clare, 14 for Renmark. Augusta and Port Pirie. Down to one morning fog for Murray Bridge. 15 for Edithburgh and Victor. 14 for Naracoorte and Mount Gambier.'</p> <p>Captions for spoken content were not verbatim.</p>
	58:40 – 58:51	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'And there's a frost warning for the lower Southeast. [Graphic on-screen]</p> <p>In the city, 16 is the forecast top. It will be a partly cloudy day. [Graphic on-screen]</p>

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
			<p>Whilst metro waters, south to south easterly winds about 10 knots shifting west to south westerly during the afternoon.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'It will be partly cloudy.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>
	58:52 – 58:58	Accuracy	<p>Subparagraph 11(b)(ii) / (iii)</p> <p>'Fishing, and some winter squid are out and about, and you can also try your luck for some Bream if the weather isn't that great.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'Fishing – winter squid are out and about, Further south you'll find mullet.'</p> <p>Captions for spoken content were not verbatim.</p>
	58:59 – 59:17	Accuracy	<p>Subparagraph 11(b)(ii) / (iii)</p> <p>'Looking ahead we've got some chilly mornings on the way. Down to 5 on Saturday before a top of 15; Sunday looking much the same; a shower or two and 14 Monday; there's a high chance of showers on Tuesday – 14 is the top; 15 with a shower or two Wednesday and Thursday. [Graphic on-screen]</p> <p>Now let's take a look at tonight's ray of sunshine.'</p> <p>was captioned as:</p> <p>'Some chilly mornings on the way. Five degrees on Saturday. Sunday looks much the same. The high chance of showers for Tuesday. 14 is the top. Showers for Wednesday and Thursday.'</p> <p>Captions for spoken content were not verbatim.</p>
39 Ray of sunshine 0:59:18 - 1:00:09	0:59:24 - 0:59:30	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 6 seconds.</p>
40 Coming up on Sunrise 1:00:10 - 1:00:30	1:00:10 - 1:00:17	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 7 seconds.</p>

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content
41  Outro with montage ('good night')  1:00:31 - 1:00:52	1:00:31 - 1:00:39	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 7 seconds.



## Attachment D

TABLE OF BREACHES IN DISTINCT PROGRAM SEGMENTS THAT CAN BE DISREGARDED

Segment / Start – end time	Timestamp	Key issue	Relevant provision of the Standard / Issue / Description of content	Disregard breach? (Y/N)	Reason
4  Crash dash  0:02:34 – 0:04:15	0:02:34 – 0:02:48	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 14 seconds.	Y	The ACMA accepts that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:02:51	Comprehensibility	Subparagraph 12(b)(i)	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:02:57		The appearance of the captions did not clearly identify and distinguish individual speakers.		
	0:03:26				
	0:03:45				
	0:04:11				
	0:04:15	Accuracy	Subparagraph 11(b)(i)  'dangerous driving' was captioned as 'dangerous'.  Spoken content was not captioned.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
13  Road rage attack  0:13:23 – 0:13:46	0:13:28	Accuracy	Subparagraph 11(b)(ii) / (iii)  'Russian president Vladimir Putin has' was captioned but not spoken.  The captions for spoken content were not verbatim.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:13:23 – 0:13:28	Accuracy	Subparagraph 11(b)(i)  'A 27-year-old man has been killed in a horrifying road rage attack in Sydney'.  Spoken content was not captioned.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:13:28 – 0:13:34	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 6 seconds.	Y	The ACMA accepts that this breach is attributable to latency issues that weren't

					foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:13:28 – 0:13:56	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>‘Security vision shows the victim clinging on to a white ute as it drove off. He held on for about 100 meters before falling as the driver continued on. Witnesses say the pair had been involved in an argument around 8:45 this morning. The victim died at the scene and the driver is still at large.’</p> <p>was captioned as:</p> <p>‘Security vision shows the victim of a road rage attack in Sydney clinging onto white ute and held on before falling off. Witnesses say they had in involved in an argument that the round it 40 5 AM. The victim died and the driver is still at large.’</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:13:56	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>Captions carried over to the next distinct program segment.</p>	Y	The ACMA accepts that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
24 Safe service 0:29:47 - 0:31:27	0:29:47 - 0:29:54	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 7 seconds.</p>	Y	The ACMA accepts that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:30:00 – 0:30:10	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 10 seconds.</p>	Y	The ACMA accepts that this breach is attributable to latency issues that weren’t foreseeable or preventable and



					therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:30:11	Comprehensibility	Subparagraph 12(b)(i)  The appearance of the captions did not clearly identify and distinguish individual speakers.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:30:05 – 0:30:16	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 11 seconds.	Y	The ACMA accepts that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:30:16	Accuracy	Subparagraph 11(b)(ii) / (iii)  'I have more experiences myself on sexual harassment or assault whilst working than I can count on both hands'. was captioned as 'I have experienced it more times than I can'.  Captions for spoken content were not verbatim.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:30:30 0:30:34 0:30:53 0:31:02 0:31:15 0:31:24	Comprehensibility	Subparagraph 12(b)(i)  Captions on screen were for the previous speaker.  The appearance of the captions did not clearly identify and distinguish individual speakers.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:31:35	Comprehensibility	Subparagraph 12(b)(iii)  Captions carried over to the next distinct program segment.	Y	The ACMA accepts that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
<b>30</b> <b>U.S.</b> <b>cancels</b> <b>Israel</b>	0:39:39 - 0:39:47	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.	Y	The ACMA accepts that the breaches in this distinct program segment are attributable to latency
	0:39:58 -	Comprehensibility	Subparagraph 12(b)(iii)	Y	

meeting  0:39:39 - 0:40:04	0:40:08		There was latency of approximately 10 seconds.		issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:40:04 – 0:40:14	Comprehensibility	Subparagraph 12(b)(iii)  Captions carried over to the next distinct program segment.	Y	
33  Catch of the day  0:41:05 - 0:42:06	0:41:05 - 0:41:13	Comprehensibility	Subparagraph 12(b)(iii)  There was latency of approximately 8 seconds.	Y	The ACMA accepts that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
	0:41:11	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Well, I'm off Marion Bay and these are my two great mates from Victoria. I'm showing them exactly what SA fishing is all about, what do you recon boys?'  was captioned as:  'These are my great mates I'm showing them what South fishing is about. But do you think?'  Spoken content was not captioned / captions for spoken content were not verbatim.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:41:20	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Beau snagged some whiting and some squid out from Hallett Cove and Elliot he got a ripper squid too fishing near Glenelg'.  was captioned as:  'Some squid near Glenelg Oval'.  Spoken content was not captioned / captions for spoken content were not verbatim.	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	41:41	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)  'Bill, Mark and Elsie they shared a gem of a Summer Trout at Coffin Bay.'	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and



			<p>was captioned as:</p> <p>'This was a gem of a summer trout.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>		therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	41:45	Accuracy	<p>Subparagraph 11(b)(i)</p> <p>'Simon got a carp at Murray Bridge.'</p> <p>Spoken content was not captioned.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	41:56	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'Amazing photos. Thanks for showcasing your adventures with us. Keep them coming through. I'm getting very tired. We're going to have our hands full for a little bit longer. Good stuff boys. See you next week.'</p> <p>was captioned as:</p> <p>'Thank you for showcasing your adventures with us. Keep them coming through. We will have our hands full for longer.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
<b>34</b>	0:42:07 - 0:42:19	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 12 seconds.</p>	Y	The ACMA accepts that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
<b>Coming up in sport (outro to commercial break)</b>  <b>0:42:07 - 0:42:40</b>					
	0:42:30	Comprehensibility	<p>Subparagraph 12(b)(i)</p> <p>The appearance of the captions did not clearly identify and distinguish individual speakers.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and

