SUBMISSION BY
FREE TV AUSTRALIA

JULY 2026

Interactive Gambling Amendment (Gambling Reform) Bill 2026

Senate Environment and Communications Legislation Committee

free tv AUSTRALIA

Contents

1. Executive Summary

New restrictions must be workable, proportionate and appropriately targeted to the risk of harm

- Commercial television broadcasters recognise that there is a community expectation for appropriate regulation of wagering advertising.
- Broadcasters are already subject to a comprehensive and multi-layered framework of regulatory safeguards in relation to wagering advertising. This framework includes a complete whistle-to-whistle ban on gambling advertising in live sport, with only limited advertising permitted in scheduled breaks after 8.30 pm, as well as significant protections for child audiences.
- However, it is acknowledged that the Government intends to impose additional restrictions as set out in the Interactive Gambling Amendment (Gambling Reform) Bill 2026 (the **Bill**).
- New restrictions in the Bill will add significantly to the existing regulatory framework and increase the restrictions on broadcasters by limiting gambling advertising in non-sport programming to three per hour prior to 8.30 pm, as well as also requiring triple lock compliance for free streaming or broadcasting video on demand (**BVOD**) services like 7plus, 9Now and 10 Streaming.
- While Free TV Australia (**Free TV**) supports the overarching objective of reducing harm from wagering advertising, we have a number of significant concerns with the Bill as currently drafted.
- The Bill must be amended to ensure it does not exceed community expectations, and to ensure that it is workable, proportionate and appropriately targeted to the risk of harm.
- Without amendments there is a risk the new restrictions will disproportionately impact commercial broadcasters who can only, by law, derive revenue from advertising.[1]
- Competitive disadvantages between regulated entities – such as between social media platforms that already have age assurance mechanisms in place, subscription providers who collect credit card details, and Free TV's members who do not – must be avoided. If not addressed, these will lead to revenue bypass to other platforms that do not provide the same public goods as commercial television.
- If the law is not carefully calibrated, there will be material sustainability impacts on the commercial broadcasting sector, affecting the ability of Free TV's members to fund the production of free content for all Australians.
- This would mean less accountable news that supports democratic participation and informs Australians in times of emergency, less live and free sport that brings communities together and drives social cohesion, and less entertainment programming that reflects the Australian way of life.
- Free TV and its members seek to ensure that protections from the potential harms of wagering are balanced with the impact on the important public policy outcomes that commercial broadcasters deliver.
- The recommendations in this submission are targeted to ensuring this balance is achieved.

Age verification requirements must be proportionate and not become an effective ban

- Australian audiences expect, and are entitled, to receive free access to commercial television regardless of the platform on which they access it. They do not expect to be required to give

[1] *Broadcasting Services Act 1992*, section 14.

invasive personal information to access these services, or for there to be technical barriers that make access difficult.

- Age assurance steps for BVOD services must not act as a barrier to what is essentially a free live service for all Australians, especially given that live free streaming is increasingly the way that Australians access their free TV services.
- However, the current age verification requirements contained in clause 62P of the Bill could, as currently drafted, require broadcasters to collect intrusive personal data such as credit card details or conduct facial recognition.
- The Bill should be amended to provide for the following reasonable steps for BVOD age assurance:
  - Grandfathering existing registered users – adults who already hold a registered account are treated as having satisfied the registration requirement. Millions of Australians are already registered to receive 9Now, 7plus and 10 Streaming and should not be required to re-register.
  - Self-declaration of age for new accounts – for example, by providing a date or year of birth when they set up an account.
  - Age inference through viewing behaviour monitoring – with follow up action if this indicates that the user is in fact a child.

Scheduled hours – calculation of hourly broadcast caps

- It will not be possible for legacy broadcast scheduling systems, which operate on a fixed hourly basis, to comply with a rolling 60-minute cap when calculating the proposed 3 gambling advertisements per hour limit (6.00 am to 8.30 pm). A rolling 60-minute cap is unworkable in practice.
- An exemption for genuine error, mistake or accident contained in the Bill is not sufficient to deal with a rolling 60-minute cap where it is unworkable to deliver the required outcome from a systems perspective, exposing broadcasters to substantial penalties, unless an appropriate exemption is included.
- Therefore, the Bill should be amended. The ‘rolling hour’ requirement should be replaced with a ‘clock hour’ requirement.

