

Nine Entertainment

Written Questions on Notice from Senator Lisa Darmanin

1. Would you agree that if any free to air television content were to fall within the definition of seriously harmful misinformation or disinformation, that it would likely also breach your Code of Practice as well as other Australian laws, potentially?

Response:

The Commercial Television Industry Code of Practice requires news and current affairs programs to present factual material accurately. News material is required to be impartial. Failure to comply with these obligations risks breaching the Code of Practice, which can involve a range of potential consequences imposed by the ACMA. Nine's free to air television content is subject to a wide range of Australian laws. The broadcast of harmful misinformation or disinformation could raise issue under Australian laws including, for example, laws of defamation, injurious falsehood, Australian Consumer Laws, all of which have significant financial ramifications. Legal action may be taken against Nine for alleged breaches of these laws. Breach of a law may also be a breach of a licence condition under the Broadcasting Services Act (BSA).

2. In your view, is the proposed exemption for professional news content in the Bill broader than the exemption that is provided in the Privacy Act and the Online Safety Act?

Response:

We rely on the same response as Free TV, namely that:

The exemption afforded in the Privacy Act is platform-neutral. The Online Safety Act, by its nature, is applicable to material published digitally. Neither of these exemptions distinguish between digital content published on a media organisation's broadcast video on demand (BVOD) service, and content that is otherwise made available online by the same media organisation.

This Bill provides that neither free to air television broadcast services nor BVOD services will be subject to the regime. It cannot be the policy intent of the Bill that the services or content of our members that is otherwise made available online, whether through websites or apps directly offered by our members or websites or apps of third parties, is captured by the regime. But that is the consequence of the Bill in its current form, simply because of overly broad definitions that are incorporated in the Bill.

3. How does free-to-air television broadcasting contribute to the provision of trusted news and information, including emergency information, in Australia?

Response:

Nine takes very seriously its obligations as a free to air television broadcaster, including its obligations to be a trusted source of information and to deliver high quality and accurate news and current affairs to the community. Nine's broadcasting activities are regulated under the Broadcasting Services Act 1992 (BSA), the broadcasting licences that Nine must hold under the BSA, and the Commercial Television Industry Code of Practice.

Inquiry into the Communications Legislation Amendment (Combatting Misinformation and Disinformation Bill) 2024 – Answers to Questions on Notice

The standard licence conditions imposed on all commercial broadcast licensees (in clause 7 of Schedule 2 to the BSA), contain specific obligations for free to air broadcasters to assist the Minister in respect of the publication of emergency information including:

- (d) the licensee will, if the Minister, by notice in writing given to the licensee, so requires broadcast, without charge, such items of national interest as are specified in the notice;
- (e) the licensee will, if the Minister notifies the licensee in writing that an emergency has arisen which makes it important in the public interest that persons authorised by the Minister have control over matter broadcast using the licensee's broadcasting facilities, allow those persons access to and control over those facilities;

Nine as a free to air broadcaster, in providing its services and content, including advertising content, to Australians, whether via terrestrial broadcast or online, must comply with Australian laws – including for example the Australian Consumer Law, laws of defamation (recognised globally as onerous) and injurious falsehood.

Whether it is ahead of an election, in times of crisis or natural disasters, like fires and floods, or to understand issues of daily national and local relevance, Australians can turn to Nine's free to air television channel, and all Nine's other platforms, for professionally curated and trusted news and current affairs, analysis and information.

Nine distributes its public interest journalism, news, current affairs, and information of importance to the community across platforms, delivering content to audiences where and when they want it..