					therefore can not be disregarded under section 130ZZA(7A) of the BSA.
	0:42:33	Accuracy	<p>Subparagraph 11(b)(i)</p> <p>‘And it’s fast becoming the tournament that keeps on delivering, another world class strike lights up the Euro’s’</p> <p>was captioned as:</p> <p>‘And it’s fast’</p> <p>Spoken content was not captioned.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
38	57:07 – 57:17	Comprehensibility	<p>Subparagraph 12(b)(iii)</p> <p>There was latency of approximately 10 seconds.</p>	Y	The ACMA accepts that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore is to be disregarded under section 130ZZA(7A) of the BSA.
Weather (includes live cross) 0:57:07 - 0:59:17	57:11 – 57:52	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>Presenter: ‘Gertie, parts of the state copped a decent burst of rain overnight.’</p> <p>Reporter: ‘They certainly did, Will. Parts of the Mount Lofty Ranges and Eastern Eyre Peninsular had around 15 to 20 millimetres.</p> <p>Uraidla in the Adelaide Hills recorded 30. Point Avoird near Coffin Bay wasn’t far off that mark either.</p> <p>In the city we had 8 millimetres. It’s cleared up though just in time for the Vinnies CEO sleep out, although it is pretty fresh outside already, its going to drop down to 7 degrees overnight, currently it is 11. And todays top was just shy of 15 degrees.</p> <p>Now a low-pressure system did trigger some light showers this afternoon to the east and north of Port Lincoln and</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.

			<p>daytime temperatures were generally slightly below average.'</p> <p>was captioned as:</p> <p>'The Mount Lofty Ranges'</p> <p>'Uraidla recorded 30, though. And Point Avoid near Coffin Bay wasn't far off that mark either.'</p> <p>'It millimetres in the city. Fortunately it's cleared up in the time for the Vinnies CEO sleepout.'</p> <p>'It's starting to feel pretty fresh already though.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>		
	57:52 – 58:13	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'It reached 18 in Marree and just 9 degrees in Clare.</p> <p>Tomorrow it will be under the influence of a ridge of high pressure so that would help light showers to clear across the agricultural area before a cold front brings more rain early next week.</p> <p>Interstate, a shower or two and 17 for Sydney. [Graphic on-screen]</p> <p>Mostly sunny and 25 for Brisbane. [Graphic on-screen]</p> <p>32 for Darwin. [Graphic on-screen]</p> <p>13 for Hobart.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'A top of 18 on the way for Coober Pedy and Maree. There was low pressure and light showers to the east and north of Port Lincoln. Daytime temperatures were above average. Cloudy and 17 for Roxby.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.



			<p>The showers will clear in the agricultural area. For Sydney.'</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>		
	58:14 – 58:39	Accuracy	<p>Subparagraph 11(b)(i) / (ii) / (iii)</p> <p>'Back home a top of 18 is on the way for Coober Peedy and Marree. [Graphic on-screen]</p> <p>Cloudy and 17 for Roxby. [Graphic on-screen]</p> <p>16 for Woomera. [Graphic on-screen]</p> <p>A shower is possible across the Eastern and lower Eyre Peninsular.</p> <p>15 is the top for Whyalla. [Graphic on-screen]</p> <p>Partly cloudy and 16 for Port Augusta and Port Pirie. [Graphic on-screen]</p> <p>Down to just 1 in Clare, 13 is the top. [Graphic on-screen]</p> <p>14 for Renmark. [Graphic on-screen]</p> <p>15 with morning fog for Murray Bridge. [Graphic on-screen]</p> <p>15 for Edithburgh and Victor. [Graphic on-screen]</p> <p>14 for Naracoorte and Mount Gambier.' [Graphic on-screen]</p> <p>was captioned as:</p> <p>'16 for Woomera. A shower's possible across the eastern and Lower Eyre Peninsula. 15 for Whyalla. Partly cloudy and 16 for Port Augusta and Port Pirie. Down to one in Clare, 14 for Renmark. Augusta and Port Pirie. Down to one morning fog for Murray Bridge. 15 for Edithburgh and Victor. 14 for Naracoorte and Mount Gambier.'</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren't foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.

