

Key Points

- The Special Broadcasting Service Corporation (SBS) is a national public service media organisation dedicated to the delivery of broadcasting and digital media services to inform, educate and entertain all Australians, with a specific remit to serve multicultural, multilingual, and First Nations communities. SBS appreciates the opportunity to provide comment to the Office of the Australian Information Commissioner (OAIC) on the Exposure Draft Children's Online Privacy Code (**the Draft Code** or **the Code**).
- SBS is a multiplatform network that distributes content across linear television and radio as well as online via streaming, websites, apps and third-party social media services. SBS is a hybrid-funded public broadcaster, with the delivery of public interest services supported through a mix of Government appropriations as well as advertising, sponsorship and other own-source revenue. SBS's ability to generate revenue is critical to its ability to provide public interest content and services, for free, to Australian audiences across a range of platforms.
- SBS takes a proactive approach to maintaining high standards of privacy and trust concerning the personal information of its audiences. Trust in media organisations is vital and the way personal information is collected, handled and stored securely is critical to maintaining audience trust. It is important that SBS remains accountable and transparent to audiences, communities and stakeholders, particularly in relation to children's online privacy.
- SBS supports a risk-based approach. SBS is a low risk service for the purposes of the Draft Code, because SBS is a Corporate Commonwealth Entity subject to the Australian Government Agencies Privacy Code, is a not-for-profit entity for the purposes of the preparation financial statements under the *Public Governance, Performance and Accountability Act 2013*, and overall has a low child audience and low number of child registered users to SBS On Demand. SBS services are not primarily concerned with children's activities, though they may be accessed by children from time to time. This is explored further below.



- The Draft Code may apply to a range of SBS services and have an adverse and significant impact on SBS's business operations, through implementation cost and administrative burden, as well as on SBS audiences, through access friction and consent fatigue.
- The Draft Code may have serious unintended consequences if it restricts SBS's ability to generate revenues required to support the provision of public interest content and services. SBS has a number of concerns with the Code and provides a range of recommendations to clarify vague and uncertain elements and mitigate the risk of significant unintended consequences in the provision of public interest news, journalism and media.

SBS recommendations

1. SBS services should be exempt, given that SBS and its services are already subject to rigorous privacy and data safety obligations, including as a Corporate Commonwealth Entity subject to the Australian Government Agencies Privacy Code.
2. News services of registered news businesses, including websites and apps, should be exempt from the Code to avoid unintended consequences around access to, and production and distribution of, public interest news.
3. The scope of the Code is vague and uncertain and should be clarified.
 - The threshold of 'likely to be accessed by children' is broad and unworkable and should be replaced with a 'principally directed to children' or clearer threshold.
 - The term 'designated internet service' requires clarification to extend the exemption to all online services forming part of a broadcast media network.
4. Age assurance requirements should be the minimum necessary for low-risk services, and it should be explicit that self-declaration of age is sufficient for age assurance by public service media, such as SBS, providing free news content and services, and with clear editorial and accountability frameworks in place.
5. Best interests of the child considerations require guidance on criteria and assessment. SBS considers the interest of children from the perspective of a media service with a statutory responsibility to inform, educate and entertain.
6. Further consideration of practical implementation issues should be undertaken to ensure age assurance and consent requirements are workable in relation to the provision of free, public interest media content, are not unduly financially or administratively burdensome for industry, and avoid contributing to consent fatigue for children.
7. A minimum 18-month implementation timeframe should be afforded for in-scope services to comply with the Code given the need to consider the Code's application and adjust online service delivery as required.



About SBS

- SBS is a key cultural institution established to reflect Australia's multicultural society, and is one of the most trusted news organisations in Australia.¹ For over 50 years, SBS has played a unique role as a key cultural institution and has evolved to deliver services across more than 60 languages on broadcast, digital and online platforms, providing all Australians, including multicultural, multilingual and First Nations communities, with free access to trusted news, information and high-quality content.
- In fulfilling its obligations under the *Special Broadcasting Service Act 1991* (Cth) (SBS Act) and SBS Charter, SBS operates on the principles of Trust, Transparency and Respect. These principles define who SBS is, guide the creation of content across all SBS platforms, and are the standards by which SBS holds itself accountable.
- The **SBS Code of Practice (Code)** sets out the principles and policies SBS uses to guide its content to ensure that SBS maintains the highest standards of editorial independence and integrity. It details SBS's obligations regarding matters such as diversity of views and perspectives, accuracy for factual content, impartiality and balance in our news and current affairs, scheduling of content, advertising and complaints handling. The Code applies to all material published by SBS, including social posts made by SBS on third party platforms.

