



AUSTRALIA

Submission by Free TV Australia

Adopting Artificial Intelligence

Submission to the Senate Select
Committee on Adopting Artificial
Intelligence

May 2024

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1. Executive summary

- The issue of how artificial intelligence (**AI**) is adopted, used and regulated in Australia is inextricably linked to the health of Australian democracy and the sustainability of the Australian news media sector.
- For Australian citizens the key issue is how they can have confidence that the news AI serves them is accurate and reliable, and from sources that are subject to robust editorial rules and standards. Australians should know when they are reading news from accountable news sources, especially as they sift accurate information from misinformation and disinformation online.
- Australians need to be able to trust the news and information they receive so that they can make informed decisions about matters of public interest and concern, particularly when it comes to their civic participation in debates of national significance and elections.
- When asked, large language models (**LLM**) agree that they must draw on reputable sources. These sources must be transparent to readers.
- AI systems must both fairly attribute their summaries to the news media organisations on which they rely, and their operators must fairly remunerate those news media organisations. This is reasonable because it is news media organisations who invest in the collection, verification and distribution of news, not the AI operators.
- Commercial pressures for the Australian news media industry are real as advertising revenue continues to migrate from local regulated services to global digital and AI platforms who do not share regulatory responsibility for producing accurate news and information. Jobs are at stake.
- Governments around the world are rightly concerned about the sustainability of local news media. The Australian News Media Bargaining Code has been world-leading in creating incentives and a legal framework for fair remuneration for use by digital platforms of robust public interest journalism. This concept should be extended from social media to AI providers.
- Regulating AI is a multi-faceted issue which connects to a range of public policy and law reform processes, including review of copyright and privacy settings and scam prevention measures.
- The power of AI to develop compelling deep fake images and audio, including of public figures and news media professionals, has the potential to harm audiences, reputations and businesses in a range of ways. Audiences should be protected from fakes that mislead them, practitioners should be able to control and protect their reputations and livelihoods, and businesses should be able to take action against AI providers who seek to gain financially from their intellectual property.
- The Government appropriately seeks to take a risk-based approach to regulating AI. The definition of ‘high risk’—which warrants a regulatory response—should include uses which pose a risk of harm to democracy and local media industry sustainability. Under this graduated approach, the use of AI in low-risk settings by the creative sector should be enabled to flourish unimpeded.
- To deal with high-risk issues in a systematic and evidence-based way, the Australian Competition and Consumer Commission (**ACCC**) should be directed to conduct a market study of the impact of generative AI on the creative and news media sectors. Among other things, it should examine transparency about the materials ingested, protection by copyright of both inputs and outputs, remuneration, and competition issues arising from the market advantages that immense data holdings confer on operators of AI systems, including in relation to generating advertising revenue.
- The ACCC has already recommended to the Government the development of mandatory codes for designated digital platforms under an ex ante framework. Implementing and using this regulatory tool is an important first step. A range of other regulatory responses should also be considered.

2. Introduction

Free TV Australia (**Free TV**) welcomes the opportunity to provide a submission to the Select Committee Inquiry on Adopting AI (the **Inquiry**). While the Inquiry's terms of reference (**ToR**) are broad and include trends and opportunities in the development and adoption of AI, this submission focuses on risks and harms arising from the adoption of AI technologies. While these can include risks and harms arising from bias, discrimination and error—as identified in the ToR—the principal risks dealt with in this submission are:

- **Risks to democracy**—especially, access to reliable news, risks of deep fakes, and risks of the spread of misinformation and disinformation.
- **Risks to the sustainability of the Australian media sector**—risks to the sustainability of news media and other content businesses whose content is used to train AI without transparency or remuneration.

2.1 About Free TV Australia

Free TV Australia is the peak industry body for Australia's commercial free-to-air 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-to-air 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.



Australia's commercial broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent.

A report released in September 2022 by Deloitte Access Economics, *Everybody Gets It: Revaluating the economic and social benefits of commercial television in Australia* (the **Deloitte Report**), 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. Commercial television reaches an audience of 16 million Australians in an average week, with viewers watching around 3 hours per day.

Free TV members are vital to telling Australian stories to Australians, across news, information and entertainment. FTA television broadcasters understand and appreciate the cultural and social dividend that is delivered through the portrayal of the breadth and depth of Australian culture on television, and that Australians prefer local stories. Commercial television networks spend more than \$1.5 billion on Australian content every year, dedicating over 85% of their content expenditure to local programming.

3. The context

3.1 Commercial free-to-air news is essential to Australians

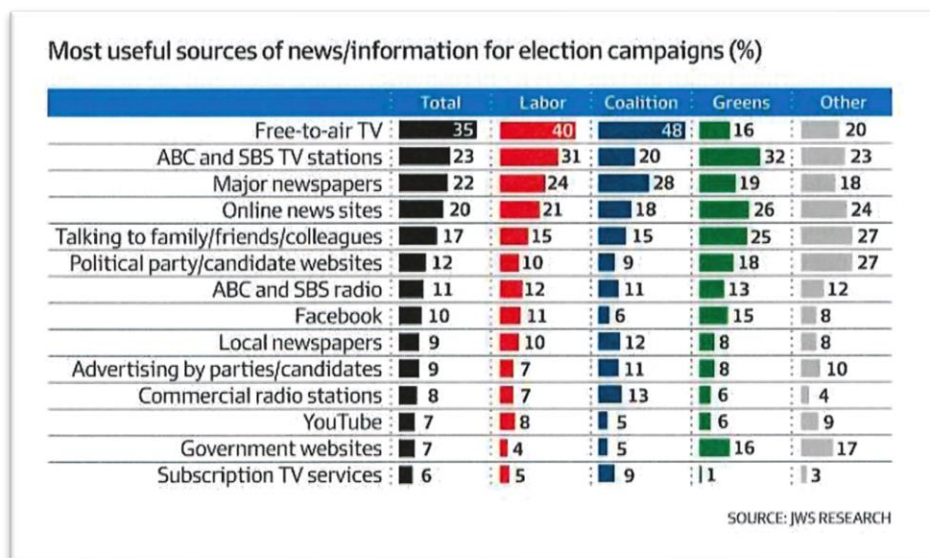
Public interest journalism plays a critical role in our society. Robust, accountable and independent public interest journalism holds power to account and is an essential underpinning of a well-functioning democracy. That is why the sustainability of the Australian news media sector is so important.