			Captions for spoken content were not verbatim.		
58:40 – 58:51	Accuracy	Subparagraph 11(b)(i) / (ii) / (iii)	<p>‘And there’s a frost warning for the lower Southeast. [Graphic on-screen]</p> <p>In the city, 16 is the forecast top. It will be a partly cloudy day. [Graphic on-screen]</p> <p>Whilst metro waters, south to south easterly winds about 10 knots shifting west to south westerly during the afternoon.’ [Graphic on-screen]</p> <p>was captioned as:</p> <p>‘It will be partly cloudy.’</p> <p>Spoken content was not captioned / captions for spoken content were not verbatim.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
58:52 – 58:58	Accuracy	Subparagraph 11(b)(ii) / (iii)	<p>‘Fishing, and some winter squid are out and about, and you can also try your luck for some Bream if the weather isn’t that great.’ [Graphic on-screen]</p> <p>was captioned as:</p> <p>‘Fishing – winter squid are out and about, Further south you’ll find mullet.’</p> <p>Captions for spoken content were not verbatim.</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.
58:59 – 59:17	Accuracy	Subparagraph 11(b)(ii) / (iii)	<p>‘Looking ahead we’ve got some chilly mornings on the way. Down to 5 on Saturday before a top of 15; Sunday looking much the same; a shower or two and 14 Monday; there’s a high chance of showers on Tuesday – 14 is the top; 15 with a shower or two Wednesday and Thursday. [Graphic on-screen]</p> <p>Now let’s take a look at tonight’s ray of sunshine.’</p> <p>was captioned as:</p>	N	The ACMA does not accept that this breach is attributable to latency issues that weren’t foreseeable or preventable and therefore can not be disregarded under section 130ZZA(7A) of the BSA.

			<p>‘Some chilly mornings on the way. Five degrees on Saturday. Sunday looks much the same. The high chance of showers for Tuesday. 14 is the top. Showers for Wednesday and Thursday.’</p> <p>Captions for spoken content were not verbatim.</p>		
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### Extracts of Licensee's submissions to the ACMA

#### Extract of Licensee's submission dated 8 July 2024

[...]

Nightly News (Ch7 Adelaide)

18:00 – 20/06/24

This program has been audited and it was found that some captioning had excessive delays (>6 seconds) between the spoken words and their corresponding captions. This occurred intermittently during the broadcast. The program was captioned using a hybrid captioning method, incorporating both pre-prepared captions and live respoken captions. The majority of the distinct program segments consisted of pre-prepared captions that were cued and displayed without any issues.

The live respoken captions that appeared at various points of the program exhibited delays of up to 15 seconds which was caused by an unforeseen technical fault involving the specific captioning equipment in use. This equipment has been removed from service and in addition, the individual captioner has been counselled on the poor monitoring and failure to escalate to the on-shift coordinator.

#### Extract of Licensee's submission dated 13 August 2024

[...]

As outlined in our email to the ACMA on 8 July 2024, the Broadcast consisted of both pre-prepared and live captions. An unforeseen technical fault impacted the live captioning for the latter part of the Broadcast. Prior to the fault, the captions in the Broadcast were accurate, comprehensible and readable. However, once the technical failure occurred, the captions became latent and, when the captioner attempted to troubleshoot the issue during the Broadcast, this in turn affected the accuracy of the captions. It should be noted that the majority of the impacted content was the weather report, which had on-screen graphics that would have assisted deaf or hearing impaired viewers to infer meaning from the spoken content.

Seven – together with its third-party captioning provider, Ai Media – has conducted a thorough investigation into the technical difficulties that arose during this Broadcast. As previously mentioned, the issue was the result of the failure of specific equipment used by the captioner which was not reasonably foreseeable.

Seven notes its previous submissions and participation in ACMA-convened industry discussions in relation to live captioning and the challenges of complying with a regulatory framework that requires 100% compliance and does not adequately provide for the unavoidable technical and operational limitations faced by captioners when providing live captioning.

It is clear that, but for the technical issue, the Broadcast would have complied with the Act and/or the Standard. Seven submits that if the ACMA determines Seven has breached the Act and/or the Standard, that the ACMA exercises its discretion and disregards such breach on the basis of s130ZUB<sup>8</sup> of the Act.