SBS delivers multiplatform services to reach all audiences



¹ S Park, K McGuinness, JY Lee, J Fulton, M Fujita, D Nolan, C Fisher, G Nardi (2026). *Digital News Report: Australia 2026*. Canberra: News and Media Research Centre, University of Canberra., [Digital news report: Australia 2026](#)



- SBS's main online services are:
 - The SBS Website (a free, public-facing suite of websites and web pages)
 - SBS apps (such as SBS On Demand, SBS News, and SBS Audio)
 - SBS content provided via third party social media platforms, such as Facebook, Instagram, Youtube, TikTok and X. Content is also hosted on dedicated third party platforms including audio platforms (such as Spotify), and news platforms (such as Apple News).
- Each online platform has differing implications for privacy and data collection and differing arrangements which impact what, if any, information SBS has about its users:
 - Some SBS online services require an SBS user account – such as SBS On Demand.
 - Some SBS online services do not require an SBS user account – such as the SBS News website or the SBS News or SBS Audio apps.
 - Third party platforms have differing user account and data-sharing arrangements – for example, a user may listen to an SBS podcast on a third party platform without an SBS user account, and SBS is subject to third party arrangements on what, if any, information is provided about users accessing SBS content.
- For the purpose of accessing media content, SBS's online services may be viewed or listened to by children in two main ways:
 - Via their own account, settings or device: using a web browser or an app (i.e. SBS On Demand or SBS News, for example), installed on a child's device (i.e. smart phone); or
 - Via someone else's account, settings or device: using a web browser or an app (i.e. SBS On Demand) installed on a family home device (i.e. smart TV), or a parent/guardian's device (i.e. smart phone) with an adult user profile (i.e. parent/guardian SBS On Demand account).
- For the purposes of online privacy, there are two ways children may be considered to be likely to access SBS's online services:
 - Where SBS knows the person involved is a child – because they have logged in with a user account aged 15-17; or
 - Where SBS doesn't know any detailed information about the user, including whether they are a child – because SBS does not collect age or identity information (i.e. the user is not logged in "browser" and SBS only knows the user at the "device/IP level").



- Access to SBS News website is an example of where SBS does not collect age or identity information. SBS does not collect information that would identify if a person browsing the SBS website is a child and SBS only has limited information about non-logged in users.
- In relation to services which require a user account such as SBS On Demand, (which includes the dedicated SBS On Demand app), the SBS Terms and Conditions² restrict access to individuals 15 years old and over and provide that the use of SBS's digital services by children and young people should be managed by their parents, guardians or an appropriate adult. Other SBS apps are of general service in their nature, for example both SBS News and SBS Audio apps have 4+ Age Rating on Apple and Google app stores.
- To the extent that any online service can be accessed by end users through online searches or links, SBS has online services that may be considered to be likely to be accessed by children. However, with the exception of children's series and movies, NITV children's programs and the SBS Learn³ website, SBS content is not directed at children, and children do not make up a significant audience for SBS's content and services overall. Further, the number of SBS On Demand user accounts with an identified age of 15 to 17 is low (around 1 per cent of total user accounts).
- **Recommendation:** SBS recommends that the OAIC consider SBS to be a low risk service, taking into account:
 - the relatively low number of children with SBS user accounts; and
 - the SBS content environment which includes trusted Australian news and quality curated programs for children and adults that is regulated by the SBS Code of Practice and subject to the *Broadcasting Services Act 1992* (Cth).
- SBS further recommends that OAIC reconsider wording 'likely to be accessed by children' in view of evidence that it is far too broad (see further below).

Corporate Commonwealth Entities should be exempt

- SBS is a Government entity committed to strict regulatory and transparency measures. It takes very seriously the protection of its audiences' privacy. SBS adheres to all of its obligations under the *Privacy Act 1988* (Cth) (the **Privacy Act**), including the Australian Privacy Principles (APPs) concerning personal information of individuals.

