



Submission by  
Free TV Australia

**Digital Platform Services  
Inquiry 2020-2025**

Issues Paper for March 2023: Report  
on social media services

September 2022

## 1. Summary

- Free TV Australia appreciates the opportunity to make a submission to the Digital Platform Services Inquiry Report on Social Media Services Issues Paper (**Issues Paper**).
- In this submission we have focussed on the following issues:
  - the continued dominance of Meta’s Facebook and Instagram services in the markets for social media services and display advertising services;
  - the regulatory solutions required to address this market dominance; and
  - the prevalence of scam advertising on social media services and the urgent need for this to be addressed.
- The ACCC, in its previous investigations, found that Meta has substantial market power in the market for social media services, through its ownership not only of Facebook but also of Instagram, and in the market for display advertising services. Meta continues to be dominant in both markets. Meta’s ongoing dominance means it acts as a gatekeeper to Australian consumers and is an unavoidable business partner for Free TV Australia’s members.
- While the enactment of the Mandatory News Media Bargaining Code has provided a remedy for the competition issue associated with the lack of remuneration for news content, further regulatory change is needed to address the bargaining power imbalance that Meta’s dominance creates, in order to benefit consumers.
- Free TV Australia has made submissions to the ACCC regarding the required regulatory interventions in other inquiry processes, including to the ACCC’s current inquiry into the need for a new regulatory framework for digital platforms (**ACCC Regulation Inquiry**). As highlighted in those other submissions, regulatory intervention is required across digital platform services markets. Intervention should not be limited to a narrowly defined social media services market.
- Scam advertising is an ongoing problem with regard to social media services. Free TV notes the ACCC’s proceedings against Meta in relation to scam ads that feature prominent Australians without their consent, which was commenced in early 2022.

## 2. About Free TV Australia

Free TV Australia is the peak industry body for Australia's commercial television 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 FTA television makes to Australia's culture and economy.



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: Revaluing the economic and social benefits of commercial television in Australia*, 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 Australia's members are vital to telling Australian stories to Australians, across news, information and entertainment. Free to air 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 Australians prefer local stories. Commercial television networks spend more than \$1.5 billion on Australian content ever year, dedicating over 85% of their content expenditure to local 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. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

### 3. Meta's continued dominance of the market for social media services

#### 3.1 Numbers of users and nature of different platforms

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The Issues Paper notes that Meta's Facebook service is estimated to have 17.5 million Australian users as at November 2021, which equates to approximately two-thirds of the Australian population. The second largest social media service in Australia is Meta's other wholly owned social media service, Instagram, which has 13.8 million users in Australia. This equates to just over half of the Australian population. In the first interim report issued under the ACCC's Digital Platform Services Inquiry 2020-2025, released in September 2020 (**First ACCC Report**), the ACCC concluded, as it had in the earlier 2019 Digital Platforms Inquiry Final Report, that Meta has substantial market power in the market for social media services and that no other social media services provide any meaningful constraint.

The number of both Facebook and Instagram users in Australia at the current time remains significantly higher than the number of users of any other social media service that is not owned by Meta, as demonstrated by the figures provided in the Issues Paper. For example, comparing the number of Facebook users to the users of other services, TikTok has only approximately 47%<sup>1</sup> of the number of Facebook users; Snapchat has 7.25 million users, or only 41% of the number of Facebook users; and Twitter with 3.7 million users, has only 21% of the number of Facebook users.

Not only is it the case that other social media services have significantly lower user numbers than Facebook and Instagram, but these other services are not *substitutes* for Meta's social media services. This may be demonstrated by considering the growth in the number of users of TikTok. In the First ACCC Report, the ACCC noted that TikTok had rapidly grown its user numbers in Australia from 0.5 million users in May 2019 to 3.7 million users in June 2020. The Issues Paper quotes a figure that is equivalent to approximately 8.3 million users as at February 2022.

