

19 February 2024

Scams Taskforce
Market Conduct and Digital Division
The Treasury

Att: Tony McDonald, Assistant Secretary Competition and Consumer Branch

By email: scams@treasury.gov.au

Dear Mr McDonald

Scams consultation – Mandatory Industry Codes

Thank you for the opportunity to comment on the consultation jointly led by the Treasury and the Department of Infrastructure, Regional Development, Communications and the Arts on a proposed framework for scams. We appreciate you allowing us additional time to make a submission.

Free TV's members have long been concerned about the significant consumer harm caused by scam advertising and the inadequate practices of digital platforms in addressing the issue. Scam advertisements featuring prominent Australians without their consent is a growing problem. It is well known that celebrity endorsement is highly impactful on consumer behaviour, influencing consumers' intention to purchase, as well as the credibility they attribute to the product or service advertised. Consumers place their trust in well-known Australian personalities, relying on their opinions and expertise in exercising their choices. When scammers exploit this trust, they cause immense damage to the consumer, including financial, psychological and emotional harm. Additionally, these fake endorsements harm the business reputations of broadcasters and the personal reputation of the celebrities themselves that are misrepresented.

Despite these harms, social media platforms such as Meta (Facebook) have failed to implement timely and effective take-down processes in relation to deep fake ads, with such ads continuing to quickly reappear after take-down, and have also failed to stop these deep fake ads from being placed on their social media platforms in the first place.

Free TV welcomes a proposed framework for dealing with scams, particularly one that holds digital platforms to account. Digital platforms that have extensive control over material on their sites, such as Meta, Google and TikTok, should be required to ensure that the material is not fake, damaging, misleading or defamatory. Given the role of social media platforms in relation to scam ads, we consider that the resolution for this significant issue will most easily be achieved through a social media services specific code that focuses on both preventative obligations as well as timely and effective take-down procedures.

While we welcome the proposals set out in the consultation paper to create a flexible and whole-of-ecosystem response, we are of the view that the problem is best addressed through codes of practice

that apply to designated platforms on which consumer harm arising from scams is known to proliferate, rather than overarching principles broadly applicable to all businesses providing digital content.

To this end, we recommend changes to the proposed definition of “media sharing services”, which is currently drafted to mean “online services whose primary function is to provide audio, audio-visual or moving visual content, including advertising content, to end-users”. Under this definition, free-to-air broadcasters providing broadcast video on demand (BVOD) services that include advertising, are captured. This means that they would be required to comply with the extensive obligations with respect to prevention, detection, disruption and response, along with all the associated requirements, including implementing an anti-scams strategy.


We do not consider that the BVOD services of our members should be captured by the framework, given the absence of interactive features during the user experience. Exempting BVODs from the framework would be consistent with the Government’s approach to the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023, which carves out BVODs from the definition of “digital platform services”.

Unlike many of the large digital platforms, our members are located in Australia and present a low risk of facilitating scams in the ecosystem. To the extent that scammers may seek to target BVODs, Free TV members each maintain comprehensive internal editorial and commercial guidelines in relation to their BVOD and online services, and have robust complaints mechanisms in place for individuals to seek redress.

Given this, we suggest that the definition of “digital communications platform” should be scaled back to appropriately target those platforms that are designated to be platforms of concern.

We appreciate the opportunity to set out our views on this important issue and would welcome further engagement with the Taskforce as the regulatory framework progresses.

Yours sincerely



Bridget Fair
Chief Executive Officer