

Free TV Australia

Written Questions on Notice from Senator Lisa Darmanin

1. Would you agree that if any free to air television content were to fall within the definition of seriously harmful misinformation or disinformation, that it would likely also breach your Code of Practice as well as other Australians laws, potentially?

Response:

The Commercial Television Industry Code of Practice requires news and current affairs programs to present factual material accurately, and represent viewpoints fairly. News is required to be presented fairly and impartially, and fact distinguished from commentary and analysis. Inaccuracies may result in a breach of the Commercial Television Industry Code of Practice.

Free TV's members are subject to Australian law in all of their activities. This includes, for example, defamation law, injurious falsehood and the Australian Consumer Law. If there is a potential breach of law arising from the actions of a Free TV member, regulatory or other legal action may be taken. Breach of a law may also be a breach of a broadcast licence condition under the *Broadcasting Services Act* (BSA).

Question

2. In your view, is the proposed exemption for professional news content in the Bill broader than the exemption that is provided in the Privacy Act and the Online Safety Act?

Response:

The exemption afforded in the Privacy Act is platform-neutral. The Online Safety Act, by its nature, is applicable to material published digitally. Neither of these exemptions distinguish between digital content published on a media organisation's broadcast video on demand (BVOD) service, and content that is otherwise made available online by the same media organisation.

This Bill provides that neither FTA television broadcast services nor BVOD services will be subject to the regime. It cannot be the policy intent of the Bill that the services or content of our members that is otherwise made available online, whether through websites or apps directly offered by our members or websites or apps of third parties, is captured by the regime. But that is the consequence of the Bill in its current form, simply because of overly broad definitions that are incorporated in the Bill.

Question

3. How does free-to-air television broadcasting contribute to the provision of trusted news and information, including emergency information, in Australia?

Response:

- Whether it is ahead of an election, in times of crisis like fire and flood, or to understand issues of daily national and local relevance, Australians can turn to commercial free-to-air television for news and current affairs.
- Free TV's members distribute public interest journalism, news, current affairs and other information of importance to the community, across platforms terrestrial broadcast and digital, delivering audiences news content where and when they want it.

Inquiry into the Communications Legislation Amendment (Combatting Misinformation and Disinformation Bill) 2024 – Answers to Questions on Notice

- The broadcasting activities of Free TV's members are regulated under the *Broadcasting Services Act 1992* (BSA), the broadcasting licences that members must hold under the BSA and the Commercial Television Industry Code of Practice.
- The Code requires in respect of news and current affairs, that factual material must be accurately reported and viewpoints fairly represented. News must also be impartial.
- The standard licence conditions imposed on all commercial broadcast licensees (in clause 7 of Schedule 2 to the BSA), contain specific obligations for FTA broadcasters to assist the Minister in respect of the publication of emergency information including:
 - (d) *the licensee will, if the Minister, by notice in writing given to the licensee, so requires broadcast, without charge, such items of national interest as are specified in the notice;*
 - (e) *the licensee will, if the Minister notifies the licensee in writing that an emergency has arisen which makes it important in the public interest that persons authorised by the Minister have control over matter broadcast using the licensee's broadcasting facilities, allow those persons access to and control over those facilities;*
- It should also be remembered that commercial FTA TV broadcasters, in providing their services and content, including advertising content, to Australians, whether via terrestrial broadcast or online, must comply with generally applicable laws – including for example the Australian Consumer Law and laws of defamation and injurious falsehood.
- In studying commercial television broadcasters in the report *Everybody Gets It: Revaluing the economic and social benefits of commercial television in Australia* (2022), Deloitte found that:
 - more than two-thirds (65%) of Australians say commercial television is a trusted source of news that is essential to society and democracy.
 - Commercial television is chosen as the most useful news source during an election (35%).
- The ACMA, in its report *Communications and media in Australia series: How we access news*, released in February 2024, found that free-to-air television remains the most common main source of news, used by a quarter of Australian adults (26%—stable compared to 2022), followed by online news websites or apps (23%).