

SUBMISSION TO THE TREASURY
DIGITAL PLATFORMS: GOVERNMENT CONSULTATION ON
ACCC'S REGULATORY REFORM RECOMMENDATIONS
FEBRUARY 2023

Key points

- SBS engages with digital platforms in a range of ways, including as a user, publisher, advertiser, and competitor for audiences, and has made a number of submissions to the various elements of the *Digital Platforms Inquiry*.
- SBS is impacted by the digital platforms' behaviours and business practices, and as raised in previous submissions, some of these activities can have a detrimental effect on SBS's ability to reach audiences effectively, as well as impacting some commercial activities. SBS and its audiences will benefit from measures to promote greater competition in the markets for these services, as will the taxpayers who fund SBS services.
- SBS therefore strongly supports the proposed regulatory reform that addresses anti-competitive or harmful market behaviour and business practices by digital platforms.
- SBS recommends that the new dispute resolution processes and the ombuds scheme proposed, in the Australian Competition and Consumer Commission's (**ACCC**) *Recommendation 2: Digital platform specific consumer measures*, be comprehensive in nature, so they are accessible to all businesses using the services provided by digital platforms (such as SBS) so that disputes arising with regards to digital platforms would be addressed in a way that is clear, certain and cost efficient.
- In relation to ACCC's *Recommendation 3: Additional competition measures for digital platforms*, and *Recommendation 4: Targeted competition obligations*, SBS supports regulatory reform measures that can effectively address these market issues and imbalances. Algorithmic opacity remains a key issue, which is relevant to the discoverability and prominence of SBS's taxpayer funded content, apps, and services on digital platforms. SBS is working collaboratively with the industry and Government on a related issue regarding the prominence of free-to-air television broadcasters on connected television devices (**CTVs**).
- SBS also supports the compliance and enforcement measures proposed by the regulatory reform package, as well as further coordination and consultation with relevant entities.
- The proposed regulation should be flexible, to ensure that it works as intended in light of emerging dominant platforms, changes in technology and market structure, and future consumer behaviour and preferences.
- There remains a separate issue, in the context of the News Media Bargaining Code (the **Bargaining Code**), that Meta has not engaged in meaningful negotiations with SBS. SBS will continue to engage with Government on this.



I. Introduction

The Special Broadcasting Service (**SBS**) appreciates the opportunity to respond to the *Digital Platforms: Government consultation on ACCC's regulatory reform recommendations*. In relation to digital platforms, SBS is a

- **user**—it uses multiple digital platforms to connect, inform and interact with audiences, and gain insights into audiences/consumers across Australia. It also uses ad tech services, principally those offered by Google—the dominant ad tech platform. SBS participates in the ad tech market as both an advertiser (see the third dot point below) and an inventory provider, for advertisers who wish to place digital advertising on SBS's online services;
- **publisher**—it publishes and provides its content on social media digital platforms, and its apps in app marketplaces owned by digital platforms;
- **advertiser**—it advertises its content, services, and activities on multiple digital platforms; and
- **competitor**—as outlined above, SBS provides digital advertising services on its online offerings (websites and apps) including SBS On Demand; this is in competition with those offered by digital platforms.

Greater competition in digital platforms' markets could result in, among other outcomes suggested by the ACCC, better consumer experience when it comes to SBS services available through digital platforms—at lower operating costs to SBS (and its advertisers), benefiting taxpayers who fund and use SBS services.

SBS therefore supports regulation that addresses anti-competitive or harmful market behaviours and business practices by digital platforms.

II. The new dispute resolution processes and the ombuds scheme, proposed in *Recommendation 2: Digital platform specific consumer measures, should be accessible to all businesses including SBS.*

Consumers and small businesses seeking to enforce their existing rights against digital platforms face significant obstacles, and dispute resolution processes are often unclear, costly and uncertain. For example, issues such as manipulated app reviews, or consumer scams targeting SBS apps or digital services are known to SBS and could be addressed. Other issues include, but are not limited to, those potentially arising from:

- insufficient notification by the digital platforms of upcoming changes (including algorithms), impacting SBS;
- self-preferencing practices by major digital platforms in the ad-tech market and app marketplaces—where 'big players call all the shots';
- inappropriate costs and charges in the currently opaque ad-tech supply chain, where there remains significant power imbalance between major digital platforms and other market participants;
- (as noted above) scams and their removal or prevention; and
- moderation on social media platforms.