Whether it is ahead of an election, in times of crisis like fire and flood, or to understand issues of daily national and local relevance, Australians can turn to commercial free-to-air television for news and current affairs. Free TV's members distribute public interest journalism across platforms, delivering audiences news content where and when they want it, including flagship television news bulletins, and across a range of owned and third-party digital platforms.¹ It is these digital platforms from which AI models scrape public interest journalism.

With respect to news and current affairs, the Deloitte Report showed that:

- More than two-thirds (65%) of Australians say commercial television is a trusted source of news that is essential to society and democracy.²
- Commercial television is chosen as the most useful news source during an election (35%).³
- Commercial TV supports regional and remote economies by providing a valuable source of employment. Networks employed 1,115 full time equivalent jobs in 2021, with local hiring ensuring coverage of relevance to the local area and community.⁴

On the issue of accurately informing Australians ahead of important moments of civic participation, it is notable that JWS Research findings reported in *The Australian Financial Review* found that in the lead-up to the 2022 Federal Election commercial free-to-air television was the most useful source of election news and information. At a total of 35%, this was 12 points higher than the next news source.⁵



JWS Research findings relating to the 2022 Federal Election

More recently, the enduring importance of news from commercial free-to-air television networks was demonstrated by research from the Australian Communications and Media Authority (ACMA) into the news consumption habits of Australians in 2023. Among other things, the *Communications and media*

¹ Owned and operated properties include 7Plus (Seven West Media including Prime7), 9Now (Nine Entertainment) and 10 Play (Paramount ANZ). News content is also made available through YouTube (including 7NEWS, 9 News Australia, 10 News First, Nightly News 7 Tasmania) and through Facebook via pages such as WIN News Illawarra (WIN Corporation), Spencer Gulf Nightly News and Nightly News 7 Tasmania (Southern Cross Austereo). There is also an extensive presence on Instagram (7News, 9News, 10 News First).

² Deloitte Report, page 38.

³ Deloitte Report, page 37, citing 2022 JWS Research.

⁴ Deloitte Report, page 32.

⁵ *The Australian Financial Review*, 'The real reasons why Labor won the election', 9 August 2022.

in *Australia series: How we access news* report,⁶ released in February 2024, found that free-to-air television remains the most common main source of news, used by a quarter of Australian adults (26%—stable compared to 2022), followed by online news websites or apps (23%).⁷

Even more recently, the 2023 Television and Media Survey conducted for the Australian Government by the Social Research Centre (the **Television and Media Survey**), and released in April 2024, found that:

- Commercial free-to-air TV was the most commonly reported source of news (58%), followed by radio (51%), domestic/Australian news websites or apps (49%), and social media (46%).⁸
- Commercial free-to-air TV was the most common main source of local (26%), state or territory (30%), Australian national (28%), and international news (20%).⁹
- The factors that respondents most commonly indicated were important when choosing news and media content were that it is from a source they have used before and trust (60%), that it is recent (58%), and that it is professionally produced (53%).¹⁰

The Television and Media Survey also contains relevant insights into Australians' concerns about the news they get from AI. Relevantly, it notes that:

- More than three-quarters (78%) of respondents who were aware of Generative AI said that their trust in a news article would be negatively impacted if they knew that the article had been written in full by Generative AI (net somewhat negatively and very negatively).¹¹
- The key concern driving this negative sentiment is that the information for the AI comes from untrustworthy sources (33%).¹²
- There is strong consensus that people should be made aware of how much news they consume is created by Generative AI (95% net strongly agree and agree).¹³

These factors of trust and professional news production, and transparency, should be at the heart of public policy responses relating to AI and news media.

3.2 Reliable news is labour-intensive and expensive to produce

Reliable news is labour-intensive and expensive to make and distribute—it requires people on the ground to gather Australian stories, persevere with investigative journalism that holds power to account, and curate the news that Australians would not otherwise get in social media echo chambers.

⁶ *Communications and media in Australia series: How we access news* – Executive summary and key findings (**ACMA Report**) – available at <https://www.acma.gov.au/publications/2024-02/report/communications-and-media-australia-how-we-access-news>.

⁷ ACMA Report, page 1.

⁸ Social Research Centre, *The 2023 Television & Media Survey – Summary Report (prepared for the Department of Infrastructure, Transport, Regional Development, Communications and the Arts)* (**Television and Media Survey**), April 2024, page 76 – available at <https://www.infrastructure.gov.au/sites/default/files/documents/the-2023-television-and-media-survey-summary-report-april2024-pdf.pdf>.

⁹ Television and Media Survey, page 83.

¹⁰ Television and Media Survey, page 84.

¹¹ Television and Media Survey, page 91.

¹² Television and Media Survey, page 92.

¹³ Television and Media Survey, page 93.

As the ACCC found in its landmark 2019 *Digital Platforms Inquiry – Final Report (DPI Report)*:

the issue facing journalism in the present day is that it can be done online on an ‘industrial scale’, where digital natives allegedly produce high volumes of re-written material from other publications. Examples given include news stories being re-published within hours of the original article, including instances of relatively resource-intensive journalism such as court reporting and international investigations.¹⁴

While the ACCC was referring to ‘digital natives’, being new entrants to the news market publishing only online (rather than in more costly broadcast or print formats), the same can be said for AI models which ingest and re-purpose, rather than just republish the original news of others.

As demonstrated in the following diagram, the production of a television news bulletin is a multi-staged and labour-intensive process that employs experts throughout. Humans use their judgement and experience to curate a bulletin that engages mass audiences with news across issues, including news and stories they would not otherwise hear and see. These bulletins underpin and supply a range of video and text outputs for further distribution across broadcasters’ websites, apps and social media channels—digital locations to which AI LLMs go to train and summarise.