² SBS Terms and Conditions: <https://www.sbs.com.au/aboutus/terms-and-conditions>

³ SBS Learn: <https://www.sbs.com.au/learn/>



- In addition, SBS also aims to protect individuals' privacy through the principles of trust, transparency and respect, as outlined in the SBS Privacy Policy ⁴ which is robust and rigorously kept up-to-date, and available in 6 languages other than English.
- SBS does a range of things to protect children and children's privacy. SBS limits the age of user accounts to 15+. Where user accounts are aged between 15-17, SBS does not include these users in audience segments for targeted digital advertising or targeted digital media off platforms. Alcohol and gambling advertising is also automatically blocked from those users.
- Limited advertising may be displayed in content aimed at children (e.g. a children's program) or for children (eg: SBS Learn videos for use by teachers in a classroom). SBS generally does not solicit the information of children in other circumstances – and if a competition is run, age is restricted to 18+, or parental permission is required to enter.

SBS Privacy Policy and governance

- SBS has strong protections in relation to data privacy in its business activities, in accordance with the Privacy Act. SBS is transparent with audiences through its Privacy Policy and has robust arrangements in place with any partners engaged to provide data-enhanced audience experiences. In relation to public interest journalism activities and the delivery of content across its networks, SBS sets clear editorial standards around privacy as part of the SBS Code of Practice.⁵
- As a Corporate Commonwealth Entity, SBS is also subject to the Australian Government Agencies Privacy Code which commenced on 1 July 2018 and provides additional obligations and safeguards. In accordance with this Code:
 - SBS has a Privacy Management Plan to specify and measure privacy goals and targets;
 - SBS has an appointed Privacy Officer and a Privacy Champion to provide leadership in promoting a privacy culture at SBS;
 - Privacy Impact Assessments (PIA) are undertaken for all 'high privacy risk' projects, with a register of all PIAs conducted published on the SBS Website;
 - SBS provides privacy education and training to all staff as part of the induction process, as well as ongoing education and training for all staff.

⁴ SBS Privacy Policy: <https://www.sbs.com.au/aboutus/privacy-at-sbs/>

⁵ SBS Code of Practice: <https://www.sbs.com.au/aboutus/sbs-code-of-practice/>



- SBS's Privacy strategy aligns with our obligations under the Privacy Act, the APPs and the Australian Government Agencies Privacy Code. SBS actively promotes a strong privacy culture across its business.
- In FY2024–25, SBS's Privacy Team conducted a review of SBS's Privacy Policy and delivered communications and updates to staff about privacy issues. SBS is an official supporter of Privacy Awareness Week, and the organisation continues to implement a range of initiatives to enhance technology controls and minimise holdings of personal information. SBS also has robust data breach protocols which are regularly assessed.⁶
- **Recommendation:** SBS recommends that the national broadcasters, ABC and SBS, be exempt from the Code; or that Corporate Commonwealth Entities already subject to the Australian Government Agencies Privacy Code, be exempt from the Code.

Registered News Businesses should be exempt

- In Australia's democratic society, there is a public interest in free access to news sites without users having to provide identifying information, or go through log in or consent processes. However, the Draft Code would require SBS to ascertain the age of all end-users (including those browsing news sites). This would introduce friction in accessing news and contribute to consent fatigue which may lead to individuals engaging less with the increased privacy information presented to them. The Code should avoid the unintended consequence of requiring more personal information to be collected about users, just so that the children can be identified and have higher privacy protections applied for the purpose of browsing a free news site.
- A news website may be visited by persons under 18 years old, but without any login registration and personal information collection, there is no way of knowing which users may be under 18 years old. It is common for such sites to legitimately collect some data about users browsing its services, such as anonymous user data, geolocation and technical information.
- Online news services of registered news businesses, including websites and apps, should be exempt from the Code to avoid unintended consequences around production and distribution of, and access to, public interest news. The definition of 'registered news business' for the News Media Bargaining Code in the *Competition and Consumer Act 2010* (Cth) should be utilised for this purpose, to ensure that the exemption applies only to legitimate and genuine news organisations that have editorial and governance frameworks in place.

⁶ SBS, Annual Report 2025, p104.



