

EXPOSURE DRAFT

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT

Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

No. , 2023

(Infrastructure, Transport, Regional Development, Communications and the Arts)

**A Bill for an Act to amend the law relating to
communications, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **communications, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Communications Legislation Amendment*
6 *(Combating Misinformation and Disinformation) Act 2023*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.

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1

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	

2

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

3

4

5

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

6

7

8

3 Schedules

9

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

10

11

12

2

Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 No. , 2023

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1 **Schedule 1—Main amendments**
2

3 *Broadcasting Services Act 1992*

4 **1 After section 216E**

5 Insert:

6 **216F Schedule 9 (digital platform services)**

7 Schedule 9 has effect.

8 **2 At the end of the Act**

9 Add:

10 **Schedule 9—Digital platform services**

11 Note: See section 216F.

12 **Part 1—Introduction**
13

14 **1 Simplified outline of this Schedule**

15 The ACMA has a graduated set of powers in relation to
16 misinformation and disinformation on certain kinds of digital
17 platform services.

18 The ACMA may make digital platform rules requiring digital
19 platform providers to keep records and report to the ACMA on
20 matters relating to misinformation and disinformation on digital
21 platform services. The ACMA may obtain information, documents
22 and evidence from digital platform providers and others relating to
23 those matters. The ACMA may publish information relating to
24 those matters on its website.

25 Bodies or associations representing sections of the digital platform
26 industry may develop codes in relation to measures to prevent or
27 respond to misinformation and disinformation on digital platform

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1 services. If the ACMA registers a misinformation code, digital
2 platform providers in the relevant section of the digital platform
3 industry must comply with the code.

4 Where there is no registered misinformation code, a registered
5 misinformation code is deficient or there are exceptional and
6 urgent circumstances, the ACMA may determine a standard to
7 provide adequate protection for the community from
8 misinformation or disinformation on digital platform services.
9 Digital platform providers are required to comply with
10 misinformation standards that apply to them.

11 2 Definitions

12 In this Schedule:

13 **access** includes:

- 14 (a) access that is subject to a pre-condition (for example, the use
15 of a password); and
16 (b) access by way of push technology; and
17 (c) access by way of a standing request.

18 **Australia**, when used in a geographical sense, includes all the
19 external Territories.

20 **connective media service** has the meaning given by subclause 4(3).

21 **content** means content:

- 22 (a) whether in the form of text; or
23 (b) whether in the form of data; or
24 (c) whether in the form of speech, music or other sounds; or
25 (d) whether in the form of visual images (animated or
26 otherwise); or
27 (e) whether in any other form; or
28 (f) whether in any combination of forms.

29 **content aggregation service** has the meaning given by subclause
30 4(2).

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- 1 **digital platform provider** means a person who provides a digital
2 platform service.
- 3 Note: See clause 8.
- 4 **digital platform rules** has the meaning given by subclause 64(1).
- 5 **digital platform service** has the meaning given by subclause 4(1).
- 6 **digital service** has the meaning given by clause 3.
- 7 **disinformation** has the meaning given by subclause 7(2).
- 8 **dissemination** includes the following:
- 9 (a) dissemination using automated means;
- 10 (b) dissemination to one person or more than one person.
- 11 **excluded content for misinformation purposes** means any of the
12 following:
- 13 (a) content produced in good faith for the purposes of
14 entertainment, parody or satire;
- 15 (b) professional news content;
- 16 (c) content produced by or for an educational institution
17 accredited by any of the following:
- 18 (i) the Commonwealth;
- 19 (ii) a State;
- 20 (iii) a Territory;
- 21 (iv) a body recognised by the Commonwealth, a State or a
22 Territory as an accreditor of educational institutions;
- 23 (d) content produced by or for an educational institution
24 accredited:
- 25 (i) by a foreign government or a body recognised by a
26 foreign government as an accreditor of educational
27 institutions; and
- 28 (ii) to substantially equivalent standards as a comparable
29 Australian educational institution;
- 30 (e) content that is authorised by:
- 31 (i) the Commonwealth; or
- 32 (ii) a State; or

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- 1 (iii) a Territory; or
2 (iv) a local government.

3 ***excluded services for misinformation purposes*** has the meaning
4 given by clause 6.

5 ***foreign government*** has the same meaning as in the *Foreign*
6 *Acquisitions and Takeovers Act 1975*.

7 ***harm*** means any of the following:

- 8 (a) hatred against a group in Australian society on the basis of
9 ethnicity, nationality, race, gender, sexual orientation, age,
10 religion or physical or mental disability;
11 (b) disruption of public order or society in Australia;
12 (c) harm to the integrity of Australian democratic processes or of
13 Commonwealth, State, Territory or local government
14 institutions;
15 (d) harm to the health of Australians;
16 (e) harm to the Australian environment;
17 (f) economic or financial harm to Australians, the Australian
18 economy or a sector of the Australian economy.

