



# Submission by Free TV Australia

## ***News Bargaining Incentive Consultation Paper***

The Treasury

December 2025

## Table of contents

<b>1.</b>	<b>CONSULTATION QUESTIONS AND FREE TV RECOMMENDATIONS .....</b>	<b>3</b>
<b>2.</b>	<b>CONTEXT FOR THE NEWS BARGAINING INCENTIVE.....</b>	<b>5</b>
2.1	COMMERCIAL TELEVISION PLAYS A VITAL ROLE IN SOCIETY AND DEMOCRACY.....	5
2.2	DIGITAL PLATFORMS MUST COMPENSATE AUSTRALIAN NEWS CREATORS .....	5
<b>3.</b>	<b>SCOPE OF THE NEWS BARGAINING INCENTIVE .....</b>	<b>6</b>
3.1	DEFINITIONS OF SOCIAL MEDIA AND SEARCH SERVICES .....	6
3.2	REVENUE THRESHOLDS FOR DETERMINING ‘LARGE’ PLATFORMS .....	6
3.3	ADDITIONAL ‘SIGNIFICANCE’ TESTS .....	7
3.4	COMMENCEMENT DATE .....	7
<b>4.</b>	<b>CALCULATION OF INCENTIVE LIABILITY .....</b>	<b>7</b>
4.1	CALCULATION OF THE CHARGE BASE.....	7
4.2	REVENUE CALCULATION TIMING: USING PRIOR YEAR FIGURES .....	8
4.3	TREATMENT OF EXISTING MULTI-YEAR AGREEMENTS .....	8
4.4	TARGET VALUE OF COMMERCIAL DEALS .....	8
<b>5.</b>	<b>DEFINING ELIGIBLE EXPENDITURE .....</b>	<b>9</b>
5.1	TYPES OF ELIGIBLE EXPENDITURE: COMMERCIAL DEALS AND ARBITRATED AGREEMENTS .....	9
5.2	DEFINING ELIGIBLE NEWS BUSINESSES .....	9
5.3	PROPORTIONAL CAP ON THE LARGEST DEALS .....	9
5.4	REPORTING REQUIREMENTS.....	10
5.5	NO LEGISLATIVE RESTRICTIONS ON USE OF FUNDS .....	10
5.6	DEDUCTION RATE .....	10
5.7	CREDITING MECHANISM IS UNNECESSARY .....	11
<b>6.</b>	<b>ADDITIONAL ISSUES .....</b>	<b>11</b>
6.1	DISTRIBUTION OF FUNDS IF PLATFORMS PAY THE CHARGE .....	11
6.2	PERIODIC REVIEW OF INCENTIVE EFFECTIVENESS .....	11
<b>7.</b>	<b>ABOUT FREE TV .....</b>	<b>12</b>
<b>8.</b>	<b>APPENDIX A: LIST OF RECOMMENDATIONS.....</b>	<b>13</b>

## 1. Consultation questions and Free TV recommendations

Consultation paper question no.	Free TV Recommendations	Reference to Free TV submission
<b>Scope of the Incentive</b>		
1	<b>Recommendation 1:</b> The following services, at a minimum, should be captured in the scope of the legislation: Google, Meta, Microsoft, Apple and TikTok. The legislative mechanism to achieve this is a matter for Government	Section 3.1
2	<b>Recommendation 2:</b> Gross annual revenue attributable to Australian markets of \$250m is an appropriate threshold for determining whether a platform is 'large' for the purposes of the Incentive but will need to be supplemented by the significance test.	Section 3.2
3	As above	
4	<b>Recommendation 3:</b> Additional 'significance' tests must only be used where a platform does not meet the revenue threshold but is an unavoidable business partner.	Section 3.3
5	An assessment of 'unavoidable business partner' status, and size of user base in Australia.	Section 3.3
6	No response	
7	<b>Recommendation 4:</b> The legislation should be passed in the first two sitting weeks of 2026, and require digital platforms to enter into commercial deals by 30 June 2026. <b>Recommendation 5:</b> The incentive should be backdated to 1 January 2025 as proposed, providing continuity and certainty for ongoing arrangements.	Section 3.4
<b>Calculation of the Incentive Liability</b>		
8	<b>Recommendation 6:</b> The charge base should be set as total gross revenue generated in Australia (exclusive of GST), aggregated across the whole group. <b>Recommendation 7:</b> The charge base must be calculated on revenue attributable to Australian markets, not revenue taxable in Australia, to prevent erosion through transfer pricing and tax minimisation structures.	Section 4.1
9	<b>Recommendation 8:</b> The charge base should be calculated using revenue figures from the most recent settled reporting period (financial year).	Section 4.2
10	<b>Recommendation 9:</b> Existing multi-year agreements entered before the Incentive's commencement should be recognised as eligible expenditure in years after commencement.	Section 4.3
11	Google and Meta would be best placed to provide this information as they have oversight of each of their deals with news media businesses.	
12	<b>Recommendation 10:</b> The target value of commercial deals must be increased to reflect the growth of digital platforms, in both number and size, in Australia.	Section 4.4