- Without exemption, the Code would impose significant operational and financial burden on registered news businesses which may impact the provision of public interest services. Explicit exemption of news services from the Code would ensure SBS does not have to spend its limited taxpayer-funded resources to extensively modify these wide-ranging online deliveries, for comparatively little public policy outcomes.
- As a hybrid-funded public broadcaster, revenue generation, including through advertising activities, is essential to SBS providing its essential services, including journalism. If SBS users are provided with the ability to opt-out of collection of all data of value to SBS, this could materially affect SBS's hybrid funding model, as well as its ability to personalise its services to create a better user experience for audiences and tailor its promotional activities to increase the reach of its services and deliver on its Charter obligations to serve all Australians. Regulatory change that undermines SBS's ability to earn own-source revenue will create a greater burden on the taxpayer to fund SBS's essential services.
- **Recommendation:** News services of registered news businesses, including websites and apps, should be exempt from the Code to avoid unintended consequences that would disrupt access to, and production and distribution of, public interest news.

Scope of the Code must be clarified

- The Code as proposed is too broad and requires refinement to avoid severe unintended consequences for the delivery of public interest news and content that informs, educates and entertains Australians, including the provision of diverse multilingual, multicultural and First Nations services. As drafted, the Code appears unworkable because it will have the effect of requiring all SBS services to operate as if all users are children, when our available data suggests the vast majority of SBS audiences are adults.
- This approach will disrupt the provision of free public interest media to Australians, and restrict SBS's ability to monetise services and generate revenues used to fund that public interest content.



- The Code should not have the unintended consequence of requiring more personal information to be collected about users, just so that the children can be identified and have higher privacy protections applied. For example, a news website may be visited by persons under 18 years old, but without any login registration and personal information collection, there is no way of knowing which users may be under 18 years old. It is common for such sites to legitimately collect some data about users browsing its services, such as anonymous user data, geolocation and technical information. This could inadvertently place in breach any site which does not check the age of individuals browsing its services.
- If it is determined that the majority of SBS services are 'likely to be accessed by children' and if required to be implemented across the majority of SBS services, this would constitute a process by which SBS would be required to confirm the age, identity and consent of anyone who clicks through to the SBS website (and other services). This is an undesirable public policy outcome.
- If SBS services are within scope, SBS would need to make sure the collection of children's information across impacted services is to the minimum extent possible and with consent. This would require either age checks, followed by differential treatment of children's information; or the need to treat everyone's information with the care required of children's information.
- A significant issue if SBS On Demand is covered will be whether existing age gating is sufficient (and/or whether it requires a higher level of age assurance), and how SBS is treating the data of any child users of On Demand (a very small group of children aged 15-17). The SBS Website currently carries advertising and SBS's privacy policy notifies people of data collection. The Code may impact the ability of SBS to enable any cookies or tracking at all, including pop ups seeking explicit consent to ad tracking / cookie acceptance pop ups, as well as introduce onerous age assurance and consent requirements simply to access free news, information and entertainment services.

The threshold of "likely to be accessed by children" is far too broad

- The Draft Code would apply to relevant online services "likely to be accessed by children" which would capture a broad range of services, whether or not the services are principally intended for children or have an audience or user base that is predominantly children.



- Given that children use the internet and web based searches, any public facing website in Australia is likely to be accessed by children – or to put this another way, it will be difficult for any business with a public facing website to decide that it is *not* likely to be accessed by children. There is also no clarity on the threshold – whether the likelihood that one or more children at some point could navigate onto a website would be sufficient to require the application of the Code to that organisation. Further clarification and refinement is required to ensure a risk-based approach is achieved to the application of the Code to online services. Organisations with an online presence, not targeting services to children, should be able to conclude with certainty that the Code does not apply.
- As a starting point, the Code should only apply to services principally intended for children, or which are proven to have significant child audiences. SBS considers the approach adopted by the Australian Association of National Advertisers (**AANA**) to be instructive in this regard, and recommends the OAIC consider the utility of this approach for the purposes of the Code. The AANA Children’s Advertising Code provides that:

Advertising to Children means:

Advertising that targets Children and which is determined by the context of the advertisement and the following three criteria:

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children.⁷*

⁷ AANA, Children’s Advertising Code (Effective from 1 December 2023), <https://aana.com.au/self-regulation/aana-code-for-advertising-marketing-communications-to-children/>



