



<https://www.privacy.org.au>

[Secretary@privacy.org.au](mailto:Secretary@privacy.org.au)

<https://privacy.org.au/about/contacts/>

March 2, 2022

Ita Buttrose AC OBE.  
Chair  
Australian Broadcasting Corporation

[Buttrose.Ita@abc.net.au](mailto:Buttrose.Ita@abc.net.au)  
[chair@abc.net.au](mailto:chair@abc.net.au)  
[privacy.abc@abc.net.au](mailto:privacy.abc@abc.net.au)

Dear Ms Buttrose,

### **Open letter: Mandatory registration for use of ABC iView online services**

The Australian Privacy Foundation (APF) is the nation's preeminent civil society body dealing with community data protection, privacy and personal information security expectations.

This open letter is to raise our concerns and objections to proposals for mandatory registration for Australians to use ABC online services from March 2022. The proposal is unnecessary, intrusive, inconsistent with community expectations of protection from online tracking, a potential security or safety threat, and breaches the right not to have to identify yourself offered by Australian Privacy Principle 2 (APP 2). It should not go ahead.

1. While the case for offering ABC iView users the choice of an *optional* voluntary online account with some form of registration may be more straightforward, a key question is what specific technical or other audience/user need can only be met by a *mandatory* involuntary registration?
2. It is not essential for audience members to be required to register with the ABC for the broadcaster to analyse usage figures to understand the content, features and kinds of programmes people like. The ABC's usage figures illustrate this already.
3. The information collected by an iView account does not necessarily enable analysis of who in a household is watching what program, simply that someone in that household is watching. So the ABC's claim that account-holder information collected and used by these mandatory accounts is necessary to provide a granular view of watcher engagement for programming analysis is not persuasive, and does not demonstrate this intrusion is necessary for improving ABC services for all Australians.
4. Anyone wanting the 'continuation' programme function, or any other claimed benefits of an ABC account, should be able to voluntarily register if they wish. Others

who do not want the claimed benefits, or who do not wish to expose their (or their household's) online activity to more surveillance, should be able to choose not to register without being excluded from the service. (As taxpayers they already fund it).

5. The ABC says it conducted Video On Demand research last year with a 'nationally representative sample' of over 1500 people. 95% of ABC iView users were said to have expressed a desire for new and improved digital features, and this is said to justify the proposal. We would be obliged if you could point us to where the research methodology which describes these desirable digital features, the framing of the questions, and the responses is publicly available.
6. On behalf of the many Australians who value their privacy and information security, and who may thus be obliged to use anonymous or spurious information to register for an unwanted ABC iView account if it becomes mandatory, we seek to understand if there are any specific guarantees that information and metadata supplied by their software and Internet activity (such as persistent IP addresses, device fingerprinting, and the like) will not be compounded by linkage to the new non-optional account.

For instance, will Google, Amazon, Facebook/Meta or other foreign commercial online surveillance operators be able to exploit ABC account information or behavioural data traces to add to their own existing psychographic profiling information about users of online services? We would appreciate any technical details on work done to investigate or address this risk.

7. The so-called "opt-out" feature of the proposed mandatory iView account apparently requires a user to first accept the ABC unilaterally creating an account – one already defaulting to tracking and online behaviour data collection. After conceding the creation of an account they do not want, unwilling account holders must then navigate from the "Manage > ABC account" drop-down menu to many different text boxes, each of which must be manually changed (including Login Details, Data and Privacy). As with purported 'privacy options' in systems like Facebook, "opting-out" of iView registration involves a cumbersome and user-hostile process, one apparently designed to be tedious enough that many users will be 'nudged' to give up and not bother. This "opt-out" process is, in our view, unusable, rather than a credible or respectful mitigation measure for the privacy intrusion the Corporation is proposing.

We would be happy to help workshop alternative, more respectful "opt-in" models that could avoid this sort of passive-aggressive user experience. (The simplest is not to require a mandatory account, and not to create one unless it is the user's choice.)