#### Latency

Following notification of the complaint, and as noted above, Seven and Ai Media determined that the captioner's hardware had suffered a technical failure which resulted in delays in the transmission of the respoken captioning content within the Broadcast.

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<sup>8</sup> The Licensee's reference to section 130ZUB is a mistake - that provision has no application to a failure to comply with the Standard. The relevant provision in this investigation is section 130ZZA(7A) of the BSA.

Seven has taken the liberty of dividing the Broadcast into 6 parts (consisting of approximately 44 'distinct program segments' divided in accordance with the methodology employed by the ACMA in its previous captioning investigations) and advises the following:

- Three (3) parts were accurate, comprehensible and readable;
- After the technical fault occurred, two (2) parts were impacted by latency issues of greater than six (6) seconds;
- In the final part of the Broadcast, the captioner attempted to troubleshoot the technical issue while still live on air so as to ensure that some captions made it into the Broadcast. This resulted in further technical issues that had a greater impact on the latency (greater than six (6) seconds) of the content.

Please see the below summary of the latency issues that impacted the Broadcast:

Distinct Program Segments				
Part 1				
		Total% Respoken	# > 6sec	% > 6sec
18		44%	3	17%
Part 2				
5		60%	1	20%
Part 3				
5		50%	0	0%
Part 4				
5		60%	4	80%
Part 5				
7		59%	3	43%
Part 6				
4		58%	3	75%
Total Program				
44		52%	11	25%

## Accuracy

Notwithstanding the fact that the captioner's hardware failure had an impact on the latency of the captions in the Broadcast, the accuracy of the captions remained high.

Seven has conducted a thorough audit of the accuracy of the captions in the Broadcast and based on an NER-style calculation, the Broadcast had an accuracy score of 99% for the first four (4) parts of the Broadcast. Once the technical fault occurred, the accuracy of the last two (2) parts achieved a score of 98.87%. According to the internationally recognised NER Model, this score is still high and above the threshold for acceptable captioning quality.

The content most impacted by accuracy was the weather update. The captioner omitted some script information while trying to resolve the technical issue, which resulted in 6 out of 24 sentences of weather

content not being captioned. The on-screen graphics remained on-air and accurate and would therefore have augmented a deaf or hearing-impaired viewer's ability to meaningfully interpret the content.

In terms of the accuracy of the captions in the final part of the Broadcast, Seven submits that while the technical issue impacted accuracy, the on-screen graphics did not render the content meaningless to deaf and hearing impaired viewers.

## **Conclusion**

Since being notified of the complaint, Seven has worked closely with Ai Media to investigate the technical issue and to mitigate against any recurrence. Actions taken have included removing the piece of equipment from service, counselling the staff member on how to escalate such technical difficulties in the future and reminding captioning staff of their obligations to comply with the Standard at all times.

Given the general high level of compliance Seven continues to achieve with its captioning obligations (but for unforeseen complications of a technical nature) and the ongoing challenges around achieving 100% accuracy for live captioning, Seven is of the view that the above actions show its continued commitment to achieving captioning compliance.

Seven regards the occurrence of this technical error as greatly disappointing, especially given the considerable resources that Seven has devoted to captioning compliance and the extensive remedial measures it has undertaken. Despite the technological advancements in live captioning, the possibility of technical issues, human error and equipment failure still exists. On that basis, Seven requests that the ACMA exercise its discretion under s130ZUB of the Act to disregard any breach finding as determined by the ACMA.

## **Extract of Licensee's submission dated 1 October 2024**

[...] an unknown technical fault occurred which was not identified by the relevant human captioner [...]

[...] the human voice captioner had used the same hardware and software setup consistently prior to this Program with no reported issues. [...]

[The captioning provider] conducts a dynamic caption test (line check) prior to each program. Documentation of these checks only occurs in the event the test has failed, however in this case, the test was successful. [...]

A comprehensive series of tests was conducted following the receipt of this complaint, involving the captioner's hardware and software across various standard configurations. Despite these efforts, [the captioning provider] was unable to replicate the technical issue observed during the Program. [...]