- The AANA requires all three criteria to be considered in determining whether or not advertising targets children, with the weighting given to each of the three criteria determined on a case-by-case basis. In relation to the third criteria, measures to determine if children are likely to be a 'significant proportion' of the expected average audience may include one or a combination of factors. For example, where data exists, 25% or more of the predicted audience for the advertisement will be children, or where the advertisement appears during children's programming or within content with significant appeal to children (e.g. featuring personalities or characters popular with children), or taking account of the time or location of where the ad is shown.
- **Recommendation:** The AANA's approach is recommended to replace the current test of "likely to be accessed by children". It should be used to determine whether a service falls within the Code by assessing whether the service as a whole is targeted to children, having regard to its product design, presentation and expected audience.

'Designated internet service' is unclear

- Further clarification is required in relation to which online services would be captured by the Code. The definition of 'designated internet service', within the meaning in the *Online Safety Act 2021* (the *OSA*) would apply to a range of SBS services, as well as partially exclude elements of SBS services. The definitions in the *OSA* are for the purposes of content regulation and do not, without amendment, present a clear or workable approach for the purposes of implementing privacy requirements consistently.
- The definition of 'designated internet service' at section 14 of the *OSA* includes a wide range of services that allow end-users to access material using an internet carriage service (such as the SBS website, for example), but does not include an on-demand program service (such as SBS On Demand) but only to the extent to which the on-demand service provides material that is identical to a program that has been, or is being, transmitted on a television broadcasting service provided by SBS (section 18(1)(b)(v) *OSA*).
- The exclusion of on-demand program services to the extent the content is identical to a program broadcast on SBS television is a partial exclusion of on-demand services only, because SBS On-Demand may include additional programs that are not identical (in length, format or content) to what is transmitted on the SBS television broadcasting service provided by SBS.



- All content and services provided by SBS are subject to the SBS Code of Practice (i.e. the content is regulated) and SBS Privacy Policy (i.e. the services are subject to privacy standards). Therefore, for the purposes of the Code, it should be made clear that the intent is for on-demand services to be fully excluded from the operation of the Code where the on-demand service forms part of a broadcast media network provided by a regulated media organisation such as SBS.
- **Recommendation:** SBS recommends that the Code should only apply to services principally intended for children, or which are proven to have significant child audience, or which, given the product, presentation and expected audience, is targeted to children. SBS further recommends that the exclusion of on-demand program services should be in totality, and without qualification, if the on-demand program forms part of a broadcast media network provided by relevant broadcasters in Australia, including SBS.

Age assurance should be the minimum necessary

- SBS recognises the objective of protecting children's personal information, and supports the risk-based approach of the Code. SBS notes that the Exposure Draft's explanatory document states that the OAIC will maintain guidance on age assurance technologies to ensure entities comply with privacy obligations.
- SBS seeks to ensure age assurance requirements are proportionate. For SBS, self-declaration of age (as is in place for SBS On Demand service) by audience should be sufficient to meet the age assurance requirements and would be a proportionate response to the risks to children's personal information under consideration. Currently, SBS On Demand users accept SBS terms and conditions, which include self-declaration of age.
- There are a range of examples where self-declaration of age works appropriately and is proportionate to the risk at hand. For example, self-declaration of age is in place on streaming content services (including SBS On Demand) and many gaming app registration processes.
- **Recommendation:** To avoid a counterproductive outcome, the Code should expressly permit SBS's compliance regarding age assurance through self-declaration. This approach would significantly reduce the implementation burden associated with procuring and integrating a more complex age assurance solution.