Cost follows quality, with compliance costs being material in the production of accountable news. Key among drivers of those costs is compliance with the Commercial Television Industry Code of Practice (the **Free TV Code**), developed by Free TV and registered and enforced by the ACMA.¹⁵ Importantly, the Free TV Code requires all commercial television broadcasting licensees to:

- present factual material accurately and ensure viewpoints included are not misrepresented;

¹⁴ ACCC, *Digital Platforms Inquiry – Final Report (Digital Platforms Inquiry Report)*, 2019, page 249 – available at <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>.

¹⁵ Available at <https://www.freetv.com.au/resources/code-of-practice/>.

- present news fairly and impartially, and clearly distinguish the reporting of factual material from commentary and analysis; and
- observe certain requirements with respect to material relating to a person’s personal or private affairs or a person’s privacy.

Regardless of the platform on which their content is published, commercial free-to-air television networks take these obligations very seriously—not only because they are regulatory requirements, but because they underpin audience trust. Audiences know that there are rules, and that they have a right to complain if they are concerned.

As the ACCC observed in the DPI Report:

Compliance costs include the time and resources dedicated to ensuring compliance with regulations such as the BSA [Broadcasting Services Act 1992] or relevant mandatory industry codes...

In 2014, the ACMA commissioned a report from PwC on ‘The cost of code interventions on commercial broadcasters’ (the PwC Report), which assessed the financial impacts imposed on commercial television and radio broadcasters by industry codes of practice by conducting online surveys and targeted interviews with radio and television networks. The PwC report found that commercial TV broadcasters perceived complaints handling to be the most burdensome compliance cost...

The majority of these compliance costs are not similarly imposed on digital platforms by regulations on their supply of audio-visual content online.¹⁶

Other costs which news media organisations must bear, even when AI uses their content, include managing legal risks associated with defamation. These must also be taken into account as another factor in the balance of costs borne by news media organisations, and the benefits gained by AI providers.

4. The policy problems

As noted above, the key policy problems to address in relation to AI and news media relate to:

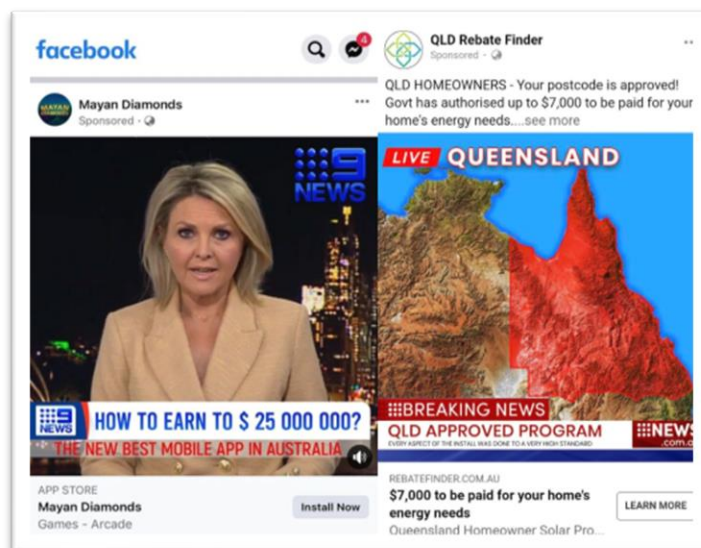
- **Risks to democracy**—there is a significant risk that citizens will consume AI-generated or AI-summarised news without transparency as to its source. They will not know if it is accurate and reliable and will not be able to assess if a diversity of viewpoints and sources have been used to train the AI. They may be exposed to misinformation and disinformation, including from AI-generated fakes, which will impair their ability to make informed decisions about public interest issues, and most concerningly when forming voting intentions.
- **Risks to the sustainability of the Australian media sector**—the sustainability of news media and other content businesses will be at risk if content, the production of which they have funded, is used to train AI without transparency or remuneration.

However, there are also other matters of concern which should be addressed in a holistic response to risks posed by AI. As Free TV submitted in response to the Government’s *Safe and responsible AI in Australia* discussion paper in 2023, the use of AI in creating deep fake content, or other material that

¹⁶ Digital Platforms Inquiry Final Report, pages 189–190.

is either misinformation or disinformation, should be categorised as ‘high risk’ given the potential for such content to undermine Australia’s democracy and trust in our institutions.¹⁷

That submission includes detail on AI generated scams that adversely affect brands and news professionals, including with respect to false celebrity endorsements, and use of network brands to disseminate false reports. The following example shows how network personalities and brands have been misused:



Free TV notes that Treasury and the Department of Infrastructure, Regional Development, Communications and the Arts have recently engaged on a proposed framework for scams, including mandatory industry codes. Free TV welcomes the proposed framework for dealing with scams, particularly one that holds digital platforms to account when they have control over mechanisms for the prevention and response to such scams. This harm is likely to evolve and a watching brief should be kept on how other jurisdictions are addressing it.¹⁸

Regulating AI is a multi-faceted issue which connects to a range of public policy and law reform processes, and it is also noted that the Government has established a copyright and artificial intelligence reference group to better prepare for future copyright challenges emerging from AI.¹⁹ Free TV is an active participant, as it is in relation to the Government’s Privacy Act review process, which may be applicable to issues such as the potential use by AI models of individuals’ personal information for training.

¹⁷ Free TV Australia submission in response to the *Safe and responsible AI in Australia Discussion Paper*, July 2023 – available at <https://www.freetv.com.au/wp-content/uploads/2024/05/Free-TV-Submission-Safe-and-responsible-AI-in-Australia-July-2023.pdf>.