The issue had not been observed prior to this Program, with the human captioner producing captions successfully as recently as 24 hours prior to the incident arising. The line check procedure referred to above was successfully completed without issue, and no problems were detected in the transmission of caption text [...] to the caption inserter.

Without any previous technical issue of this nature having occurred, there was no way to foresee it happening during the Program.

[...] The latency in the transmission of live captions was not promptly noticed by the human captioner responsible for captioning the Program. While this latency issue was intermittent and not easily identifiable at first, it is acknowledged that the captioner failed to escalate or report the problem in a timely manner.

It should be noted that in a live captioning environment, it is extremely difficult for human captioners to identify, troubleshoot and correct technical issues while live on-air, without there being some impact on the latency and/or accuracy of live captions.

In relation to this Program, the latency in captioning transmission was the result of an unforeseen technical issue and this, combined with the captioner's failure to promptly report the fault which stemmed from the latency, impacted what would have otherwise been a normal live captioning operation. [...]



7 November 2024

[REDACTED]

[REDACTED]

Media Diversity Section

Australian Communications and Media Authority

Dear [REDACTED]

**RE: BI-697 - Investigation into 7News Adelaide broadcast by Seven on 20 June 2024**

We refer to your email dated 25 October 2024 enclosing the Preliminary Investigation Report (the **Report**) on an investigation into a complaint with respect to captioning during the 7News Adelaide broadcast on 20 June 2024 (the **Broadcast**). We also refer to previous correspondence between Seven and the ACMA regarding the complaint.

The ACMA has invited Seven to comment on:

1. the ACMA's preliminary findings in the Report;
2. any remedial action taken or further action that Seven intends to take to prevent similar captioning issues occurring in future; and
3. the ACMA's proposal to publish the final investigation report.

## Response to the Report

### *Summary*

Seven respectfully disagrees with the ACMA's preliminary view that Seven failed to comply with subsection 130ZZA(4) of Part 9D of the *Broadcasting Services Act 1992* (the **Act**) and paragraph 7(1)(o) of Schedule 2 to the Act due to captioning issues in the Broadcast resulting in a failure to meet the quality requirements imposed by the *Broadcasting Services (Television Captioning) Standard 2023* (the **Standard**).

Seven submits that the ACMA's approach to assessing the quality of live captions under the Standard fails to adequately consider the unavoidable technical and operational limitations that captioners face when providing live-captioning services.



Additionally, Seven submits that the ACMA's interpretation of subsection 130ZZA(7A) of the Act is unnecessarily narrow and impractical for broadcasters. Failures to comply with the Standard should be disregarded in circumstances where they stemmed from unforeseeable technical difficulties. In its Report, the ACMA appears to suggest that whenever a technical issue arises during a broadcast, any form of human intervention to fix the problem, will render a broadcaster unable to rely on subsection 130ZZA(7A).

As the ACMA would be aware, Seven has made numerous submissions in relation to the challenges of live captioning and has participated in industry-wide discussions where other broadcasters similarly expressed frustration at the impractical and inflexible nature of the legislative framework. Despite the clear difficulties for broadcasters in achieving compliance, the ACMA continues to apply the legislation in a way that seems to overlook the realities of live captioning. As the ACMA would also be aware, Seven has been the subject of extensive remedial action since February 2023 and has given the ACMA full transparency into its captioning processes and procedures.

Notwithstanding the apparent futility, Seven would like to again take the opportunity to reiterate its position and convey to the ACMA that it is doing everything it possibly can to comply with the Standard. However, Seven is unsure what more can be done to satisfy the ACMA of its commitment to providing captioning to its deaf and hard-of-hearing viewers within an impractical legislative framework. At present, there will always be issues affecting the quality of live captions and therefore Seven will continue to be in breach of the Standard so long as the ACMA chooses to investigate viewer complaints. It is particularly disheartening to find that the extract of the viewer complaint outlined in the Report is so generic in nature, does not appear to point to any particular captioning errors and in fact, highlights other broadcasters as having 'bad' (worse) captioning compared to Seven.