The growth in the popularity of TikTok has not been at the expense of Facebook. The Final Report for the Digital Platforms Inquiry reported that, as at February 2019, Facebook had 17.3 million users. The number of users of Facebook has not increased significantly since 2019, reflecting that Facebook has been available for a number of years, meaning it has significant penetration and there is therefore little room for further growth in the number of users. However, the number of Facebook users has not fallen over the period since 2019 – meaning that users are not deserting Facebook to use TikTok, but are using that service *in addition* to Facebook. This is likely to reflect the nature of the social media service provided by TikTok, which is a platform for hosting and sharing short-form videos. It is not a substitute for Facebook, which offers a broader range of social media services. Not only does TikTok provide a different type of service to that provided by Facebook but it also targets a narrower demographic, which is a younger audience.

The growth of TikTok has not impacted the growth of Instagram. Instagram's user base has grown since the time of the 2019 Digital Platforms Inquiry Final Report, which stated that Instagram had 11.2 million monthly users. Therefore over the period from 2019 to now, Instagram has (notwithstanding the popularity of TikTok) grown its Australian user numbers by approximately 23%.

#### 3.2 Limits on growth of other platforms and barriers to entry

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More generally, many social media services (outside Facebook and Instagram) are facing difficulties that are likely to limit their future growth potential in Australia and any constraint they place on Meta. This includes, for example, Twitter which has ongoing declining Australian usage, noting that in

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<sup>1</sup> The Issues Paper states that TikTok is reportedly used by 32% of Australian adult users, which translates to approximately 8.32 million users, if an Australian population of 26 million is assumed.

comparison to the user numbers reported in the Issues Paper, the Final Report from the Digital Platforms Inquiry stated that as at February 2019 Twitter had unique monthly users of 7.2 million. This means that, since 2019, the number of Twitter users has reduced by almost half. Snapchat, whilst it has rising user numbers, is facing difficulties in monetising those users and has suffered a falling share price as a result.<sup>2</sup> Another example of a platform facing issues in the Australian market is TikTok, given the Australian Government has recently confirmed that it will investigate the data collection practices of that platform.

We also note that recent product developments by Meta include the use of Instagram Reels and Facebook Reels, with significantly similar functionality to that offered by new entrants such as TikTok. The development of those products is also likely to slow the growth of competitors to Facebook and Instagram.

In both the Digital Platforms Inquiry Final Report and the First ACCC Report, the ACCC highlighted the significant barriers to entry for social media platforms that entrench the power of Meta, including for example network effects, economies of scale and sunk costs. Arguments have been made by others that the increasing popularity of TikTok demonstrates that problems created by, and the extent of, barriers to entry in the social media services market are overstated. In fact, the nature and popularity of TikTok demonstrates how significant these barriers to entry truly are. TikTok is owned by ByteDance, a substantial Chinese company. It is estimated that ByteDance's market capitalisation is approximately US\$300 billion.<sup>3</sup> It is only because it has such vast capital that ByteDance been able to invest the substantial resources necessary to establish a new social media service that has been able to grow rapidly. Even then, neither Facebook nor Instagram's user numbers have been reduced in the Australian market as a result of this new entrant.

### 3.3 Expansion of social media ecosystems

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The Issues Paper notes the expansion of social media services into other areas, through the provision of additional services, such as e-commerce services, and asks a number of questions about the benefits or otherwise that this may provide to Australian consumers.

A social media platform's purpose in offering different types of content, and other services, to users is to increase its revenue generating opportunities by retaining users on its platform, potentially for longer periods of time (while also providing the opportunity to extract more data from such users as they interact with more services on the platform). There is nothing unique about a provider of digital platform services, whether social media services or other types of services, seeking to monetise visits to its platform by offering a broader range of services in this manner.

The primary impact that the expansion of social media services through the provision of other services has is to enhance the network effects that exist with the use of particular platforms, by making customers more "sticky", that is, more likely to spend more time on the platform and less likely to move to other competing services. This is particularly concerning in the case of Meta, given that Meta is already – even absent the expansion of the ecosystems of its social media services – so dominant in the market for social media services in Australia.

