

Free TV Australia Response to Productivity Commission Inquiry: Improving Productivity Using Data

June 2025

Support safe data access and handling through an outcomes-based approach to privacy

What steps do you or your business/organisation take in order to meet your obligations under the Privacy Act?

Free TV's commercial broadcasting members invest significantly in Privacy Act compliance, including with respect to free online streaming services (7plus, 9Now, 10 Play) where broadcasters collect viewer data, including personal information, for content personalisation, advertising targeting, and platform improvement.

Free TV's members maintain detailed privacy policies explaining data collection practices, implement consent mechanisms, and provide users control over advertising preferences.

Our members can engage privacy specialists within their business for compliance reviews, including for complex advertising technology integration essential for competing with global digital platforms.

To comply with law, they implement mandatory data breach notification procedures and maintain incident response protocols.

Relevantly, given Free TV's members provide news and current affairs services, the journalism exemption in the Privacy Act applies to news and current affairs operations, which are separately subject to privacy safeguards relating to news and current affairs programs set out in the Commercial Television Industry Code of Practice. Therefore, the majority of broadcasters' Privacy Act obligations relate to streaming platform operations and digital advertising—critical revenue streams supporting Australian content production.

What other impacts does the Privacy Act have on your business/organisation?

The Privacy Act significantly impacts our members' digital streaming operations, reflecting the legitimate privacy concerns that have driven public policy reform processes in Australia and internationally. In particular, compliance complexities relating to advanced advertising technologies—including programmatic advertising platforms—give rise to the need for ongoing legal and technical investment in this evolving area, including in relation to robust security measures.

Consent requirements for sophisticated advertising practices can create measurable user experience impacts. There is a risk that overly complex consent flows can lead users to abandon platform registration, directly affecting Free TV members' ability to deliver personalised content and targeted advertising that funds free Australian content production.

Among other areas, regulatory uncertainty around programmatic advertising data flows and cross-device tracking is a risk for policy makers to manage. These technologies are essential for effective digital advertising but can create complex compliance obligations when integrating third-party demand-side platforms and data management providers.

However, we recognise privacy protection is fundamental to maintaining consumer trust in digital media services.

Clear privacy policies and user control mechanisms help establish the transparency that Australian audiences increasingly expect.

If some of the procedural requirements under the Privacy Act were replaced with outcomes-based obligations, how would that affect your business/organisation?

An outcomes-based approach to regulation—which sets out what must be achieved by the regulated entity, rather than prescribing how to achieve it—would provide for flexibility in compliance. To the extent this approach delivers efficiencies, it would improve Free TV members' ability to invest in the creation of free Australian screen content for all Australians.

In areas such as consent management, outcomes-focused regulation could enable privacy-protective advertising technologies while reducing procedural friction that can drive users away.

An outcomes-based framework should focus on measurable consumer control, and appropriate transparency (including transparency about the data our members collect, how they collect it, and the purposes for which they use it), rather than prescriptive procedural requirements that can negatively impact user experience.

An outcomes-based approach should retain the current approach of setting out high-level principles of general application in the Privacy Act, with capacity for regulations and industry codes to deal with specific contexts, and guidance issued by the Privacy Commissioner to deal with operational matters and provide advice and education.

How is the Privacy Act operating to balance consumer privacy consideration while supporting the benefits associated with data sharing? Is the balance right?

Free TV's members do not operate in the industries that are subject to Australia's Consumer Data Right, being the banking and energy sectors, where data sharing relates to empowering consumers to find a better deal on these services.

Therefore, any data sharing that occurs with service providers and partners to Free TV's members—for example, those who provide content management, marketing and advertising technology services—is conducted in accordance with strict business protocols, and in compliance with the general safeguards in the Privacy Act relating to sharing of personal information.

The Privacy Act currently balances privacy considerations and the benefits of data sharing—such as to deliver services that display content and advertising that is personalised and customised to audience members' interests, and operating and improving digital services—by setting out circumstances when disclosure of personal information is permitted.

At a high level, the Act provides that an organisation may disclose personal information for the reason it collected it (the primary purpose, such as providing a television service online). In other circumstances, in relation to what are described as secondary purposes, personal information can be disclosed where the individual has consented to the disclosure, or, for example, they would reasonably expect the information to be disclosed for a reason related to the primary purpose.

Furthermore, practices such as de-identification help ensure data sharing is secure and reduces risk of harm to the individual from whose personal information it was originally derived. De-identification

has significant security benefits, allowing the creation and use outside the privacy regulatory framework of analytical and statistical information.