Proposed legislation introduces significant uncertainty

- The Bill as currently drafted introduces significant uncertainty across a range of regulatory areas, creating risks for industry stakeholders seeking to understand and meet their obligations.
- The definition of ‘advertising’ is particularly pertinent, as the current drafting is unclear and inconsistent with existing industry standards; it should instead be based on the well-established definition set out in the Free TV Code, which already provides clarity and regulatory precedent.
- The legislation allows for considerable compliance uncertainty, particularly as much of the practical detail is left to guidelines yet to be developed by the Australian Communications and Media Authority (**ACMA**), meaning industry cannot fully assess its obligations until these guidelines are finalised.
- Given these major areas of uncertainty across definitions, guidelines, and regulatory expectations, the proposed implementation timeframe is not reasonable and does not allow sufficient time for industry to understand, prepare for, and comply with the new requirements.

Implementation time

- The commencement date of 1 January 2027 does not provide enough time for broadcasters to build the systems and processes to comply with the online triple lock requirements.
- As noted above, there is a risk new restrictions become an effective online ban for Free TV's members while others who already have age assurance continue to provide gambling advertising, leading to regulatory and revenue bypass. This is anti-competitive.
- The very short commencement time proposed in the Bill is unreasonable and out of step with other recent processes where large digital and technology platforms have been given significantly longer to make system and process preparations for compliance. Recent technical obligations such as the under 16 social media ban and new prominence rules gave affected platforms 12 or 18 months to comply.
- The new laws should commence 18 months from assent (not on 1 January 2027).

2. Introduction

Free TV is the peak industry body representing Australia's commercial television broadcasters in metropolitan, regional and remote licence areas.

Free TV services are available to all Australians using the delivery technology that they choose, free of charge. They bring Australians together, supporting Australian culture and democracy through trusted news, live and free sport and Australian entertainment programming. 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.

Commercial television networks:

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

Commercial television licensees are governed by the provisions of the *Broadcasting Services Act 1992* and are required to provide their services free of charge, supported by advertising revenue.

3. Recommended amendments

This section outlines proposed amendments to the Bill. Recommended drafting for matters dealt with in sections 3.1–3.3 below is at **Appendix A**.

3.1 Triple Lock Age verification requirements

Recommendation

For BVOD services reasonable steps to assure age should be limited to self-declaration of age and age inference. Specify that other types of assurance, including but not limited to provision by users of identification documents, or age estimation based on facial scans, is not required for BVOD services. Grandfather existing registered users who have already declared age and demonstrated that they are adults.

Section 62P of the Bill introduces a complete ban on wagering advertising on online content services unless the online content service provider takes ‘reasonable steps’ to prevent restricted users from receiving wagering advertising content. They must also ensure users are operating registered accounts, and that users can opt out from receiving wagering advertising – the so-called ‘Triple Lock’.

While many viewers remain reliant on aerial delivered services, live free streaming through BVOD apps is increasingly the way that Australians access their Free TV services. Broadcasters are concerned age assurance steps for BVOD must not act as a barrier to what is essentially a free live service for all Australians.

Facial recognition, credit cards or government ID raise privacy issues and practical problems, particularly on TV sets. Unlike subscription or online content providers, BVOD services do not collect credit card details because they are free services. Unlike YouTube, Facebook and Instagram, BVOD services are not subject to the social media minimum age rules which will already see those platforms have age assurance in place.[2]

Under the requirements of the Bill, millions of Australians already signed into BVOD accounts could be required to re-register and provide age assurance. This could see many of these registered viewers lost to our competitors.

BVOD services will need to build new processes that users are willing to go through in order to show wagering ads. BVOD audiences have little incentive to undertake onerous age assurance (for example, facial scanning and uploading ID), which may give rise to privacy concerns, just to receive a single class of advertisement. Therefore, there is a real risk this requirement becomes an effective ban on wagering ads on BVOD entirely, and leads to revenue bypass to other online content providers who can comply and are able to more effectively target consumers.

It will not be possible to ‘lift and shift’ guidance from eSafety in the context of social media minimum age law to implementing a triple lock for BVOD services. The particularities of devices used to watch television (including via BVOD services) – relevantly, including connected televisions – must be taken into account, as well as the circumstances in which they are watched (for example, in family groups where a parent creates an account and guides the viewing of children).

The Bill also fails to provide sufficient certainty about what will constitute ‘reasonable steps’ in practice. For example, clause 62P includes only general principles of how opt-out should function (‘clear, simple, effective and easily accessible’ and ‘display…in a way that is prominent to individuals’). Issues include:

[2] BVOD services are also substantively different to social media services in that they provide a safe and trusted space which delivers professionally produced content, and does not provide for user interaction through features like comments.