In this sense, the competition law issues that arise in considering the provision by social media platforms of different types of services are not unique. In particular, and notwithstanding recent academic commentary to the contrary, the expansion of a social media platform's service offering does not change the nature of the market in which social media services compete. For example,

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<sup>2</sup> <https://www.afr.com/companies/media-and-marketing/snap-profit-warning-highlights-more-than-macroeconomics-20220525-p5aoin>

<sup>3</sup> <https://www.reuters.com/technology/exclusive-bytedance-reorganize-cfo-steps-down-focus-tiktok-memo-2021-11-02/>

Facebook would not cease to be a social media platform because it offers e-commerce or other services to its users and its dominance in the market for social media services remains a competition concern.

### 3.4 Regulation is required across digital platform services

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Given its substantial user bases for both Facebook and Instagram, Meta holds a gatekeeper position in relation to access to Australian consumers for Free TV Australia's members. This is not only because of its substantial market power, but also because the nature of the services that Free TV Australia's members provide means that connecting with Australian users via other social media platforms is not currently a substitute for reaching the audience via Facebook (or Instagram). Looking for example at TikTok, its short form video content sharing platform does not provide a referral service and is therefore a fundamentally different service to those operated by Meta. TikTok is also yet to develop its monetisation or advertising products. Broadcasters therefore still rely on Meta, and particularly Facebook, as a key source of referral traffic, not only for news but also for other types of content. This means Meta remains an unavoidable business partner for broadcasters.

It is worth noting that the advertiser funded business model that underpins commercial free-to-air broadcasters relies on reaching the widest possible audience. In the modern media environment, that means free-to-air broadcasters need to connect with audiences across all available platforms from terrestrial broadcast delivery, owned and operated digital assets and other platforms such as social media channels. The need to maximise audience reach means that any platform with a material number of users is an unavoidable business partner for local media businesses. This includes platforms such as TikTok where direct monetisation is not yet possible, but given the growing user base, broadcasters must build brand and content awareness through that platform.

Free TV Australia does not propose to repeat the submissions it has made to the ACCC Regulation Inquiry, other than to note the ongoing dominant position of Meta in the market for social media services, which appears unlikely to be challenged in the medium term, highlights yet again the need for urgent regulatory change to address the competition problems and market failures that Meta's dominance creates.

This consultation process raises the question of whether specific segments, or sub-markets, of the social media services market may require consideration by the ACCC in the future. The different nature of the services provided by TikTok, and the narrow demographic that TikTok targets, is highlighted in this submission. If TikTok continues to grow, there would be strong arguments that it should also be regulated given its dominance in that sub-market of social media services.

It should also be remembered that there are other digital platform services markets that are similar to the social media services market as these also allow for significant user interaction. A similar market is the market for social media video services. YouTube is the dominant service provider in that market.

Free TV does not propose to repeat the submissions that it has made to the ACCC Regulation Inquiry and other ACCC inquiry processes. However, we note that it is also the case that urgent regulatory changes are required to address the competition problems and market failures (such as self-preferencing) that Google's dominance in other digital platform services markets, including the market for social media video services, creates.

#### 4. Meta's dominance in the display advertising services market

The Issues Paper raises a number of questions in relation to advertising on social media platforms. The Digital Platforms Inquiry Final Report concluded that Facebook (now Meta), through both Facebook and Instagram, had at that time substantial market power in the supply of display advertising services in Australia, with an approximate 51% market share. That Final Report also concluded that Meta, in supplying advertising inventory on Facebook and Instagram, faced little competitive constraint. The findings of the ACCC in the Digital Platforms Inquiry Final Report were confirmed in the First ACCC Report. There is no evidence to suggest that Meta's dominance in this market is not continuing at the current time. As noted above, there has been no discernible reduction in its customer numbers and in fact Instagram user numbers have increased.

Again, Free TV Australia does not propose to repeat its previous submissions to the ACCC in related inquiries it has undertaken. However, we refer to our submissions to the Digital Advertising Services Inquiry (**Ad Tech Inquiry**). While acknowledging that the Ad Tech Inquiry did not focus on digital advertising sold by Meta, we argued that regulation of Meta was also required as its behaviour in relation to online advertising generally, including regarding the sale of inventory on Facebook and the other platforms owned by it (including Instagram), is problematic from a competition point of view.