The current framework provides important consumer protections while allowing data sharing that supports, in the case of Free TV's members, free Australian content production. Our members' free streaming platforms demonstrate clear benefits from responsible data use—personalised content recommendations help audiences discover Australian stories, while targeted advertising generates revenue for local content investment without subscription fees.

Are there any changes you would like to see to privacy legislation in Australia?

Free TV supports continued evolution of privacy legislation. However, careful consideration should be given to future reform to ensure it does not result in administrative burden which reduces productivity without providing material additional benefits to consumers.

For example, as previously submitted by Free TV to prior law reform processes, we oppose expanding "personal information" definitions to include IP addresses and device identifiers without connection to identifiable individuals. This would inappropriately capture technical data essential for programmatic advertising, fraud prevention, and basic platform security. It would capture data that is not sufficiently related to an identified individual to be a privacy concern.

Ongoing policy development should distinguish between high-risk data practices requiring strict oversight (such as in relation to sensitive information like health information) and standard commercial practices that enable Australian content creation through responsible data use and revenue from targeted advertising.

Enabling AI's productivity potential

How are you currently using AI?

Free TV members are adopting AI strategically to support the resource-intensive process of creating human-made stories and journalism that Australians rely on. Commercial free TV invests over \$1.6 billion annually in Australian content, including more than \$400 million on news, with newsrooms employing many journalists, producers, and technical staff across metropolitan and regional markets.

AI applications focus on enhancing rather than replacing human storytelling capabilities. AI can also be used for operational tasks such as content archive management and research workflow optimisation.

Critically, editorial judgment, fact-checking, and story verification remain firmly with human professionals subject to strict editorial standards. The Commercial Television Industry Code of Practice requires factual accuracy and fairness in news and current affairs, and impartial presentation in news—standards that demand human expertise and accountability. AI serves as a productivity tool to help journalists focus on community connection, investigation, and analysis that machines cannot replicate.

This approach recognises that quality journalism and Australian storytelling are fundamentally human endeavours requiring significant investment in skilled professionals, local outlets, and editorial oversight. AI can enhance efficiency in routine tasks, but the creative and investigative work that underpins trusted Australian content requires sustained human expertise and substantial ongoing investment.

Do you think there are opportunities to make greater use of AI in your work or home environment? What do you see as the biggest upsides?

Like many businesses media companies see opportunities with AI to assist in reducing the burdens of operational tasks and to support other service and support functions within an organisation. Reducing these cost burdens through AI assistance means media companies can focus on what they do best which is investing in the best journalists and creatives so that we can deliver the most compelling products for our audiences.

What challenges do you face in accessing or using AI? What can be done to overcome these challenges?

Key challenges centre on protecting the substantial investment in human-made journalism and other Australian storytelling that AI systems increasingly consume without attribution or remuneration. Free TV members invest over \$1.6 billion annually in Australian content production, yet AI systems have trained on this content and are undermining the advertising revenue model that funds continued investment in quality journalism and Australian stories.

The challenge is ensuring AI development supports rather than threatens the sustainability of professional journalism and Australian media businesses more generally.

These challenges could be addressed through regulatory frameworks ensuring AI providers fairly compensate content creators whose work supports AI training. The News Media Bargaining Code

provides a model for recognising the value of professional journalism in digital ecosystems. Similar principles should apply to AI systems that benefit from human-made content.

Do you have any concerns about using AI? What can be done to lower your level of concerns?

Our primary concern relates to AI's threat to the sustainability of human-made journalism and Australian storytelling, and the sustainability of Australian media businesses.

For example, when AI systems provide news summaries without attribution or click-through to original sources, they undermine the advertising revenue that funds Australian content production and thousands of journalism jobs across metropolitan and regional markets.

The labour-intensive process of quality journalism requires substantial ongoing investment in human professionals. AI systems that extract value from this work without compensation threaten the economic foundation supporting trusted Australian news and local storytelling that audiences depend on.

As mentioned, these concerns could be addressed through extending News Media Bargaining Code principles (including as this framework evolves into the Australian Government's News Bargaining Incentive framework) to AI providers, ensuring fair compensation for content used in AI training. Mandatory transparency requirements will assist in understanding what data an AI system has used to train and will assist in determining when compensation should be paid.

The Government's risk-based AI regulation approach should explicitly recognise threats to journalism sustainability and, as a result, democratic discourse, as "high risk" requiring regulatory response, protecting the substantial human investment in Australian content that serves essential public interests.