SBS supports the proposed introduction of measures to assist users of digital platforms resolve disputes quickly and effectively—these should be cast sufficiently broadly to include business users such as SBS.



Recommendation: *The new dispute resolution processes and the ombuds scheme proposed, in ACCC's Recommendation 2: Digital platform specific consumer measures, should be expanded so that they are accessible to all businesses.*

III. In relation to ACCC recommendations 3 and 4, SBS strongly supports regulatory reform measures that can effectively address relevant market issues.

In relation to *Recommendation 3: Additional competition measures for digital platforms*, and *Recommendation 4: Targeted competition obligations*, as well as related measures outlined in the ACCC's fifth interim report, SBS supports regulatory reform measures that can effectively address relevant market issues and anti-competitive activities, in particular:

- the opacity, concentration of market power, self-preferencing (and conflicts of interest), and the trend of mergers and acquisitions, in the ad tech market;
- self-preferencing in the supply of apps, to ensure that SBS apps be easily discoverable and prominent in app marketplaces, and not be disadvantaged by the digital platforms' self-preferencing practices;
- self-preferencing in search services, so SBS content and services are easily discoverable and prominent on and through digital platforms—including search services, and not be disadvantaged by the digital platform's self-preferencing practices; and
- imbalances in data acquisition and aggregation, as well as in access to such data. Consumer data is valuable as it reveals the consumer behaviours and preferences. However, currently access to, and acquisition and aggregation of such data are significantly dominated by the major digital platforms.

It is also important that SBS's taxpayer-funded content, apps, and services be easily discoverable by the Australian public on, and through, digital platforms—whichever consumers may use. Discoverability and prominence on digital platforms are often dependent on the platforms' algorithms which are very opaque, and the lack of access to user data or information about changes can make it difficult to serve audiences effectively and efficiently.

For example, SBS is working collaboratively with the industry, including the Australian Broadcasting Corporation, Free TV Australia, and Government on a related issue through a separate process, which has to date been exploring the issue of the prominence of free-to-air television broadcasters on CTVs. Increased transparency around the digital platforms' algorithms that support discoverability and how content is served to audiences will enable SBS to deliver content to its audiences more effectively.

These abovementioned or related issues have been of concerns to SBS for some time. SBS has raised and discussed the issues in considerable detail through its previous submissions^{1,2} and ³ to the initial *Digital Platforms Inquiry* (concluded on 2019) and a number of subsequent inquiries^{4 5 6} and ⁷.

¹ SBS April 2018 [submission](#), in response to the ACCC *Digital Platforms Inquiry – Issues Paper*

² SBS February 2019 [submission](#), in response to the ACCC *Digital Platform Inquiry – Preliminary Report*

³ SBS September 2019 [submission](#), in response to the ACCC *Digital Platform Inquiry – Final Report*

⁴ SBS May 2020 [submission](#), in response to the ACCC *Advertising Services (Ad Tech) Inquiry – Issues Paper*

⁵ SBS October 2020 [submission](#) to the ACCC *Report on App Marketplaces – Issues Paper*

⁶ SBS March 2021 [submission](#) to the ACCC *Advertising Services (Ad Tech) Inquiry – Interim Report*

⁷ SBS September 2022 [submission](#) to the ACCC *Digital Platform Services Inquiry – March 2023 Report on Social Media Services*



IV. Conclusion

SBS supports regulation that addresses anti-competitive or harmful market behaviour and business practices by digital platforms. SBS would benefit from greater competition in the markets of these services. Importantly, consumers and taxpayers who use and fund SBS services would benefit from such improvement.

SBS also supports compliance and enforcement measures proposed by the regulatory reform, as well as further coordination and consultation with relevant entities.

While major digital platforms—including those operated by Google, Apple, and Meta—are significantly dominant at this time, the proposed regulation should be flexible, to ensure that it works as intended in light of emerging dominant platforms, changes in technology and market structure, and future consumer behaviour and preferences.