To take only one example, publishers are required to implement Facebook's social sharing tools on their websites to be able to access audiences through Facebook, which is an unavoidable source of traffic. Facebook then takes data collected through those tools to target ads on Facebook and retains the revenue from those ad placements. In a competitive market, publishers would be able to restrict Facebook's use of that data. These submissions to the Ad Tech Inquiry were reinforced in our submissions to the ACCC Regulation Inquiry.

Given Meta's ongoing dominance in the market for digital advertising services, it is particularly important that the proposed new regulatory framework for digital platforms being considered under the ACCC Regulation Inquiry regulates the provision by Meta of digital advertising related services, not simply other advertising technology services.



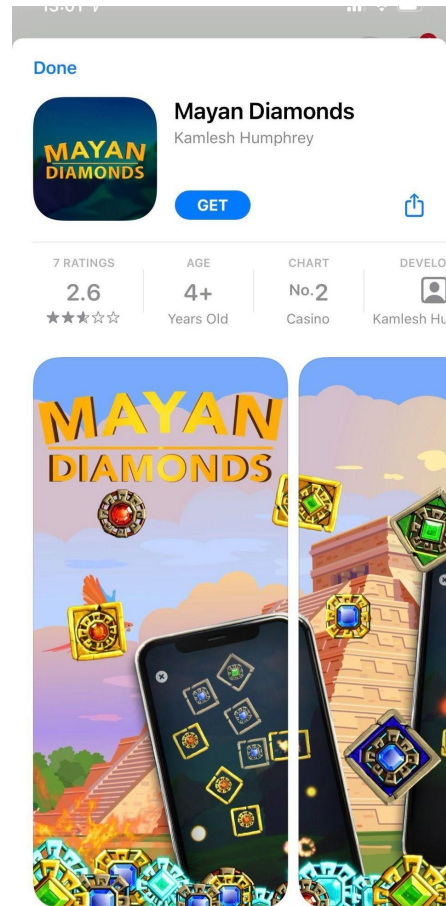
## 5. Scam advertising

Free TV Australia also wishes to raise the concerns of its members regarding scam advertising. This has become a more significant problem than at the time the ACCC undertook its Digital Platforms Inquiry. In its submissions to the Digital Platforms Inquiry, Free TV Australia highlighted the problems caused by fake or scam advertisements and the inadequate takedown processes implemented by platforms, including Meta, to address this problem.

It remains the case that the takedown processes for scam advertisements implemented by Meta (and other platforms) are inadequate. Fake ads continue to quickly reappear after they are taken down. These inadequate takedown processes damage the business reputations of broadcasters and also the personal reputations of the celebrities and media personalities that are misrepresented.

Recent examples of such scam advertising are included below.

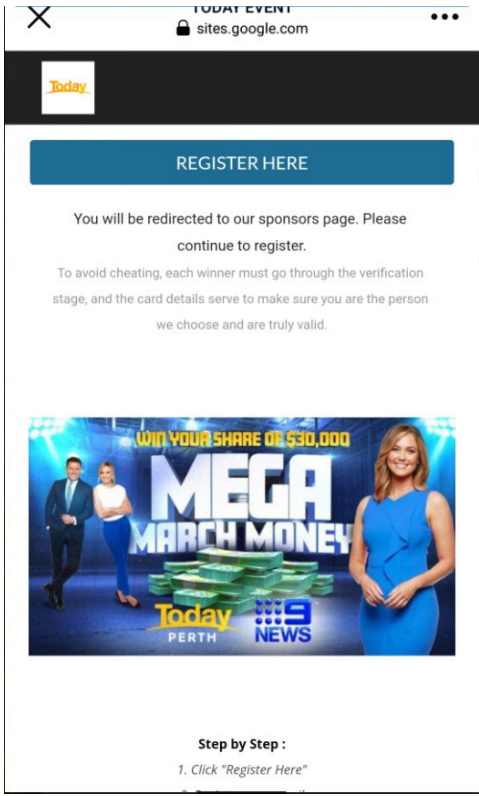
*Fake endorsements that appear on Facebook suggesting that Georgie Gardner, a news reader and reporter for Channel 9, endorses the “Mayan Diamonds” app*





*A fake Allison Langdon account*

Allison Langdon is a presenter on the Today Show. The fake account encourages individuals to enter a fake competition to win money. When an individual seeks to register for the competition, the link takes them to a page that promotes Mega March Monday and requests their bank account details.