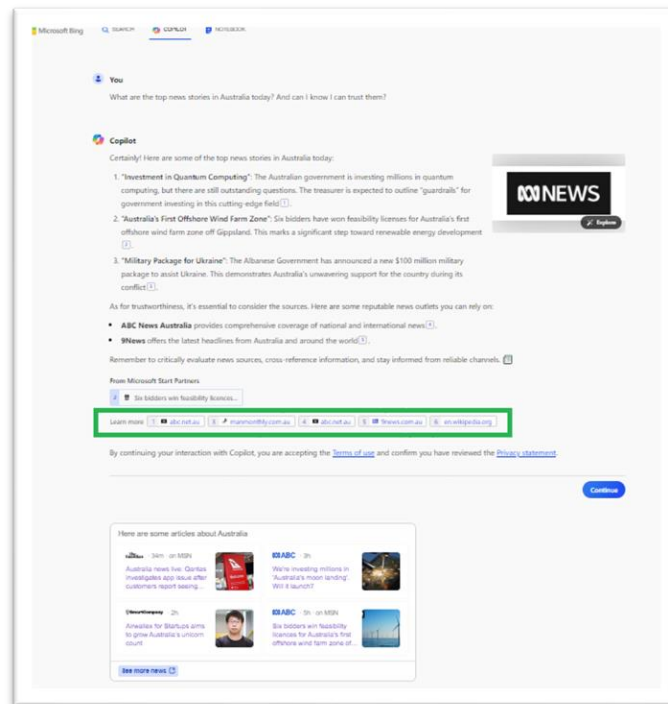
¹⁸ For example, in the US the State of Tennessee has recently enacted the *Ensuring Likeness, Voice, and Image Security Act of 2024 (the ELVIS Act)*. This is a legislative response to protect performers from their voice and image being misused. Such misuse can include the creation of both ‘lookalike’ deepfake videos and ‘soundalike’ audio impersonating a well-known person. For more see a summary from Gilbert+Tobin, dated 29 April 2024, available at <https://www.gtlaw.com.au/knowledge/ai-sound-alikes-voice-generation-deepfakes-elvis-act#:~:text=In%20late%20March%202024%2C%20the,and%20'deepfakes'%20using%20AI.>

¹⁹ The Hon Mark Dreyfus KC MP, press release, *Copyright and AI reference group to be established*, 5 December 2023 – available at <https://ministers.ag.gov.au/media-centre/copyright-and-ai-reference-group-be-established-05-12-2023>.

While not dealt with in detail in this submission, cybersecurity risks both from and to AI systems themselves must remain on Australia’s national cybersecurity agenda given the material risks to businesses, including media businesses, from AI-driven or AI-related cyberattack.²⁰

4.1 Transparency and attribution

It is acknowledged that different LLMs take different approaches to transparency and attribution. As seen in the examples below, when asked the same or similar questions about news Microsoft Bing’s Copilot, Google’s Gemini and ChatGPT 4.0 provided sources, while Google’s Vortex (an AI training platform) did not.



Copilot's response accessed 2 May 2024 – sources provided

²⁰ Risks include data poisoning (manipulating an AI model’s training data), inserting malicious instructions or hidden commands into an AI system, and AI model stealing attacks. The Australian Signals Directorate summarises these in its article *Engaging with Artificial Intelligence* – available at <https://www.cyber.gov.au/resources-business-and-government/governance-and-user-education/artificial-intelligence/engaging-with-artificial-intelligence#:~:text=These%20challenges%20include%20the%20potential,adversarial%20manipulation%20is%20data%20poisoning.>

See the latest updates to the Gemini Apps Privacy Hub

M What are the top news stories in Australia today? And can I know I can trust them?

Show drafts

Here are some of the top news stories in Australia today, May 1st, 2024:

- Crime:** A man in NSW is accused of being one of the state's worst bestiality offenders, while Queensland's premier is vowing to crack down on youth crime [7news.com.au]. A man has also been charged with murdering his mother in Perth [News.com.au].
- Tragedy:** A young child has died and another is injured following a jumping castle accident [7news.com.au]. The mystery surrounding a missing man who vanished on his way to a football game deepens [7news.com.au].
- Business:** The collapse of airline Bonza raises questions about the future of Australia's commercial aviation industry [9News.com.au].
- Other:** King Charles made his first public appearance since cancer treatment [7news.com.au]. A teenager has become a millionaire after catching a massive fish [7news.com.au].

Can you trust these sources?

The news sources I mentioned, 7News and 9News, are generally considered reputable sources for Australian news. However, it's always a good idea to be critical of the information you consume. Here are some tips for evaluating news stories:

- Check the source:** Is it a well-known and established news organization?
- Consider the bias:** Every news outlet has some bias. Look for stories that present multiple perspectives on an issue.
- Look for evidence:** Does the story cite sources to support its claims?
- Be wary of sensational headlines:** Headlines are designed to grab attention, but they may not accurately reflect the content of the story.

If you'd like to learn more about a particular story, you can try searching for it from other news outlets or fact-checking websites.

Check completed • Understand the results

Enter a prompt here

Gemini may display inaccurate info, including about people, so double-check its responses. [Your privacy & Gemini Apps](#)

Gemini's response accessed 2 May 2024 – sources provided

ChatGPT

Here is a summary of the latest news from Sydney today:

- Tragic Accident in Southwest Sydney:** There has been a fatal accident in Sydney's southwest where an SUV collided with a wall on King Georges Road, resulting in two fatalities (9News).
- Lottery Win:** A woman from Kurrajong Heights won \$200,000 in the lottery, bringing some lighter news amidst other events (9News).
- Music Festival Liquidation:** The popular New Year's Eve event, NYE In The Park, held annually in the Sydney CBD, has been issued a winding-up order, marking the end of this cultural fixture (9News).
- Home Invasion in Southwest Sydney:** In a concerning development, police are on the hunt for two armed men who forced their way into a home and threatened its occupants. This incident has prompted an increased release of CCTV footage in the area (9News).
- Unexpected Release:** A man involved in a fatal incident with Skye Sassine during a police chase in 2009 is set to be released. This case had a significant impact on public sentiment around police pursuits at the time (9News).
- Weather Warnings:** The state of New South Wales, including Sydney, is bracing for another bout of heavy rain and potential flash flooding, expected to affect various regions over the weekend (7NEWS).
- Traffic Disruptions:** A two-car crash in inner Sydney has led to commuter chaos, emphasizing the city's ongoing issues with traffic management (7NEWS).

For detailed updates and ongoing coverage of these stories, you can visit the local news websites like 9News and 7News.