Defining Eligible Expenditure		
13	<b>Recommendation 11:</b> Eligible expenditure should comprise direct commercial deals between platforms and news businesses, with arbitrated agreements under the Code also eligible	Section 5.1
14	<b>Recommendation 12:</b> News businesses should be eligible recipients of commercial deals if they are registered with the Australian Communications and Media Authority (ACMA) under the News Media Bargaining Code.	Section 5.2
15	No response	
16	<b>Recommendation 13:</b> Appropriate measures must be in place to ensure digital platforms do not acquit Incentive requirements with only one or two news media business.	Section 5.3
17	<b>Recommendation 14:</b> The number and names of platforms subject to the Incentive, and the Incentive liability of each platform, must be reported annually.	Section 5.4
18	Free TV does not support the inclusion of indirect support, such as funding grants or initiatives, as eligible expenditure under the initiative.	
19	<b>Recommendation 15:</b> No limits should be placed on how recipient news businesses use funds received through commercial deals.	Section 5.5
20	<b>Recommendation 16:</b> The deduction rate under the Incentive must be set significantly higher to compel platforms to directly remunerate Australian news businesses for their content.	Section 5.6
21	<b>Recommendation 17:</b> A crediting mechanism is unnecessary and adds complexity without clear benefit.	Section 5.7
Additional Recommendations		
	<b>Recommendation 18:</b> A detailed distribution mechanism for any charges paid to Government must be established to ensure transparency and appropriate allocation to news businesses.	Section 6.1
	<b>Recommendation 19:</b> The Incentive should be subject to formal review after two years of operation to assess effectiveness and identify needed refinements.	Section 6.2

## 2. Context for the News Bargaining Incentive

### 2.1 Commercial television plays a vital role in society and democracy

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Commercial television plays an indispensable role in Australia's news landscape, serving as a cornerstone of informed democracy and community connection across the nation.

Commercial television broadcasters invest significantly in journalistic content – more than \$408m was spent on news and current affairs in FY24, including \$35.2m in regional Australia. Commercial broadcasters provide 390 local news bulletins every week, as well as news updates and community service announcements. These news services are watched by 11.4 million Australians every week.<sup>1</sup>

Critically, commercial television broadcasters remain the only providers of local regional television news services in many communities, ensuring that Australians outside major cities maintain access to coverage of issues directly affecting their lives. This geographical reach is unmatched by other news providers, creating a unique public service that extends far beyond metropolitan centres.

In addition to news content produced for broadcast and broadcast video on demand services, some Free TV members also produce and distribute news content in print and digital outlets.

The operational framework under which Free TV members produce news content is rigorous and tightly regulated. Commercial television broadcasters must adhere to the Commercial Television Industry Code of Practice, enforced by the ACMA. Unlike many digital platforms, commercial broadcasters face stringent accountability mechanisms for the content they produce, creating additional safeguards for news consumers. This regulation comes at a cost to Australian news businesses, which are required to compete against unregulated content providers.

