

September 2026

Privacy Reform – Consultation on Impact Assumptions

Summary of Position

Free TV Australia (**Free TV**) welcomes the opportunity to comment on the Attorney-General's Department consultation paper, *Privacy Reform – Consultation on Impact Assumptions* (**Impact Assumptions Paper**). This submission principally addresses reforms relevant to the operations of Free TV members' broadcast video on demand (**BVOD**) services and websites and builds on Free TV's 2024 response to the earlier impact assessment of privacy reforms conducted for Government by ACIL Allen. It does not address the impact of the reforms on operations such as human resources (where employment data will, for example, be impacted by reforms), and other parts of some members' businesses – such as publishing, subscription video on demand services, radio and audio, and outdoor advertising – although these too will be material.

Free TV acknowledges that it is difficult to estimate with precision the number of hours required to implement reforms of this scope and complexity. However, it is respectfully submitted that there are a number of areas in which the Impact Assumptions Paper significantly underestimates the impacts on large, complex regulated entities such as its members. Free TV sets out its reasoning below, responding briefly to each relevant heading of the Impact Assumptions Paper.

1. Cumulative impact of concurrent reforms

Free TV's members are, at the same time as this consultation, reviewing systems and processes and preparing for or making significant changes to comply with several other reforms that will commence, or are proposed to commence, in the coming period. These include:

- Amendments to the *Interactive Gambling Act 2001* arising from recent passage of the Interactive Gambling Amendment (Gambling Reform) Bill 2026, which commence on 1 January 2027. These amendments include a 'Triple Lock' system requirement for online services relating to wagering advertising. The Triple Lock includes a requirement to assure age, which could require new personal information collection, as well as new related privacy provisions in relation to that personal information. Significant detail is yet to be settled by the Australian Communications and Media Authority before impact on regulated businesses is known.
- The Children's Online Privacy Code which, subject to the OAIC settling its position in December 2026, is likely to include new system and process requirements for providers of affected designated internet services relating to the collection of information about the age of website visitors. Limitations on advertising and specific design feature requirements will apply where a service is covered. Detail of the final impact on regulated businesses is not yet known.

- The proposed Digital Duty of Care, exposure draft legislation for which is currently the subject of consultation, will involve significant system changes. Detail of the final impact on regulated businesses is not yet known but could be significant if the law is not targeted only to higher risk services and applies to digital services broadly.

The cumulative impact of these changes on how digital services operate in Australia will be substantial. This is compounded by uncertainty both within the individual schemes – where some matters can only be determined with certainty following passage of the relevant legislation and the exercise of Ministerial or regulator discretion – and uncertainty as to how the schemes will work together. Free TV respectfully submits that this cross-regulatory impact is a material driver of implementation cost for its members, and that the estimates in the Impact Assumptions Paper should be revised upward to reflect it.

Free TV also notes, for the purposes of this consultation, that its members are ‘large entities’ as that term is used and defined in the Impact Assumptions Paper.

In its submission on the exposure draft of the Privacy Amendment (Personal Data Protection Bill) 2006 (the **Exposure Draft Bill**),¹ Free TV has recommended a commencement period of at least 24 months, given the complex information technology and other system changes the reforms require. Free TV submits that the Impact Assumptions Paper’s cost estimates should be considered on this basis, and that the Government should review the overlapping reform landscape as a whole to reduce duplication of effort for regulated entities.

2. Cross-package impacts

2.1 Labour costs of familiarisation with the package of new legislation

Free TV respectfully disagrees that the OAIC’s development of user-friendly guidance alone – while valuable and welcomed – will lead to a 20% reduction in the time entities need to identify resources and understand the new rules, which are wide ranging in their impact.

Free TV’s members are complex businesses operating across broadcast and digital platforms and will require bespoke expert advice, tailored to their specific operations, to understand the impacts of the reforms. General OAIC guidance cannot substitute for that advice, and Free TV does not consider the assumed 20% reduction to be well founded for entities of its members’ size and complexity.

Across matters such as the expanded definition of ‘personal information’, new rules related to geographic location information, and the introduction of a broad ‘fair and reasonable use’ test, there is significant detail to be addressed. By way of example, for one large member, it is estimated that 100 core staff will require at minimum one hour of additional training to prepare for compliance. For staff more broadly, training materials such as modules will need to be created, with time invested across thousands of staff for their completion.

2.2 Labour costs of revising existing data handling practices

Free TV agrees that entities will need to revise their data handling practices to comply with the reformed Privacy Act but considers that the Impact Assumptions Paper understates the scope of this task. Most, if not all, of members’ data processes and practices will need to be reviewed and potentially revised, not merely ‘some’ as the Paper suggests. In particular, the introduction of new, broad-ranging concepts such

¹ Available at https://www.freetv.com.au/wp-content/uploads/2026/09/Free-TV-submission-Privacy-Amendment-Personal-Data-Protection-Bill-2026-September-2026.FINAL_.pdf.

as the fair and reasonable test will, because of their inherent uncertainty, be more labour intensive to implement than existing more prescriptive rules.