Seven understands that the captioning legislation does not allow the ACMA to accept a lower standard for live captioning pursuant to subsection 130ZZA(2B), however it is increasingly difficult to expend time and resources on ACMA investigations where, no matter what the circumstances of the broadcast, a breach finding will be made.

#### *Captioning live broadcasts*

As noted by the ACMA in the Report, in determining the quality of captioning, the ACMA takes into account, among other factors, the circumstances of the broadcast including the difficulties that, in some circumstances, may occur with live captioning. Seven respectfully submits that the ACMA has not adequately considered the fact that the Broadcast was a live broadcast and thus some degree of latency and inaccuracy is practically an inevitability. On top of that, live captioning faces unavoidable technical and operational limitations which can exacerbate latency and inaccuracy issues.



Seven takes very seriously its obligations to ensure that captions provided for its programs are meaningful to deaf and hard-of-hearing viewers. This is why Seven has:

- outsourced captioning to Ai Media, a third-party captioning provider (one of only a few in Australia) at a great cost;
- where issues have been identified, immediately conducted thorough investigations with Ai Media; and
- fully cooperated with all requests by the ACMA in relation to providing submissions, and evidence and complying with enforcement action.

As previously mentioned, Seven – together with Ai Media – conducted a detailed investigation into the technical difficulties that arose during this Broadcast. It was determined that the issue was the result of the failure of specific equipment used by the captioner which was not reasonably foreseeable.

Seven would like to highlight its attempts on numerous occasions, including in past submissions and ACMA-convened industry discussions, to explain the complexities of live captioning and the challenges of complying with a regulatory framework that requires 100% compliance and fails to adequately provide for the unavoidable technical and operational difficulties of live captioning.

The ACMA's rigid approach to regulating live captioning is inconsistent with Government's intention. In the Minister's second reading speech of the *Broadcasting Services Amendment (Improved Access to Television Services) Bill 2012* which introduced Part 9D of the Act, the Minister stated:

"The government will ensure that meaningful improvements to levels of media access for people with hearing and vision impairment are achieved in a way that is *practical* [emphasis added] for broadcasters and content producers."

In Seven's view, the ACMA has failed to take into account this element of practicality in regulating live captioning. It is simply impractical to expect live captions to be 100% compliant as, despite technological advancements and Seven's commitment to achieving compliance, technical issues, human error and equipment failure is inevitable. Nor is it practical for Seven to continue to invest a significant amount of time, effort and resources to examine the circumstances of and provide detailed reports on every investigation by the ACMA into complaints of this nature. It is clear that the ACMA's inflexible approach to regulating live captioning will continue to result in findings of breach by Seven despite its very best efforts.

The struggle to achieve what the ACMA considers to be meaningful live captions is an industry-wide issue, as highlighted by the complainant, who noted the captioning that is the subject of this investigation was "*not as bad as others in the past on different channels*". As



has been demonstrated to the ACMA on multiple occasions, artificial intelligence-based captioning technology is advancing quickly, but is still not able to achieve 100% accuracy for live captions.

#### *Technical difficulty under s 130ZZA(7A) of the Act*

Seven submits that if the ACMA is unwilling to adequately factor in the challenges of live captioning, it should at least allow broadcasters to rely on subsection 130ZZA(7A) of the Act where the breach was caused by a significant technical difficulty which could not have been reasonably foreseen.

The explanatory memorandum for the *Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014* provides a broad purpose for the introduction of the provision:

“The proposed new subsection 130ZZA(7A) recognises that a broadcaster’s captioning service may at times be affected by particular circumstances and factors that may be outside of the relevant broadcaster’s control and cause a breach of a captioning quality standard determined by the ACMA under section 130ZZA.”

Yet, the ACMA has interpreted subsection 130ZZA(7A) to only apply in one specific scenario – where failures are solely attributable to a significant difficulty of a technical nature and no human intervention occurred to try to resolve the issue. The ACMA’s narrow interpretation renders the provision practically meaningless and seems at odds with Parliament’s intention to provide a mechanism for relief where factors that may be outside of the broadcaster’s control cause a breach.