### 2.2 Digital platforms must compensate Australian news creators

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Global digital platforms have fundamentally disrupted the traditional advertising model that funded news production. Google and Meta alone account for 70% of digital advertising in Australia.<sup>2</sup> The IAB Australia found in August 2025 that search maintains the largest share of online advertising at 44%.<sup>3</sup> The Australian online advertising market reached \$17.2 billion in FY25.<sup>4</sup> By contrast the Total TV advertising revenue for FY24 was \$3.2 billion.<sup>5</sup>

Over the past 5 years, virtually all net growth in Australia's advertising market has flowed to digital platforms, with digital ad spend consistently showing double digit annual growth while traditional media stagnated or declined. Between FY20 and FY25, Australian advertising spend increased by 52%. Ninety five per cent of that growth in the advertising market went to digital over that period. The rest of the growth was in radio, outdoor and cinema advertising, with television and print advertising declining.<sup>6</sup>

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<sup>1</sup> VOZ Total TV Seven, Nine, Ten When Watched Cumulative Reach July 2025. Average full week reach July 2025.

<sup>2</sup> <https://www.theguardian.com/media/2024/oct/03/australia-media-concentration-google-meta-funding>

<sup>3</sup> <https://iabaustralia.com.au/news/summer-olympics-and-election-accelerates-online-advertising-market-growth-advertising-spend-reaches-17-2billion-for-fy2025/>

<sup>4</sup> <https://iabaustralia.com.au/news/summer-olympics-and-election-accelerates-online-advertising-market-growth-advertising-spend-reaches-17-2billion-for-fy2025/>

<sup>5</sup> <https://thinktv.com.au/news/total-tv-advertising-revenue-fy24/>

<sup>6</sup> Venture Insights Australian Advertising market summary

Digital media's share of total ad spend in Australia is projected to reach around 76% in 2026.<sup>7</sup>

The platforms' market dominance creates an unavoidable trading partner dynamic.<sup>8</sup> Media businesses are placed in a position of accepting unfavourable terms because digital platforms hold near-monopoly positions in their respective markets and control access to online audiences. Whilst these platforms benefit substantially from hosting and distributing high-quality news content produced by commercial broadcasters, they have historically not paid fair value for that content.

This imbalance has real consequences for journalism.<sup>9</sup> Without sustainable revenue models, commercial broadcasters face mounting pressure to maintain the breadth and depth of their news operations, potentially reducing services to Australian communities and eliminating jobs across the industry.

### 3. Scope of the News Bargaining Incentive

#### 3.1 Definitions of social media and search services

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**Recommendation 1: The following services, at a minimum, should be captured in the scope of the legislation: Google, Meta, Microsoft, Apple and TikTok.**

Commercial broadcasters note the significant market power and bargaining imbalance with major search and social media platforms, being at a minimum: Google, Meta, Microsoft, Apple and TikTok. The legislative mechanism to define these services is a matter for Treasury, though we support legislative consistency where possible.

The consultation paper's intention to capture digital platforms operating significant social media or search services, irrespective of whether they carry news content, is appropriate. However, it is critical that the implementation ensures all revenue streams associated with these platforms are appropriately captured in the charge base.

#### 3.2 Revenue thresholds for determining 'large' platforms

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**Recommendation 2: Gross annual revenue attributable to Australian markets of \$250m is an appropriate threshold for determining whether a platform is 'large' for the purposes of the Incentive.**

A \$250m revenue threshold effectively targets platforms with substantial operations in Australia – they are unavoidable business partners and with significant market power.

The consultation paper correctly identifies 'group' for this purpose as meaning entities consolidated for accounting purposes as a single group. This approach appropriately prevents fragmentation of platform operations across multiple entities to avoid the threshold.

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<sup>7</sup> <https://www.mediaweek.com.au/australias-ad-market-to-reach-30-7-billion-in-2026/>

<sup>8</sup> ACCC, *Digital Platforms Inquiry – Final Report*, p8

<sup>9</sup> The number of people for whom journalism is their primary job decreased by 19% from 2011 to 2021' – see the ACMA, *News Media in Australia – 2025 report*, p4

### 3.3 Additional ‘significance’ tests

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**Recommendation 3: Additional ‘significance’ tests must only be used where a platform does not meet the revenue threshold, but is an unavoidable business partner.**

Free TV strongly recommends that the revenue test be the first and primary test for the Incentive to apply to a digital platform – if a digital platform’s revenue meets the threshold, it must be automatically captured by the Incentive.