Free TV also notes that, while OAIC templates are likely to be informative, they are unlikely to be readily capable of implementation by large entities without substantial tailoring, given the complexity of their operations. Free TV does not consider the assumed 20% time reduction attributable to these resources is likely to be realised.

3. Core definitions

Free TV does not agree with the statement (page 3) that the amendments to the definitions of ‘personal information’ and ‘consent’ largely clarify, rather than expand, existing concepts. The change from information ‘about’ an individual to information that ‘relates to’ an individual, together with the corresponding change to ‘reasonably identifiable’, will capture significantly more categories of information than the current definition of personal information.

The expansion includes, potentially, viewing and browsing data, ad-tech identifiers and inferred audience segments that BVOD and website operators do not currently treat as personal information. If the reforms proceed in their current form, this would require significant implementation assessment and consequential system and process change, and consent mechanisms. Design and product refresh cycles would need to be carefully reviewed and updated as a result.

Free TV also respectfully disagrees with the statement that only a small number of regulated entities will be impacted by these changes. Entities that rely on extensive data analysis, de-identification techniques, online tracking and audience segmentation – which includes each Free TV member providing a BVOD or advertising-funded website – would be materially affected, and Free TV submits that these impacts should be reflected accordingly in the cross-package impact assumptions.

4. Fair and reasonable handling, consent and notice requirements

4.1 Fair and reasonable test

The assumption (page 5) that the consolidation of existing requirements into a single fair and reasonable test will reduce compliance effort by 25% is not supported. While the test is nominally a single test, it is in practice more complex than previous law, because it requires a holistic assessment of a range of legislated factors in circumstances where no single factor is determinative and there are not yet any regulatory or judicial precedents on how those factors will be weighed.

It will not take less time to comply with the test simply because it is a single test. Rather, Free TV’s members will need to carefully assess its application over a number of years following commencement while an understanding of the regulator’s approach develops. Therefore, compliance effort will not be reduced as assumed. Instead, this cost is more appropriately characterised as an ongoing cost rather than one confined to an establishment period.

4.2 Consent mechanisms

Free TV does not agree with the statement (page 4) that entities’ existing consent systems will not need to be updated as a result of the clarified definition of consent. While Free TV’s members have consent mechanisms in place, those systems, and the consent flows and language they present to consumers, will need to be reviewed and, in many cases, updated to ensure that consent obtained continues to satisfy the new voluntary, informed, current, specific and unambiguous test.

Free TV does not agree, by way of example, that the average annual cost of operating a consent system for its members is \$124 (page 6). This figure is not reflective of the cost of operating and maintaining consent infrastructure for a large, complex broadcaster-operated BVOD and website service. Free TV members estimate there would be hundreds of hours of work involved in implementing updated consent management systems, further to higher ongoing operational cost than is estimated in the Paper.

5. Direct marketing

Free TV does not agree with the statement (page 7) that the proposed amendments to the direct marketing rules would not result in any significant impact for most regulated entities. If the reforms proceed as proposed, there remains significant uncertainty as to which services the amended rules would apply to, and as to how the opt-out obligation must be given effect in practice. Were the ad-supported services rule to be implemented in its current form – an outcome about which Free TV has significant concerns, as set out in its separate submission on the Exposure Draft Bill – this would require a major overhaul of the systems used to deliver BVOD services, which would be complex and very expensive to implement, if capable of implementation at all. Free TV also does not agree that only a small number of entities would be impacted by this measure. Each Free TV member that operates a BVOD service would be affected.

6. Data security

6.1 Notifiable data breaches

Free TV does not agree with the statement (page 8) that the 72-hour notification requirement would not result in a material increase in costs on the basis that it does not change entities' existing obligations. While the underlying obligation to assess a suspected eligible data breach may not change, the shortened window in which a statement must be given to the Commissioner will require significantly more resources, including expert resources, to complete that assessment within 72 hours. This will result in premium service costs where external assistance is engaged on an expedited basis and will require more employees to stop other work to prioritise the assessment within the compressed timeframe.

6.2 Security of personal information

Free TV does not agree that 20 hours annually is an adequate estimate of the time required for large entities to review their compliance obligations in relation to security and destruction practices. As noted at section 3 above, the expanded definition of personal information will significantly increase the volume and categories of information that must be assessed for retention, security and destruction purposes, and Free TV submits the Impact Assumptions Paper's estimate is significantly under-stated as a result.

Free TV's members already maintain robust security, retention and destruction practices. The additional time required is therefore not attributable to entities starting from a low base, but to the materially larger information holding that the amended definition brings within scope of these ongoing review obligations.

7. Right to erasure from large digital platforms

Free TV notes that this measure would only apply to 'large digital platforms' meeting the relevant revenue or user thresholds, meaning it would apply to Free TV's members if the reforms proceed as currently proposed. The estimated number of erasure requests per platform per year listed in the Impact Assumptions Paper is considered low and could at least be doubled.