- Implementing opt-out will not be simple and will require updates to third party-provided technology which does not provide instantaneous opt-out. Like in the *Spam Act 2003* there should be provision for a period of at least 5 business days from the date of opt-out.
- There are issues related to historical content which may have included wagering advertising when first broadcast – broadcasters should not be required to have to strip these advertisements out.
- For new content the opt-out should only apply to digital TVCs (television commercials). The experience of SBS in implementing an opt-out feature should be taken into account, including qualifications that apply under its policy.[3]

Broadcasters that offer BVOD services are being asked to build and invest in significant technical infrastructure to comply with these requirements, and they cannot do so effectively without knowing what standard will be applied.

Free TV submits that the legislation itself should establish a clear, staged framework for the reasonable steps obligation, rather than leaving its content entirely to the ACMA's discretion. Amendments to the Bill should provide in relation to BVOD services that:

- **Existing registered accounts are grandfathered**: adult users who already hold a registered account at the time the scheme commences are treated as having satisfied the registration requirement, without needing to re-register or undertake further age assurance steps. To require such steps would be significantly disruptive to the millions of existing registered users of BVOD services who have already demonstrated that they are adults and impose significant administrative burden on BVOD providers.

- **Self-attestation of age at registration is the starting point for new accounts**: for users registering new accounts after commencement, self-declaration of age (for example, by providing a date or year of birth) is sufficient to satisfy the age assurance element of the reasonable steps obligation. The Bill should make explicit that collection of government-issued identification documents cannot be required of BVOD providers.

- **Age inference through ongoing monitoring supplements self-attestation**: following registration, BVOD providers should be able to satisfy the reasonable steps obligation by monitoring viewing behaviour and applying age inference techniques to identify users who appear to be under 18. Where monitoring indicates that a user is likely under 18, the BVOD provider must opt that user out of receiving wagering advertising content.

This approach is proportionate, privacy-respecting, and does not require intrusive identity verification.

A risk-based approach to reasonable steps to assure age, such as is set out above, has recently been endorsed by the Office of the Australian Information Commissioner in its consultation materials on the upcoming Children's Online Privacy Code. The Draft Explanatory Statement indicates a risk-based approach is appropriate where lower-risk services may accept a higher degree of uncertainty as to age, while higher-risk services require greater certainty.[4]

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[3] SBS's audience information on the opt-out feature notes that it will significantly reduce the number of video advertisements served, that it may take a period of time for the audience member's opt-out preference to take effect during viewing sessions, and that sponsorship references, such as sponsorship billboards, partnership announcements and sponsored segments in-program are not treated as advertising and are excluded from the opt-out – see more information at https://help.sbs.com.au/hc/en-au/articles/360002023835-Information-on-ads-and-ad-preferences-on-SBS-On-Demand.

[4] OAIC, Exposure Draft Explanatory Statement, Privacy (Children's Online Privacy) Code 2026, page 6 – available at https://www.oaic.gov.au/__data/assets/pdf_file/0019/262630/Draft-Explanatory-Statement-Exposure-Draft-Childrens-Online-Privacy-Code.pdf.

3.2 Hourly broadcast caps

Recommendation

The hourly broadcast cap between 6.00 am and 8.30 pm should be calculated on a clock hour, not a rolling hour basis.

Section 62M introduces a frequency cap of three wagering advertisements per 60-minute block per channel during daytime hours (6.00 am to 8.30 pm). The Bill provides that the cap is to be applied on a rolling 60-minute basis, such that it applies to 'any 60-minute period that occurs during the restricted time' (s.62M(1)(e)).

A rolling 60-minute cap is unworkable in practice and should be replaced with a fixed clock hour approach, calculated by reference to each clock hour of the day (for example, 6.00 am–7.00 am, 7.00 am–8.00 am, and so on).

A rolling period means that the permissible number of advertisements at any given time depends on what has been broadcast in the preceding 60-minute window. Legacy traffic systems are based around fixed time scheduling and are not capable of monitoring on a rolling or minute by minute basis without significant and costly software upgrades to ageing infrastructure.

The compliance risk is particularly acute for live programming, where the timing of advertisement breaks is subject to unforeseen variation due to the unscripted nature of live coverage, and where late-delivered or interrupted content can shift the placement of advertisements in unpredictable ways.