Digital platforms which do not meet the revenue threshold may also be considered ‘significant’ in the Australian market – this is likely to primarily apply to those that are unavoidable business partners for Australian media companies, and/or with a large user base in Australia. A ‘significance’ test reflecting these considerations should be applied to all digital platforms in order to assess whether they should also fall within the scope of the Incentive.

### 3.4 Commencement date

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**Recommendation 4: The legislation must be passed in February 2026, and digital platforms must be required to make deals prior to 30 June 2026.**

**Recommendation 5: The Incentive should be backdated to 1 January 2025 as proposed, providing continuity and certainty for ongoing arrangements.**

Free TV members undertake financial planning for the coming financial year in the third quarter of the current Australian financial year. In order to budget and plan for the next financial year, broadcasters require maximum possible certainty in forecasting revenue from all sources, including digital platforms. Free TV urges the Government to pass this legislation in the first Sitting Period in 2026, and for the date of operation to be immediate. The legislation must require those digital platforms falling within the scope of the Incentive to make deals with Australian news media businesses prior to 30 June 2026.

This will ensure that Free TV members can undertake appropriate financial planning processes and that there is no funding gap in the first half of FY27.

Free TV supports a commencement date of 1 January 2025, as it will go some way to addressing the impact of the Meta withdrawal from News Media Bargaining Code agreements in March 2024, and ensure that there is no delay to platforms appropriately remunerating Australian news businesses for their journalism. Given ongoing financial and advertising market pressures, timely commencement is essential.

## 4. CALCULATION OF INCENTIVE LIABILITY

### 4.1 Calculation of the charge base

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**Recommendation 6: The charge base should be set as total gross revenue generated in Australia (exclusive of GST), aggregated across the whole group.**

**Recommendation 7: The charge base must be calculated on revenue attributable to Australian markets, not revenue taxable in Australia, to prevent erosion through transfer pricing and tax minimisation structures.**

Total gross revenue generated in Australia is the appropriate charge base for the Incentive. This option provides the most accurate reflection of platform scale and market power whilst maintaining administrative simplicity. This aligns with Treasury's stated preference.<sup>10</sup>

Any charge that operates against taxable revenue is subject to erosion through the adoption of transfer pricing and other financial mechanisms that would reduce digital platforms' charge base in Australia. For example, Google reported \$8.4 billion in Australian gross revenue in 2022, but this fell to \$1.98 billion in 2024.<sup>11</sup> Given overall trends in international Google revenue, it would appear that this very significant drop is related to reporting changes.

The legislation must be drafted to capture the true Australian economic footprint of these platforms.

## 4.2 Revenue calculation timing: using prior year figures

**Recommendation 8: The charge base should be calculated using revenue figures from the most recent settled reporting period (financial year).**

Using prior year revenue allows platforms to calculate their liability based on known figures rather than estimates or projections.

Free TV does not support setting the charge base using revenue figures from three years prior, as these will misrepresent the revenue and market power of the digital platforms at the time of making the deal.

## 4.3 Treatment of existing multi-year agreements

**Recommendation 9: Existing multi-year agreements entered before the Incentive's commencement should be recognised as eligible expenditure in years after commencement.**

Many existing deals under the News Media Bargaining Code were struck for five-year terms and will be expiring in FY26. Recognising expenditure under existing agreements during the transition period supports continuity while new agreements are negotiated.

However, we reiterate the need for digital platforms to be required to negotiate deals prior to 30 June 2026, to provide certainty for news media businesses.

## 4.4 Target value of commercial deals

**Recommendation 10: The target value of commercial deals must be increased to reflect the growth of digital platforms, in both number and size in Australia.**

The existing deals were negotiated in 2021 – over four years ago. Since then, the revenue and market power of digital platforms has increased. As noted above, between FY20 and FY25, Australian advertising spend increased by 52%. Ninety five per cent of that growth in the advertising market went

<sup>10</sup> 'Treasury's preferred option is for the charge base to be the total gross group revenues generated in Australia arising in a fiscal year, exclusive of GST' – see Consultation Paper, p9

<sup>11</sup> <https://www.afr.com/companies/media-and-marketing/google-s-australian-team-made-less-money-last-year-20250502-p5lw2o>

to digital over that period. The rest of the growth was in radio, outdoor and cinema advertising, with television and print advertising declining.<sup>12</sup>

The commercial agreements made in 2021 were between a handful of Australian news businesses and only two digital platforms – Google and Meta. Free TV’s proposal is for the Incentive to capture at minimum five digital platforms.