Additionally, limiting the circumstances in which a breach of the Standard can be disregarded in this way has the effect of incentivising broadcasters to not attempt to fix any technical error that arises. Penalising broadcasters and captioning service providers for attempting to correct technical difficulties would be contradictory to the Object of the Standard, i.e., ‘to ensure that captioning services are meaningful to deaf and hard of hearing viewers.’

In this case, as accepted by the ACMA in the Report, there were unforeseeable technical difficulties with one item of captioning equipment, which caused latency issues in live captioned segments of the program. Seven submits that it should be afforded the ability to rely on subsection 130ZZA(7A) for any captioning errors stemming from this technical error, as the legislation does not require that any failure be *solely* attributable to the technical error. The fact that the captioner tried to troubleshoot the issue rather than escalate it to the on-shift co-ordinator should not change whether subsection 130ZZA(7A) is applicable. Live television is a dynamic and fast-paced environment and it is virtually impossible for human captioners to identify, troubleshoot and correct technical issues while live on-air. It is easy to apply hindsight to what should have been the best course of action, but in this instance, the human captioner chose what they believed to be the most effective way to reduce the impact on captions as a result of the technical issue. This context should be taken into account and



Seven submits that the resulting failures to meet the Standard were still “attributable” to the significant technical difficulty which could not have reasonably be foreseen.

If the ACMA maintains its narrow approach to interpreting subsection 130ZZA(7A), Seven is resigned to the fact that it will not be able to rely on this exemption where it is in breach of standards that are already unrealistic and unachievable, unless it instructs its captioning staff to not attempt to fix any technical error that arises during the captioning of live content.

### **Remedial action**

If despite Seven’s submissions, the ACMA finalises its preliminary findings outlined in the Report, Seven would circulate the final investigation report to the relevant captioning operational staff and Seven’s captioning service provider, reminding them of Seven’s captioning obligations under the Act, the Standard and Channel Seven Adelaide Pty Ltd’s broadcast licence conditions. Additionally, Seven submits that given:

- the distinct program segments (largely consisting of weather content) that are the subject of this investigation were predominantly due to unavoidable technical and operational limitations;
- it outsources at great cost its captioning to a third-party provider; and
- as previously mentioned, it has worked closely with Ai Media to investigate the technical issue and to mitigate against any recurrence since being notified of the complaint, including taking actions such as removing the piece of equipment from service, counselling the staff member on how to escalate such technical difficulties in the future, and reminding captioning staff of their obligations to comply with the Standard at all times,

Seven is of the view that the above actions would represent adequate remedial measures.

As mentioned above, Seven is also currently in the process of completing extensive remedial action in relation to past captioning breaches, which includes independent audits of captioning quality.

### **Publication**

Seven respectfully requests that the ACMA exercises its discretion not to publish its final investigation report. Seven submits that publication at this time would be unduly detrimental to it and may give the impression that Seven does not take its captioning obligations seriously. This is absolutely not the case. We are committed to fulfilling our captioning obligations as evidenced by the fact that we invest considerably in our captioning services with a highly reputable provider, maintain a high level of captioning compliance and regularly caption beyond the minimum requirements.



Publication of the final report, together with any associated media coverage, would detract from the significant contribution Seven makes to captioning for deaf and hearing-impaired viewers.

In the event that the ACMA does decide to publish its final investigation report, Seven would request at least one week's notice, in order to ensure that key stakeholders throughout the business were aware of the publication prior to any media release being distributed by the ACMA.

## **Conclusion**

Seven would like to reiterate it appreciates the importance of the captioning services that we provide to deaf and hard-of-hearing viewers and takes its captioning obligations very seriously. Seven will continue to devote considerable time and resources to achieving captioning compliance and to the extensive remedial measures it is currently completing. Seven hopes that the ACMA takes Seven's efforts and the nature of live captioning into account in reaching a decision.

If you require any additional information or wish to discuss any aspect of the above, please do not hesitate to contact me regarding this matter.

Yours sincerely,

A black rectangular box redacting the signature of the Senior Legal Counsel.

Senior Legal Counsel  
Seven West Media Limited