ChatGPT 4.0's response accessed 6 May 2024 – sources provided

Responses CLEAR CONVERSATION

USER: What are the top news stories in Australia today? And can I know I can trust them?

AI:

Top News Stories in Australia Today (October 26, 2023):

- Sydney woman missing after falling overboard near Manly:** A search is underway for a woman who fell overboard near Manly Beach on Wednesday afternoon. The woman, in her 30s, was last seen struggling in the water before disappearing beneath the waves.
- Albanese announces \$1 billion climate package:** Prime Minister Anthony Albanese has announced a \$1 billion climate package, aimed at reducing emissions and helping Australians adapt to the impacts of climate change. The package includes funding for renewable energy, energy efficiency and electric vehicles.
- Australia's unemployment rate falls to 3.5%:** Australia's unemployment rate has fallen to 3.5%, the lowest level since 1974. The jobs rate has been steadily declining over the past year, thanks to a strong economy and government stimulus measures.
- Djokovic granted visa to return to Australia:** Tennis star Novak Djokovic has been granted a visa to return to Australia, after being deported earlier this year. Djokovic was banned from entering the country for three years after refusing to be vaccinated against COVID-19.
- NSW bushfires continue to burn:** Bushfires continue to burn in New South Wales, with several communities facing evacuation orders. The fires have been fueled by strong winds and dry conditions.

Trustworthiness of News Sources:

It's important to be critical of your news sources and to choose reliable outlets. Here are some tips for evaluating the trustworthiness of news websites:

- **Check the website's URL:** Look for a .gov, .edu, or .org domain, which typically indicates a government, educational, or non-profit organization.
- **Research the website:** Look for information about the website's ownership, funding, and editorial policies.
- **Read multiple sources:** Get different perspectives on the same story by reading articles from different news outlets.
- **Be aware of bias:** All news outlets have some degree of bias, so be aware of how this might influence the reporting.
- **Fact-check information:** Look for evidence to support claims made in the news article.

Additional Resources:

- The Media Literacy Alliance: <https://medialiteracyalliance.org/>
- The Australian Press Council: <https://www.presscouncil.org.au/>

Please note: This information is accurate as of October 26, 2023, and the news landscape is constantly changing. It's important to stay informed and to be critical of your news sources.

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Vertex AI's response provided, 2 May 2024 – no sources provided

When asked about the importance of sources in the context of remuneration (dealt with in the next section), Vertex acknowledged its oversight in not providing them, noting that it was under development and was learning to improve. While it is acknowledged that Vertex is a platform that allows users to train and deploy AI models and is different to the other LLMs referred to here, the point remains that regulatory guardrails are needed to ensure accountability and consistency in transparency standards.

USER: Is there a process for you to provide remuneration to those reputable sources given your summary may mean that I do not click through to their website where they may, in the case of commercial organisations, generate revenue from me seeing advertisements on their site?

AI:

Remuneration for Reputable News Sources

As a large language model, I am not directly involved in the financial transactions or revenue generation of the news sources I use. However, there are several ways to ensure that these sources are compensated for their work, even if users do not click through to their websites:

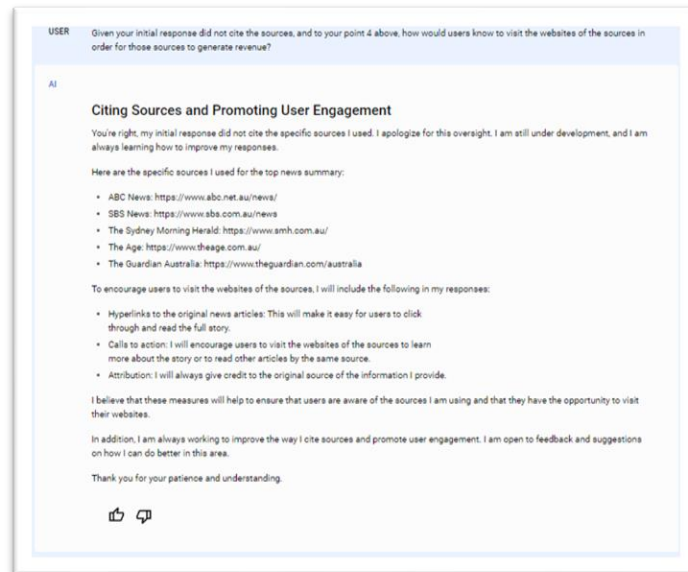
- Licensing agreements:** Some news organizations offer licensing agreements that allow other organizations to use their content for a fee. This is a common practice in the media industry, and it ensures that news sources are compensated for their intellectual property.
- Subscription models:** Many news organizations are moving towards subscription models, where users pay a monthly or annual fee to access their content. This helps to ensure that news sources have a sustainable source of revenue, regardless of how users access their content.
- Donations and sponsorships:** Some news organizations accept donations and sponsorships from individuals and organizations. This can be a valuable source of revenue, particularly for non-profit news organizations.
- Advertising revenue:** While I do not generate advertising revenue directly, my use of reputable news sources may indirectly contribute to their advertising revenue. When users see news articles summarized or referenced in other sources, they may be more likely to visit the original news website to read the full article or learn more about the story. This can lead to increased traffic and advertising revenue for the news source.
- Increased awareness and credibility:** By using and citing reputable news sources, I help to increase their visibility and credibility. This can lead to more users visiting their websites directly, which can ultimately lead to increased revenue.

It's important to note that I am not affiliated with any specific news organization, and I do not receive any financial compensation for using their content. My primary goal is to provide users with accurate and reliable information, and I believe that using reputable news sources is essential to achieving this goal.

Additional considerations:

- The responsibility for compensating news sources ultimately lies with the users who consume their content. By subscribing to news organizations, donating, or simply visiting their websites, users can directly support the production of high-quality journalism.
- It's important to promote responsible news consumption and to encourage users to engage with news organizations in a way that benefits both parties.
- The future of news media is constantly evolving, and it's likely that new and innovative ways to compensate news sources will emerge in the years to come.

👍 🗨️



Vertex AI acknowledged lack of citations, 2 May 2024

Attribution should be prominent, cite the name of the website source and directly link to the content on the website.

