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Australian Government

**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

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BARTON ACT 2600

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Dear Mr Lange

Impact Analysis – Prominence Framework for Connected TV Devices – Second Pass Final Assessment

I am writing in relation to the attached Impact Analysis (IA) prepared for the prominence framework for connected television (TV) devices. I am satisfied that the IA addresses the feedback contained in your letter of 13 October 2023. The specifics are outlined below.

The articulation of the public policy problem in the IA has been expanded and enhanced and this has been closely aligned with the objective of the framework of enabling Australians to easily access free-to-air TV services and apps on connected TV devices with minimal effort, input or technical skills and knowledge on the part of the user.

The IA establishes how the prominence framework addresses the statutory media policy objects provided in subsection 3(1) of the *Broadcasting Services Act 1992*. The IA notes that in a rapidly changing media environment, there are emerging risks that free-to-air TV services will not be easily available to Australian audiences, which in turn threaten the achievement of these media policy objects. It notes that the intervention of a prominence framework would address these risks by supporting the availability of Australian TV broadcasting services to the Australian public.

The IA acknowledges that there are risks in introducing what would be a novel regulatory framework, including the potential for the regulation being ineffective despite targeting an identifiable problem, or imposing negative flow-on effects for sectors that were expected to benefit from the regulation because it is overly proscriptive or burdensome. These risks could manifest in the form of reduced choice of products for consumers as manufacturers seek to reduce the cost on compliance by limiting the number of models they produce for the Australian market, or free-to-air TV services and manufacturers having resources tied up in administrative processes to ensure their own respective participation in, and compliance with, the framework.

The IA outlines that these risks and uncertainties have been identified and assessed through two phases of consultation — one targeted at relevant sectors prior to the development of the *Prominence Framework for Connected Television Devices – Proposals Paper* (the proposals paper), and the second, public consultation process based on proposals paper. In developing the recommended option, the views of all submissions have been considered and assessed against the objectives of enabling Australians to easily access free-to-air TV services and apps on connected TV devices, while minimising the potential costs on industry.

The revised IA provides detail on how the proposed measure has been adapted in response to feedback from these phases of consultation, and provides explanation and justification for the lack of quantitative cost-benefit analysis to support the selection of the recommended option. In this regard, the IA outlines that the successive consultations undertaken in 2022 and 2023, including the consideration of proposals, did not yield specific information on the potential financial impacts of the options canvassed.

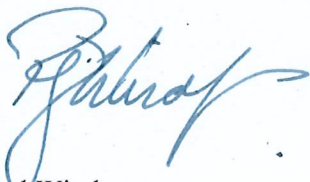
In large part, this is due to the fact that revenue and cost information is highly sensitive from a commercial perspective, and relevant parties have been unable or unwilling to disclose such information. The IA further notes that a prominence framework would be a relatively novel regulatory intervention, and there is no existing data, including from overseas, available to provide an estimate of potential financial costs to the device manufacturing industry. As such, the IA provides an estimate of the impacts of the options (based on available information and submissions) of the likely benefits and costs of the options to industry, government and consumers.

These estimates are supported in the IA with quantitative data provided in independent reports and surveys of audiences' preferences and behaviours in relation to TV consumption. Among other sources, this includes reports and research from the Social Research Centre, Deloitte Access Economics, the Australian Competition and Consumer Commission Authority and the Royal Melbourne Institute of Technology.

I confirm that the Department has attempted to identify the regulatory costs and impacts of each option, and identify potential offsets. However, it has not been possible to provide a quantitative assessment of these costs and impacts. The IA therefore provides a qualitative assessment of the likely regulatory costs and impacts associated with the framework, informed by available research and reports and the consecutive consultations undertaken in 2022 and 2023.

I am satisfied that the IA is consistent with the six principles for Australian Government policy makers as specified in the *Australian Government Guide to Policy Impact Analysis*, and I submit the IA to the Office of Impact Analysis for formal final assessment.

Yours sincerely



Richard Windeyer
Deputy Secretary
Communications & Media Group
9 November 2023