Given the growth in the overall advertising market and the revenues being generated by the digital platforms since 2021, the value of commercial agreements entered into under the News Media Bargaining Code in 2021 does not provide an appropriate baseline for new commercial agreements in 2026. The target baseline quantum of new commercial agreements must be adjusted in line with movements in the overall advertising market and revenue generation of the digital platforms, as well as the additional platforms that should be subject to the Incentive.

## 5. DEFINING ELIGIBLE EXPENDITURE

### 5.1 Types of eligible expenditure: commercial deals and arbitrated agreements

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**Recommendation 11: Eligible expenditure should comprise direct commercial deals between platforms and news businesses, with arbitrated agreements under the Code also eligible.**

Eligible expenditure under the Incentive must be limited to commercial deals between a platform and news business, and arbitrated agreements under the News Media Bargaining Code. These deals are best placed to support sustainability, as they provide freedom to news media businesses to invest appropriately in their ongoing operations.

Free TV does not support the inclusion of indirect support, such as funding grants or initiatives, as eligible expenditure under the Incentive.

### 5.2 Defining eligible news businesses

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**Recommendation 12: News businesses should be eligible recipients of commercial deals if they are registered with the Australian Communications and Media Authority (ACMA) under the News Media Bargaining Code.**

Free TV supports the use of News Media Bargaining Code registration as an appropriate threshold for defining eligible news media businesses under the News Bargaining Incentive.

A broad range of entities are now registered, and it remains open for new entities to apply.

### 5.3 Proportional cap on the largest deals

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**Recommendation 13: Appropriate measures must be in place to ensure digital platforms do not acquit Incentive requirements with only one or two news media business.**

The objective of the Incentive is to promote industry sustainability, and this objective cannot be achieved if payments are flowing to just one or two major news media businesses.

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<sup>12</sup> Venture Insights Australian Advertising market summary

Digital platforms are using content from a wide range of businesses, and this should be recognised in the diversity of deals made. A proportional cap may be appropriate pending the final target value of commercial deals and the size of the aggregate value pool.

Tiered deduction rates for regional and small publishers should not be included in the Incentive design. If a review reveals that regional and small publishers are not adequately benefiting, tiered rates or other mechanisms could be considered.

## 5.4 Reporting requirements

**Recommendation 14: The number and names of platforms subject to the Incentive, and the Incentive liability of each platform, must be reported annually.**

In order for the Incentive to operate efficiently, the Government must provide:

- Total number and names of platforms subject to the Incentive
- The Incentive liability of each platform

At the end of each reporting period, the Government must publish:

- The platforms' expenditure under the Incentive
- Number of deals made with news businesses

## 5.5 No legislative restrictions on use of funds

**Recommendation 15: No limits should be placed on how recipient news businesses use funds received through commercial deals.**

When a platform enters a commercial deal with a news business, it is paying for value received (access to news content, or other commercial benefits). The news business, having provided this value, should have autonomy over how they use the payment, just as in any other commercial relationship.

Government should not intervene in how parties to commercial transactions deploy their revenues.

## 5.6 Deduction rate

**Recommendation 16: The deduction rate under the Incentive must be set significantly higher to compel platforms to directly remunerate Australian news businesses for their content.**

The proposed deduction rate of 150% is unlikely to be sufficient to outweigh the administrative burden, as well as the optics, of directly compensating Australian news businesses.

This was recognised in the *Communications Legislation Amendment (Australian Content Requirement for Subscription Video On Demand (Streaming) Services) Bill 2025*.<sup>13</sup> Under that legislation, if a relevant

<sup>13</sup> The Explanatory Memorandum states that, '...[t]he penalty imposed by this provision must be high enough to deter the large, often multi-national companies that will be captured by the requirement. A small fine would not act as a deterrent. It is anticipated that regulated SVOD services' expenditure requirements will be tens of millions of dollars per service. Lower penalty amounts risk widespread non-compliance as services may view the payment of penalties as a more attractive alternative to meeting their obligations under the legislation. The quantum of this penalty is intended to be significant enough to avoid this outcome.' (page 33).

service fails to meet expenditure requirements it will be liable for a civil penalty. The Federal Court has the power to impose a pecuniary penalty of up to 10 times the original expenditure requirement.