The clock hour approach is not merely a matter of administrative convenience. It is also the approach that applies in regulating advertising time limits in the Commercial Television Industry Code of Practice (**Free TV Code**) and which the ACMA has applied in its compliance investigations and guidance for some time. For example, the ACMA's published guidance on advertising time limits for community broadcasting is clear that advertising limits are calculated by reference to clock hours – that is, from the top of the hour.[5] This approach is well understood and has operated effectively in the broadcasting sector.[6]

Free TV also recommends that the cap be calculated by reference to the scheduled broadcast time of the wagering advertising content, rather than its actual airtime, to address the practical difficulties of live or delayed programming.

The exemption for genuine error, mistake or accident in subsection 62M(4) is unlikely to cover the above circumstances and broadcasters would be exposed to substantial penalties. Therefore, the Bill should be amended so that the 'rolling hour' requirement is replaced with a 'clock hour' requirement.

3.3 Implementation time

Recommendation

Amend the commencement provisions in the Bill so that the whole of Schedule 1 commences 18 months from assent (not on 1 January 2027).

Free TV is concerned that the commencement date of 1 January 2027 for Schedule 1 of the Bill does not provide sufficient time for broadcasters to build the systems and processes necessary to comply with the new obligations.

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[5] See ACMA, *Community Broadcasting Sponsorship Guidelines 2008*, page 15 – available at https://www.acma.gov.au/publications/2008-06/guide/community-broadcasting-sponsorship-guidelines.

[6] There are also numerous examples of the ACMA taking this approach in investigating Free TV's members under the Free TV Code, such as ACMA Investigation Report 2104 (10 March 2009) and ACMA Investigation Report 2250 (16 October 2009).

As noted above, the triple lock requirements in section 62P present significant technical implementation challenges for broadcasters, including with respect to the delivery of age assurance mechanisms and opt-out mechanisms across the diverse range of online platforms, apps and connected television environments. These will require substantial lead time to develop, test and deploy.

This is particularly the case for broadcasters who, in relation to their BVOD apps, are required to have product variations specific to particular brands of television or even particular models within those brands. This will require a significant time and resources to build multiple product executions to comply with the 'triple lock' requirements in each case.

It is noted that in other recent examples of technical obligations, such as under the social media minimum age law, and prominence requirements for connected televisions, affected platforms were given 12 or 18 months to comply,[7] despite many of them being huge multinational and well-resourced organisations with large product and R&D teams.

Free TV strongly recommends that the Bill be amended to provide that Schedule 1 commences 18 months after the Act receives Royal Assent. This would provide a level playing field with the treatment afforded to other regulated industries under comparable legislation and would allow broadcasters and online content service providers sufficient time to implement robust and effective compliance mechanisms.

3.4 Exemptions in the Online Content Service Provider Rules

Recommendation

Sections 18 and 19 of the *Broadcasting Services (Online Content Service Provider Rules) 2018* be carried over to the Bill to ensure ongoing certainty for broadcasters.

The Bill repeals the *Broadcasting Services (Online Content Service Provider Rules) 2018* (the **Rules**) in their entirety. There are, however, a number of provisions in these Rules that should be carried over to the Bill. In particular, they reflect the practical realities of managing compliance with respect to live sport – there are sound reasons for them and they should be maintained.

Section 18 provides for 'exceptions for certain circumstances beyond the control of the service provider'. These include:

- changes to the scheduled start of events;
- sporting events which originate from outside Australia;
- the promotional content appears as part of the live coverage, but the provider does not receive any benefit; and
- where the end user may be at a particular location.

While the Bill goes some way towards providing an exception in certain circumstances, it requires the full provision to be carried over (with appropriate redrafting for consistency) to give ongoing certainty to broadcasters in their operations.

Additionally, section 19 of the Rules (and Schedule 3 of the Free TV Code[8]) provide for exceptions in three main areas:

> *An online content service provider that provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event will not contravene Parts 3, 4 or this Part in respect of any gambling promotional content that:*

[7] Social media platforms received 12 months from assent to implement compliant systems under the *Online Safety Amendment (Social Media Minimum Age) Act 2024*. Similarly, under the *Communications Legislation Amendment (Prominence and Anti-Siphoning) Act 2024*, connected television manufacturers were afforded an 18-month transition period to comply.

[8] Available at https://www.freetv.com.au/resources/code-of-practice/.