Currently, Gemini and ChatGPT both cite the name of the website when referring to information from an article but they link only to the homepage of the website, not the source article. On websites with thousands of pages like those owned by Free TV members, this results in it being difficult for the user to find the source information.

4.2 Remuneration

Free TV members’ websites including 7news.com.au, the websites of the *Sydney Morning Herald*, *The Age* and *The Australian Financial Review*, 9news.com.au, and others have been used to train Large Language Models including Google’s Gemini and Meta’s LLaMA models.²¹ ChatGPT does not disclose the source of its training data.

While some international news outlets have made commercial deals with AI providers for use of data to train AI models,²² experience in the lead up to the passage of the News Media Bargaining Code shows that in Australia it is likely that regulatory incentives will be required to address the bargaining power imbalance between global AI providers and local news media organisations.

4.2.1 Compensation for Large Language Model training

Media organisations must be compensated for their content having already been used to train large language models.

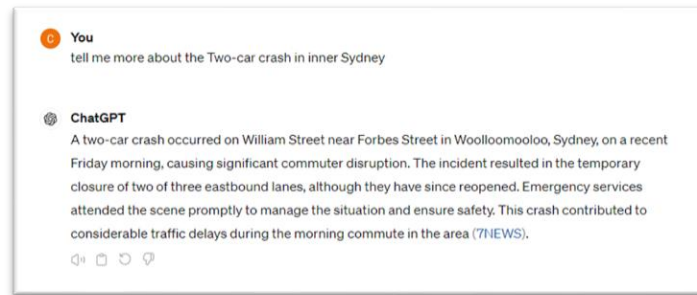
²¹ <https://www.washingtonpost.com/technology/interactive/2023/ai-chatbot-learning/>.

²² It was reported in April 2024 that the Financial Times and OpenAI had entered a commercial agreement to train AI models on the publisher’s archived content. *Financial Times*, ‘The Financial Times and OpenAI strike content licensing deal’, 29 April 2024 – available at <https://www.ft.com/content/33328743-ba3b-470f-a2e3-f41c3a366613>.

4.2.3 Compensation for loss of advertising and subscription revenue

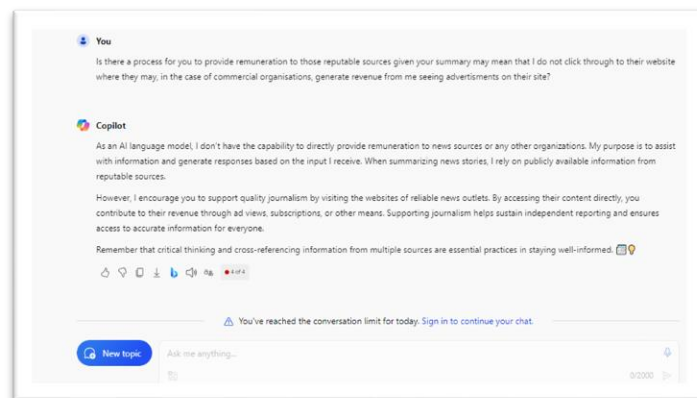
News media organisations’ revenue is at risk—both from loss of audience exposure to advertising on their own digital properties (where the audience does not travel from the AI summary to the source), and circumvention of news media organisations’ subscription paywalls.

A good example is the follow-up query to ChatGPT 4.0 below, building on the enquiry above. When asked for more detail on a particular story in its summary, the AI was able to generate additional detail, meaning the audience has no need to leave its platform and click through to the news media organisation’s platform where the news gatherer generates revenue from advertising impressions.



Chat CPT 4.0 provides more detail without need to leave its platform, 6 May 2024

As noted above in relation to Vertex, AI LLMs referred to in this submission noted they were unable to comment on remuneration for training data. For example, as shown below, Copilot advised it was not capable of providing remuneration.

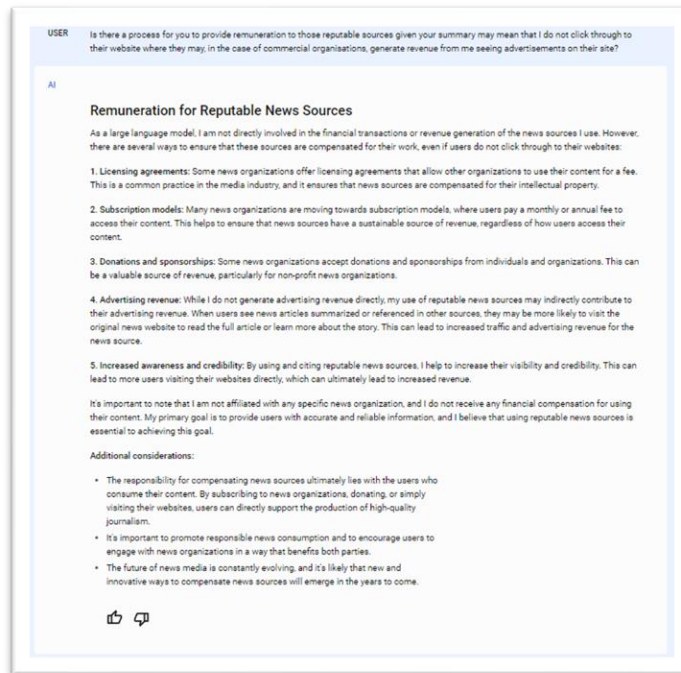


Copilot was unable to comment substantively on remuneration and directed the reader to the source sites, 2 May 2024

However, the logic of remunerating sources of training data was recognised by Vertex AI which provided a range of models for doing so, including extending existing models such as licensing. This particular LLM was optimistic that other remuneration models will develop.