The deduction rate under the Incentive must be set significantly higher than 150%, to compel platforms to directly remunerate Australian news businesses for their content.

## 5.7 Crediting mechanism is unnecessary

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**Recommendation 17: A crediting mechanism is unnecessary and adds complexity without clear benefit.**

The Incentive operates on an annual basis, with charge liability calculated each year. This annual structure is simpler and more straightforward than multi-year crediting systems.

This complexity created by a crediting mechanism creates administrative burden and risk for both platforms, news businesses and government without clear corresponding benefit.

## 6. ADDITIONAL ISSUES

### 6.1 Distribution of funds if platforms pay the charge

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**Recommendation 18: A detailed distribution mechanism for any charges paid to Government must be established to ensure transparency and appropriate allocation to news businesses.**

It is critically important to establish a distribution mechanism before any platform pays the charge rather than directly negotiating a commercial deal.

Under the distribution mechanism, any news businesses registered with the ACMA under the News Media Bargaining Code must be eligible to receive funds under this distribution mechanism. This must include all licensed commercial television broadcasters – those with foreign ownership of Australian licensed operations should not be excluded from eligibility.

All licensed broadcasters meet the same regulatory requirements, such as Australian content production, and all invest in public interest news production. As such, these should be treated equally. Eligibility requirements for distribution of funds under the Incentive must not replicate the eligibility requirements under News MAP, which exclude Paramount/Ten from receiving grant funding.

Free TV looks forward to participating in a future consultation on this issue.

### 6.2 Periodic review of Incentive effectiveness

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**Recommendation 19: The Incentive should be subject to formal review after two years of operation to assess effectiveness and identify needed refinements.**

The Incentive should be subject to periodic formal review. Reviews should be conducted by Treasury or an independent reviewer. Review reports should be published to provide transparency about findings and recommendations.

The first review should occur after two years of operation, allowing sufficient time for patterns to emerge whilst being timely enough to inform adjustments if significant issues are identified.

## 7. About Free TV

Free TV Australia is the peak industry body for Australia's commercial television broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial free TV television makes to Australia's culture and economy. We proudly represent all of Australia's commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Our members are dedicated to supporting and advancing the important contribution commercial free TV makes to Australia's culture and economy. Free TV members provide vital local services to all Australians, available in almost 100 per cent of homes—whether they be delivered over the air to an aerial, or via free broadcast video on demand (**BVOD**) services delivered via the internet.

Free TV brings Australians together, supporting Australian culture and democracy. The commercial television industry creates these benefits by delivering content across a wide range of genres, including news and current affairs, sport, entertainment, lifestyle and Australian drama. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

Commercial television networks:

- Reach 19.3 million Australians every week, including 11.4 million who watch trusted news every week, and 9.5 million who watch live and free sport each week
- Provide 25,285 hours of Australian content a year
- Spend more than \$1.625bn on Australian content every year, dedicating over 88% of their content expenditure to local programming
- Spend more than \$400m a year on trusted news, including on 390 local news bulletins every week across the country (plus updates and community service announcements)

A report released in September 2022 by Deloitte Access Economics, *'Everybody Gets It: Revaluing the economic and social benefits of commercial television in Australia'*, highlighted that in 2021, the commercial TV industry supported over 16,000 full-time equivalent jobs and contributed a total of \$2.5 billion into the local economy. Further, advertising on commercial TV contributed \$161 billion in brand value.

A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

## 8. Appendix A: List of recommendations

Recommendation 1	The following services, at a minimum, should be captured in the scope of the legislation: Google, Meta, Microsoft, Apple and TikTok. The legislative mechanism to achieve this is a matter for Government.
Recommendation 2	Gross annual revenue attributable to Australian markets of \$250m is an appropriate threshold for determining whether a platform is 'large' for the purposes of the Incentive but will need to be supplemented by the significance test.
Recommendation 3	Additional 'significance' tests must only be used where a platform does not meet the revenue threshold, but is an unavoidable business partner.
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