(a) relates solely to Government sanctioned lotteries, lotto, keno or competitions;

(b) relates to entertainment or dining facilities at places where betting or gambling takes place, provided that the promotional content does not draw attention to betting or gambling; or

(c) relates to tourism, provided that the promotional content does not draw attention to betting or gambling.

These should be reflected in either the Bill or regulation.

Appendix 3 of the Free TV Code defines 'Commercial relating to Betting or Gambling', and states that:

A Commercial relating to Betting or Gambling does not include:

- *a commercial relating to such things as Government sanctioned lotteries, lotto, keno or competitions;*
- *a commercial relating to entertainment or dining facilities at places where betting or gambling takes place, or a tourism commercial which incidentally refers to betting or gambling,*

  provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use;
- *a reference that is Accidental; or*
- *a reference that is an Incidental Accompaniment.*

The definition in the Free TV Code provides an existing, workable model for these exceptions, and Free TV submits it is more appropriate for equivalent exceptions to continue to be provided for in legislation rather than left to be inferred.

4. Appendix A

This appendix sets out proposed drafting for recommended amendments described in Section 3 of this submission (issues at 3.1–3.3).

4.1 Triple Lock Age verification requirements

Section 62P amendments in tracked changes below:

Exception—reasonable steps taken

…

(2) Subsection (1) does not apply if the online content service provider, in relation to the online content service and in accordance with section 62S and the requirements (if any) specified in a determination under subsection (4) or in subsection (5) of this section, takes reasonable steps to:

(a) prevent restricted users from accessing or receiving wagering advertising content; and

(b) ensure that individuals in Australia accessing or receiving wagering advertising content are doing so using a registered account in relation to the service; and

(c) ensure that individuals in Australia to whom the online content service is provided may opt out of accessing or receiving wagering advertising content.

Note 1: See however section 62T (use of certain identification material and services).

Note 2: A person who wishes to rely on this subsection bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Note 3: See also sections 62ZA, 62ZB and 62ZC (which are about general exceptions for conduct relating to content).

…

(4) The ACMA may, by legislative instrument, specify requirements for the purposes of subsection (2), other than age verification requirements applicable to online content service providers in respect of broadcast video on demand services.

(4A) An online content service provider will satisfy the reasonable steps requirement for the purposes of subsection (2)(a) in relation to the verification of the age of a user of a broadcast video on demand service if:

(a) prior to the date of the commencement of this Part, the user created a registered account in relation to the broadcast video on demand service and notified, including by means of self-verification, the online content service provider of the user's age; or

(b) if subparagraph (a) does not apply, the user creates a registered account in relation to the broadcast video on demand service and notifies, including by means of self-verification, the online content service provider of the user's age,

provided that the online content service provider:

(c) takes reasonable steps to monitor viewing behaviour of each holder of a registered account in relation to the broadcast video on demand service and applies age inference techniques to identify holders who are likely to be under the age of 18; and

(d) classifies each person determined in accordance with subparagraph (c) to be likely to be under the age of 18 as a restricted user.

Without limiting this subsection (5), the reasonable steps requirement for the purposes of subsection (3) in relation to the verification of the age of a user of a broadcast video on demand service does not *include a requirement for the online content service provider to collect any form of identification from any individual.*

(4B) In this Part, "broadcast video on demand service" has the same meaning as in section 130ZZK of the Broadcasting Services Act 1992.

4.2 Hourly broadcast caps

Section 62M amendments in tracked changes below:

Civil penalty provision—broadcasting or datacasting of content

(1) A person contravenes this subsection if:

...

(d) the broadcast or datacast of wagering advertising content occurs at any time during the period (the restricted time) beginning at 6:00 am and ending at 8:30 pm (local time in the time zone for the licence area of the broadcast or datacast); and

(e) the total number of times that wagering advertising content is broadcast or datacast on the particular channel exceeds 3 during any ~~60 minute period~~ hour of broadcasting or datacasting that occurs during the restricted time,~~-~~with each hour commencing on the hour and ending immediately prior to the commencement of the next hour.

Note 3: An hour in paragraph (e) is a clock hour. For example, an hour would commence at 12.00 am and end immediately prior to the next hour starting at 1.00 am and continuing on that basis during each day.

4.3 Implementation time

Replace '1 January 2027' in Column 2 of the second line of the table in section 2(1) of the Bill with:

The day that is 18 months after the day this Act receives Royal Assent.

The words '1 January 2027' in Column 3 of the section line of the table in section 2(1) of the Bill should be deleted.