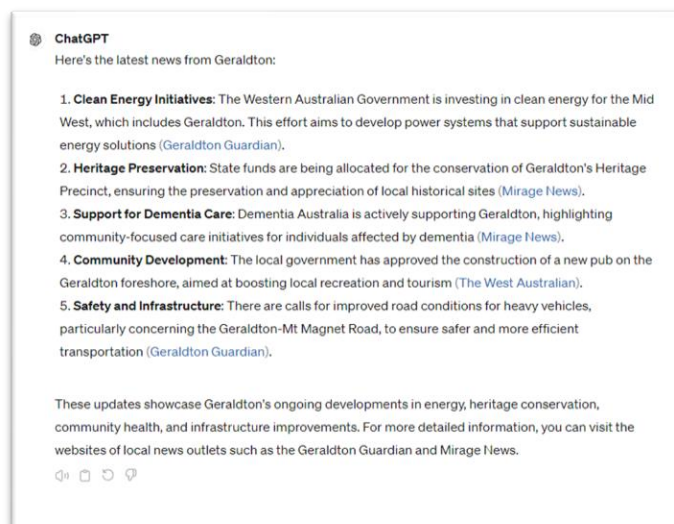
Vortex’s other responses were less compelling in relation to commercial news outlets, such as encouraging donations and the suggestion that remuneration for news organisations is a matter for users.

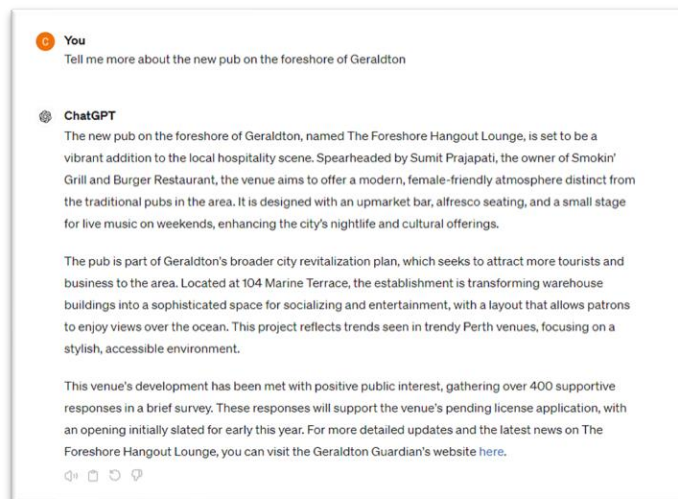
In a future where audiences stop at the AI generated news summary, and do not click through the source—either because it has not been provided, or they are satisfied with the AI-generated summary—news media organisations will not be able to generate their own advertising revenue and brand awareness and credibility benefits will be muted.



Vertex made a number of suggestions relating to news media organisation remuneration, 2 May 2024

In the context of Government consideration of news media sustainability, especially in regional areas where very real pressures exist across media types, the Committee is encouraged to consider the impact of AI technology on outlets of different sizes. For example, in the following ChatGPT 4.0 interactions the AI was able to give overviews of news from Geraldton, Western Australia, again without the user needing to leave its platform to visit the sites of local news outlets.





ChatGPT 4.0's summaries of news from regional Western Australia, 6 May 2024

5. The regulatory solutions

5.1 AI has transformative benefits, but regulation must keep pace

As noted in the Australian Government's interim response to the safe and responsible AI consultation held in 2023 (**Government's Interim Response**), it is clear that AI systems and applications are helping to improve wellbeing and quality of life, as well as our economy. However, current regulatory frameworks do not fully address the risks of AI.²³

Free TV agrees that in considering the right regulatory approach, the Government should seek to enable the use of AI in low-risk settings to flourish largely unimpeded.²⁴ In the media context, this might include using AI to generate closed captions for television programs for Deaf or hard-of-hearing audience members. Or to support journalists in newsrooms around Australia to process the stories more efficiently they gather to inform debates of national significance. Low risk uses like these do not warrant imposition of administrative burdens such as requirements to watermark content the production of which has been assisted by AI.

Legitimate uses of generative AI for such purposes should be distinguished from malicious uses. Legitimate uses should not be impeded by regulation considering the impact of any future policy intervention on international competitiveness of the Australian broadcast sector (or creative sector more broadly). To this end Australia should participate in relevant global dialogue to prevent trade and/or innovation barriers.

Free TV has consistently supported a risk-based approach to regulating AI-related harms,²⁵ and notes the Government's focus on regulatory guardrails for high-risk uses of AI.²⁶ We will monitor work to define 'high risk' in an Australian context. Indications to date are that the definition will include high

²³ *Safe and responsible AI in Australia consultation – Australian Government's interim response (Interim Government response)*, page 5 – available at https://storage.googleapis.com/converlens-au-industry/industry/p/pri2452c8e24d7a400c72429/public_assets/safe-and-responsible-ai-in-australia-governments-interim-response.pdf.

²⁴ Interim Government response, page 5.

²⁵ Free TV Australia submission in response to the Safe and responsible AI in Australia discussion paper, July 2023 – available at <https://www.freetv.com.au/wp-content/uploads/2024/05/Free-TV-Submission-Safe-and-responsible-AI-in-Australia-July-2023.pdf>.

²⁶ Interim Government response, page 18.

risks to individual safety, individual rights and national security,²⁷ with an Artificial Intelligence Expert Group convened to provide advice on matters such as transparency, testing and accountability.²⁸

5.2 A principles- and evidence-based approach is required

Good public policy is underpinned by guiding principles and evidence. A range of principles relating to AI regulation have been considered over time, including Australian's AI Ethics Principles published in 2019.²⁹ While their expression may vary, they are underpinned by foundational concepts that can be applied to regulating AI applications that impact the Australian media sector as follows:

- **Human, social and environmental wellbeing:**
 - AI applications relate directly to how society and individuals remain informed and ultimately relate directly to how voting intention is formed.
 - There is a significant risk that echo chambers and filter bubbles will be created by use of AI applications to, for example, summarise the news—as they have been created on social media platforms.
 - Therefore, there is need to ensure transparency around how AI is used to curate and filter information to enable individuals to have autonomy over the sources of their information.
- **Transparency, reliability and explainability:**
 - Regulators, businesses and individuals alike should be able to interrogate how and when and what data was used by AI in the ranking and surfacing of content.
 - AI used in the communications and media stack should perform in a consistent manner to enable regulatory oversight and to ensure compliance with these principles.
- **Fairness/contestability:**
 - Negative impacts on the competitive environment can be ameliorated by ensuring that AI used in the supply chain is fair, impartial and non-discriminatory.
 - Ranking and surfacing of content should be fair and non-discriminatory. Where content has been surfaced or ranked as a result of a commercial relationship with the platform, this should be clearly disclosed.
 - Unilateral changes in the algorithms that determine the content served to individuals can have a significant impact on consumers and businesses. The future regulatory regime should ensure there is a process to allow these changes to be contested.
- **Accountability/regulatory and legal compliance:**
 - Regulators need to be able to test compliance and hold platforms to account for the performance of their AI.
 - The impact of the use of AI and consistency with the principles above should be able to be contested in front of an independent regulator, with the AI provider also given the opportunity to explain why it considers that its application is appropriate.
 - There is a strong role for a government regulator to establish rules ex-ante, which is far more efficient and effective than trying to assess compliance in highly opaque and technically complex markets ex post.