An 18-month implementation timeframe is required

- Sufficient implementation timeframes are required for in-scope SBS services to comply with the Code in the event that it is applicable to SBS. In SBS's view, 18 months should be afforded to it as the minimum timeframe for it to consider the Code's application and adjust its online service deliveries as required.
- There exist varying levels of technological complexity across the wide range of SBS's online services. The primary compliance constraints for SBS are likely to be time, budgeting, resourcing and implementation complexity.
- A sufficient lead-in period would reflect the complexity of integrating an age assurance process, and align with the more than 12-month timeframe previously afforded to social media companies (which have significantly more resources than SBS) under the social media minimum age legislation (which passed the Parliament in November 2024, and took effect in December 2025).
- SBS has not costed a third-party age assurance tool, therefore the technical requirements and resource impacts are currently unknown and not budgeted for. SBS's circumstance is unlike those of a number of social media platforms that have already implemented age assurance, pursuant to the social media minimum age legislation.
- Implementation at SBS would be complex. We do not have in-house capabilities, and would have to assess various third-party age assurance solutions and integrate them with our identity management platform. This, as well as security and other related considerations, would need to be addressed through procurement, architecture, legal and security review processes.
- **Recommendation:** Based on the likely procurement, implementation and integration effort required, SBS recommends an 18-month period to comply with the Code.

General requirements (Division 1, Sections 8-11)

- SBS broadly submits that the impact of ascertaining the age of end-users of an entity's service will be significant – which is why the threshold for the application of the Code are so important.
- In relation to ascertaining the age of end-users of an entity's service – SBS notes the requirement under s8(2) gives little guidance around what is "reasonable". In SBS's view this will place entities at risk in two ways – if not enough evidence is collected, a risk that age verification processes used by the entity are insufficient, and if too much evidence is collected, a risk that entities will be in breach of s8(3) and principles in the Privacy Act around data minimisation.



Consent (Division 2, Sections 13-20)

- SBS strongly supports informed consent in relation to personal information. However, a requirement for consent to be obtained by a person with parental responsibility for children under 15 years of age, and regular refreshing of consent, could result in information overload and consent fatigue which may in turn lead to less consumer/individual engagement on privacy issues.
- The Consent provisions at Section 15 provides that there be a 12 month expiry of consent which will prompt children to check consent. This regular expiry and prompt will lead to notification fatigue. The expiry should be removed or increased to lengthen the time before expiry.

Transparency (Division 3, Sections 23-29)

- SBS has general concerns about Division 3 – Transparency, but on balance, the obligations here mostly relate to the SBS Privacy Policy, and any notifications SBS provides in relation to data collection. In any event, SBS already complies with section 28 because it provides information about how SBS handles personal information.⁸

Access to and correction of personal information about children (Division 4, Sections 30-31)

- SBS currently maintains a privacy policy in which it is considered important to hold up-to-date, accurate and complete information about users where they have provided such information. Users, including children, have a right to access the personal information SBS holds about them and request that such personal information be corrected if requested by a user who is satisfactorily able to identify that the information SBS holds relates to them.
- Through SBS On Demand, which is a freely available service, audiences already have access to their account information. SBS's On Demand platform and online services are freely available to audiences across Australia. SBS On Demand users are provided with access to their account information, and in line with SBS's privacy obligations, audiences have the right to access personal information as outlined in SBS's privacy policy.⁹ SBS is further a provider of advertising inventory, and existing measures and agreements in place to provide relevant information to suppliers are functioning effectively.

⁸ SBS Help, <https://help.sbs.com.au/hc/en-au/sections/360000423216-Privacy-at-SBS>

⁹ SBS Privacy Policy, <https://www.sbs.com.au/aboutus/privacy-at-sbs/privacy-policy/>



- Current mechanisms for individuals to manage the use of their personal information are appropriate. SBS users, for example, have a number of options to opt-out of use of their data for direct marketing and personalisation services at any time, and can request that SBS delete their personal information. A requirement to refresh an individual's consent on a regular basis would substantially increase any information overload and consent fatigue felt by individuals, resulting in reduced engagement on privacy issues. It would also add a significant administrative burden on the entities which have collected that personal information.

Destruction of personal information about children (Division 5, Section 32)

- SBS already provides individuals with the ability to request that SBS delete their personal information, subject to any restrictions under law. SBS currently maintains a privacy policy which provides for the deletion of personal information, and regularly deletes information and account for dormant users. Generally, any deletion requests are subject to our record keeping obligations, including the Archives Act 1983 (Cth).
- However, SBS notes that complete erasure of data is not a simple process, particularly for data held in backup systems, and there will be legitimate business reasons to retain data, as well as legal obligations and overriding public interest reasons for retaining data, including freedom of speech, freedom of the media or public health and safety.
- Any requirements around the destruction of personal information about children should allow flexibility in its implementation. As the ACCC noted in the Digital Platforms Inquiry final report, "...there is a large number and variety of entities that collect and use personal data, which means that an obligation to delete data should operate flexibly to accommodate different businesses data needs and requirements".¹⁰
- By way of example, some flexibility can be seen in the Consumer Data Right (CDR) which requires that CDR data be deleted "to the extent reasonably practicable"¹¹ and the GDPR's 'right of erasure' which is not an absolute right and provides a number of exemptions and limitations.¹²