8. In any case, the notion of "Opt-out" account settings seems like an oxymoron (an account that is a non-account or a semi-account) because it means that mandatory data will still be collected and potentially used by the ABC (whether for possible disclosure to third party marketers or some other purpose). It is reminiscent of commercial 'opt out' online tracking schemes, which require users not wanting to be tracked by cookies to accept a tracking cookie to mark their choice to opt out, with a user-opaque back end and no way to tell what happened to the retained personal information thereafter.
9. We understand that the Privacy Impact Assessment (PIA), a useful process if conducted openly and consultatively by a trustworthy independent expert, was

conducted “in-house”. This flawed approach lacks independence and transparency, compromising the process’s rigour. The usual explanation for this sort of PIA is a prior commitment to implement the plan [a mandatory registration system] anyway, regardless of issues like intrusiveness, threats to privacy, potential to undermine trust, or lack of justification – at worst, a PIA as a box-ticking compliance exercise, rather than as a credible, open investigation of potential impacts and an opportunity to explore alternative ways to achieve necessary effects.

10. Australian Privacy Principle APP 2.1 in *Privacy Act 1988* (Cth) provides that ‘individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with an APP entity [such as the ABC] in relation to a particular matter’. There are only two exceptions:

- APP 2.2(a): where ‘the APP entity is required or authorised by or under an Australian law, or a court/tribunal order, to deal with individuals who have identified themselves’, or
- APP 2.2(b): where ‘it is impracticable for the APP entity to deal with individuals who have not identified themselves or used a pseudonym’.

Neither exception applies to the ABC’s proposal for mandatory registration, which amounts to mandatory identification. This thus contravenes every Australian’s right to choose not to identify themselves except in limited, exceptional circumstances.

11. If this proposal is put in place, what guarantee is there that other services will not be subjected to similar unnecessary intrusions, denying free and open access to public information services offered by the ABC?

12. What will occur when someone without a functioning ABC account tries to access the national broadcaster’s services? Will they be excluded from access?

Not only is a mandatory registration scheme unnecessary and privacy intrusive, it also potentially creates barriers to access for certain sorts of people or in certain circumstances. While young, urban ‘digital native’ creatives with reliable internet access, and without the impediments of disability, age, or cognitive, cultural or other adverse circumstances, may treat this as a trivial matter, the ABC’s role as provider of essential community service information may be compromised by such a mandatory registration barrier, since it may have unexpected adverse consequences at certain times: think of people stuck at night on a rooftop in a flood, those with physical or cognitive difficulties, or with unreliable connectivity in some other crisis. The default should be the ABC’s online services should ‘just work’ at a basic level regardless of whether you may have forgotten your login, lost your device, suffer something else that makes registration difficult, be running low on battery or signal, or be hindered by some other challenge.

13. With this radical and unnecessary departure from the appropriate behaviour citizens have come to expect of a public service broadcaster – it creates a non-voluntary online identification scheme of the kind typically justified as supporting the sale of mass psychographic profiling ‘insights’ to a platform’s advertisers – can the public be expected not to suspect the proponents are doing the government’s bidding and preparing the ABC for privatisation and commercial exploitation?

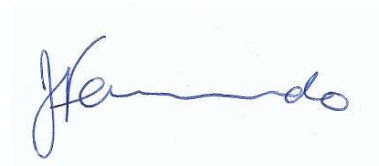
Taken together these issues suggest the mandatory registration scheme, having been prototyped and considered, should now be set aside.

Please feel free to contact us if you have any queries. We look forward to your response to the concerns, raised above. and thank you in advance for addressing them.

Yours sincerely,

Australian Privacy Foundation  
David Vaile, Chair

Dr Juanita Fernando, Deputy Chair

A handwritten signature in blue ink, appearing to read 'Vaile', with a large initial 'V'.A handwritten signature in blue ink, appearing to read 'Fernando', with a large initial 'F'.