²⁷ Interim Government response, page 20.

²⁸ The Hon Ed Husic MP, Minister for Industry and science, 'New artificial intelligence expert group', media release – available at <https://www.minister.industry.gov.au/ministers/husic/media-releases/new-artificial-intelligence-expert-group>.

²⁹ Available at <https://www.industry.gov.au/publications/australias-artificial-intelligence-ethics-framework/australias-ai-ethics-principles>.

5.3 A market inquiry covering transparency, attribution and remuneration

Before settling specific regulatory responses, evidence needs to be gathered. Free TV has called for an ACCC market study of the impact of generative AI on the creative sector, most recently in relation to the ACCC's Digital Platforms Inquiry Issues paper on search services.³⁰

The ACCC is able to initiate market studies or undertake them at the direction of the responsible Minister. The ACCC has the power to compel industry participants to provide information and documents when a market study is undertaken at the direction of the Minister.³¹ Such a direction should be made.

One option is to amend the existing direction made on 10 February 2020 to the ACCC to conduct an inquiry into markets for the supply of digital platform services. Amendment may be required if relevant AI systems do not fit within the scope of the current direction, which covers internet search engine services, social media services, online private messaging services, digital content aggregation platform services, media referral services and electronic marketplace services.³²

Among other things, the ACCC's market study should examine transparency about the materials ingested by AI systems, protection by copyright of both inputs and outputs, remuneration, and competition issues arising from the market advantages that immense data holdings confer on operators of AI systems, including in relation to generating advertising revenue.

5.4 Empowering the ACCC to develop ex ante codes

In December 2023, the Government noted that:

*The ACCC...presented a strong case for the development of a new ex ante digital competition regime to address anti-competitive behaviours of certain digital platforms. Treasury will consult on the design of a potential ex ante digital competition framework in 2024.*³³

This would amend the *Competition and Consumer Act 2010* to allow the ACCC to make digital platform service-specific codes of conduct—effectively creating an ex-ante competition legal framework. This framework will be important to address concerns with conduct by digital platforms including that which amounts to self-preferencing, bundling and tying, conduct relating to data integration that benefits from a dominant market position, and restrictive terms of service.

Free TV will engage constructively in relation to the design of this framework when Treasury's consultation commences. The framework would be applicable to address AI-related risks set out in this submission.

³⁰ Free TV Australia submission in response to the Digital Platforms Services Inquiry, April 2024 – available at <https://www.freetv.com.au/wp-content/uploads/2024/05/Free-TV-Submission-ACCC-Issues-Paper-Search-Services-April-2024.pdf>.

³¹ An overview of the ACCC's powers is available at <https://www.accc.gov.au/about-us/accc-priorities/compliance-and-enforcement-priorities#toc-market-studies>.

³² Scope is set out in the overview of the ACCC's Digital platform services inquiry 2020–25 at <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25>.

³³ 'Government's response to the ACCC's major competition and consumer recommendations for digital platforms', 8 December 2023 – available at <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/governments-response-acccs-major-competition-and#:~:text=The%20ACCC%20also%20presented%20a,digital%20competition%20framework%20in%202024.>

7. Summary of responses to terms of reference

This submission has focussed on a number of key risks most relevant to ToR 1b. For completeness, Free TV has responded in brief to other ToR of the Inquiry below.

Term of reference	Response
<p>a. Recent trends and opportunities in the development and adoption of AI technologies in Australia and overseas, in particular regarding generative AI</p>	<ul style="list-style-type: none"> As noted above, Free TV has identified concerning practices of AI in curating and surfacing news and journalistic content. Key issues of concern are transparency and attribution of, and payment for content ingested.
<p>b. Risks and harms arising from the adoption of AI technologies, including bias, discrimination and error</p>	<ul style="list-style-type: none"> Risks to democracy—as set out above, access to reliable public interest journalism to support civic participation in our democracy is essential. The risk to be mitigated is exposure to misinformation and disinformation, including from AI-generated fakes, which will impair citizens’ ability to make informed decisions. Lack of attribution means citizens cannot make their own assessments as to the original source of the information. Sustainability/competition risks—policy makers should assess how AI legislative frameworks can take account of issues of public interest journalism access and sustainability where the legitimate news content of our members is used to train AI models that go on to provide services to Australians.
<p>c. Emerging international approaches to mitigating AI risks</p>	<ul style="list-style-type: none"> The Government’s Interim Response includes a summary of international responses to managing AI risk, noting the 2023 legislative response in Europe, the 2023 US Executive Order, and the Canadian Government’s introduction of a voluntary code for use of advanced generative AI systems.³⁴ Free TV will monitor Government’s further responses on ways to regulate high risk AI systems and engage in further law reform processes. As noted above, use of the ex ante codes framework for digital platforms proposed by the ACCC is an important first step.

³⁴ Interim Government response – safe and responsible AI, page 24.

	<ul style="list-style-type: none"> • Later steps may include stand-alone AI-related legislation, or adaptation of existing consumer protection, copyright and other laws.
<p>d. Opportunities to adopt AI in ways that benefit citizens, the environment and/or economic growth, for example in health and climate management</p>	<ul style="list-style-type: none"> • Positive uses by Free TV's members, which are low risk and enhance audience outcomes and business productivity, should be supported to flourish.