*Unauthorized use of images of Karl Stefanovic*

Images of Karl Stefanovic, also a Today Show presenter, are used without his consent by advertiser Jimmy Napes on Facebook to give the misleading and deceptive impression that Karl endorses cryptocurrency.





QLD HOMEOWNERS - Your postcode is approved! Govt has authorised up to \$7,000 to be paid for your home's energy needs....see more



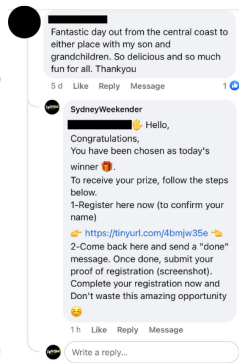
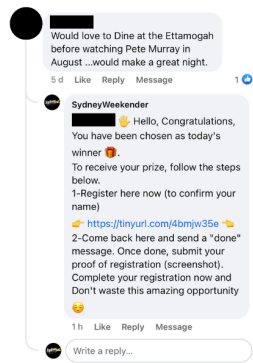
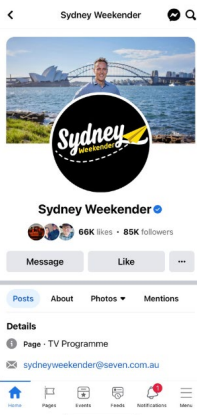
REBATEFINDER.COM.AU \$7,000 to be paid for your home's energy needs Queensland Homeowner Solar Pro...

LEARN MORE

... Unauthorised use of 9News branding

This Facebook page: https://www.facebook.com/QLD-Rebate-Finder-113637637177578 has used sponsored posts with 9News branding and intellectual property without permission, suggesting that Channel 9 endorses the relevant company (QLD Rebate Finder) when this is not the case. The page appears to be seeking to obtain personal information under false pretences.

In addition, Seven has been the subject of a recent persistent scam where Facebook pages impersonating Seven official program pages seek out personal information, including credit card information, on the pretence that the request is coming from Seven. The most recent example of this includes Seven's Sydney Weekender Facebook page. Sydney Weekender frequently run competitions for Seven's audiences on social media. Unverified social media profiles have impersonated Seven's page and targeted typically vulnerable audiences by falsely claiming that the user has won a prize in the comments section of Seven's Facebook posts.



In early 2022, the image of Seven's Sunrise host, David Koch, was used by fraudsters to scam social media users to invest in cryptocurrencies. His image was used as one of many fake celebrity endorsements that baited and lured investors into scam Bitcoin investments. Notwithstanding the significant consumer harm from these scams, in addition to the reputational harm to Seven, Facebook is persistently slow in responding to Seven's takedown requests.



This problem with scam ads on digital platforms, including social media platforms, should be contrasted with advertising on traditional media platforms. Commercial free-to-air broadcasters' platforms are a brand-safe environment and meet community standards. Broadcasters are required to review and classify all advertising on their own platforms and ensure compliance with the requirements of the Free TV Australia Code of Practice, in addition to complying with all legal requirements.

In early 2022, the ACCC commenced proceedings against Meta in the Federal Court in relation to scam advertising appearing on its platforms. At the time, the then ACCC Chair stated that Meta should be doing more to detect and then remove false or misleading ads on Facebook. We support the ACCC's actions in these proceedings and look forward to the ACCC being successful in that case. However, to address the underlying problem of ensuring that Meta (Facebook) and other platforms, including Google and TikTok, take actions to address this significant problem, further steps are required.

As we submitted to the ACCC in connection with the Digital Platforms Inquiry, to address the problem with scam ads, social media platforms and other similar types of digital platforms, should be required to ensure that material which they control is not fake, damaging, misleading or defamatory.