¹⁰ ACCC, Digital Platforms Inquiry – Final Report (2019), p473, <https://www.accc.gov.au/about-us/publications/digital-platforms-inquiry-final-report>

¹¹ Competition and Consumer (Consumer Data Right) Rules 2019, rule 1.18 'CDR Data Deletion Process'.

¹² GDPR, Article 17.



Notification requirements for control or monitoring mechanisms (Division 6, Section 33)

- SBS does not have any services, tools, products, or capabilities which allow for notification mechanisms that monitor or control service use or monitor geolocation. These provisions appear to be directed at services such as Apple's 'Find My' application which could be used to locate and monitor the geolocation of other individuals (who have provided consent to share their location)¹³ or in terms of control, (for example, Apple's 'parental controls').¹⁴
- It is important to note that when the text reads "If an entity provides, in relation to the entity's service, a mechanism that gives a person with parental responsibility for a child the ability to control or monitor the use of the entity's service by the child" (section 33 (1)), the control mechanism being referred to would be through another entity (like Apple with parental controls). So, if a parent or guardian decided to control a child's use of SBS applications through the mechanism of Apple's parental controls, SBS is not the entity which provides that functionality.

Making inquiries and complaints (Division 7, Sections 34-36)

- SBS submits that further clarity is required on the scope of the Code. This clarity is necessary in order to understand if obligations under the Division would apply to the majority of SBS services or products (under the "likely to be accessed by children") consideration, or whether such obligations would only apply to a service like SBS Learn, in which case the obligations under Division 7 would be easier to implement.

Privacy impact assessments and privacy education and training (Division 8, Sections 37-40)

- SBS is subject to Australian Government Agencies Privacy Code and as such, already conducts and registers PIAs as well as publishes PIAs it conducted on the SBS Website. It also regularly provides privacy education and training to all staff including as part of the induction process, as well as ongoing education and training for all staff.

¹³ <https://support.apple.com/en-au/guide/iphone/iph6231f621a/ios>

¹⁴ <https://support.apple.com/en-au/105121>



- Any additional work for SBS to in these areas with specific regard to children and pursuant to the proposed Code's application needs to be risk-based and balanced. We have argued above, at length, regarding the application of the Code to SBS and that exemption should be afforded to SBS. This is because of SBS's low risk profile, generally low number of users under 18 years of age, as well as strict regulatory and accountability measures and obligations already applicable to it.

Conclusion

- SBS supports fit-for-purpose privacy laws that preserve the ability of Australians to understand the political, social, and economic matters that are vital to their participation in democracy. SBS will continue to adapt to the evolving regulatory and policy landscape, while maintaining its focus on delivering against its Charter and purpose in service of all Australians through the provision of news, information, and entertainment services.
- The Code should not compromise legitimate business models which allow consumers to enjoy services funded through advertising or restrict the ability of a business to tailor its offering where appropriate. The Code should give consideration to audience benefits relating to data-based services, such as personalisation, and the potential business-model impacts for those services.
- SBS has previously highlighted the following considerations for privacy regulation and restates them here:
 - APP entities should retain flexibility in how they inform their consumers about the handling of personal information. The inclusion of additional prescriptive matters in collection notices can make these notices longer, more complex, and less consumer friendly.
 - Measures which require periodically refreshed or granulated consents may lead to consent and notice fatigue and would not improve consumer privacy outcomes, while also imposing significant administrative burden on APP entities.
- Privacy measures should be appropriately balanced with legitimate business operations and other public policy objectives (such as free and unfettered access to public interest media). As an example, if privacy settings for online services were required to default to the most restrictive privacy settings, this could compromise legitimate interests in data collection and use for the delivery of services (for example, the ability of SBS to suggest programming in a particular language to users based on their phone settings).