19 ***interactive feature*** has the meaning given by clause 5.

20 ***internet carriage service*** has the same meaning as in the *Online*
21 *Safety Act 2021*.

22 ***media sharing service*** has the meaning given by subclause 4(4).

23 ***misinformation*** has the meaning given by subclause 7(1).

24 ***misinformation code*** means a code developed under Part 3
25 (whether or not in response to a request under that Part).

26 ***misinformation standard*** means a standard determined under
27 Part 3.

28 ***news content*** means content that reports, investigates or explains
29 any of the following:

- 30 (a) issues or events that are relevant in engaging persons in
31 public debate and in informing democratic decision-making;

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1 (b) current issues or events of public significance for persons at a
2 local, regional, national or international level;

3 (c) current issues or events of interest to persons.

4 **news source** means any of the following, if it produces, and
5 publishes online, news content:

6 (a) a newspaper masthead;

7 (b) a magazine;

8 (c) a television program or channel;

9 (d) a radio program or channel;

10 (e) a website or part of a website;

11 (f) a program of audio or video content designed to be
12 distributed over the internet.

13 **participant**, in a section of the digital platform industry, has the
14 meaning given by clause 31.

15 **post**: content is **posted** on a digital service by an end-user if the
16 end-user causes the content to be accessible to, or delivered to, one
17 or more other end-users using the digital service.

18 **private message** means an instant message sent using a digital
19 platform service from one end-user of the service (the **sender**) to
20 one or more other end-users of the service (the **recipients**) where
21 the message is only observable to end-users of the service selected
22 by the sender or any of the recipients.

23 **professional news content** means news content produced by a
24 news source who:

25 (a) is subject to any of the following:

26 (i) the rules of the Australian Press Council Standards of
27 Practice or the Independent Media Council Code of
28 Conduct;

29 (ii) the rules of the Commercial Television Industry Code of
30 Practice, the Commercial Radio Code of Practice or the
31 Subscription Broadcast Television Codes of Practice;

32 (iii) rules of a code of practice mentioned in
33 paragraph 8(1)(e) of the *Australian Broadcasting*

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- 1 *Corporation Act 1983* or paragraph 10(1)(j) of the
2 *Special Broadcasting Service Act 1991*;
3 (iv) rules or internal editorial standards that are analogous to
4 the rules mentioned in subparagraph (i), (ii) or (iii) to
5 the extent that they relate to the provision of quality
6 journalism;
7 (v) rules specified for the purposes of this paragraph in the
8 digital platform rules; and
9 (b) has editorial independence from the subjects of the news
10 source's news coverage.

11 ***provided on a digital service*** has the meaning given by clause 9.

12 ***provided to the public***, in relation to a service, has the meaning
13 given by clause 10.

14 ***public body*** means:

- 15 (a) the Commonwealth, a State or a Territory; or
16 (b) an authority, or institution, of the Commonwealth, a State or
17 a Territory; or
18 (c) an incorporated company all the stock or shares in the capital
19 of which is beneficially owned by one of the following:
20 (i) the Commonwealth;
21 (ii) a State;
22 (iii) a Territory; or
23 (d) an incorporated company limited by guarantee, where the
24 interests and rights of the members in or in relation to the
25 company are beneficially owned by one of the following:
26 (i) the Commonwealth;
27 (ii) a State;
28 (iii) a Territory.

29 ***section of the digital platform industry*** has the meaning given by
30 clause 30.

31 ***service*** includes a website.

32 ***using*** has a meaning affected by clause 11.

3 Digital service

For the purposes of this Schedule, a **digital service** is a service that:

- (a) delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of an internet carriage service; or
- (b) allows end-users to access content using an internet carriage service;

where:

- (c) the service is provided to the public (whether on payment of a fee or otherwise); and
- (d) any of the content accessible using the service, or delivered by the service, is accessible to, or delivered to, one or more end-users in Australia;

but does not include a service to the extent to which it is:

- (e) a broadcasting service; or
- (f) a datacasting service.

4 Digital platform service

Digital platform services

(1) For the purposes of this Schedule, a **digital platform service** is a digital service that is:

- (a) a content aggregation service (see subclause (2)); or
- (b) a connective media service (see subclause (3)); or
- (c) a media sharing service (see subclause (4)); or
- (d) a digital service specified by the Minister in an instrument under subclause (6);

but does not include a digital service to the extent to which it is:

- (e) an internet carriage service; or
- (f) an SMS service; or
- (g) an MMS service.

Note 1: **SMS** is short for short message service.

Note 2: **MMS** is short for multimedia message service.

1 *Specifying digital services by instrument*

- 2 (6) The Minister may, by legislative instrument, specify that a kind of
3 digital service is a digital platform service if the Minister is
4 satisfied that it is appropriate to apply provisions of this Schedule
5 to the digital service to provide adequate protection for the
6 community.
- 7 (7) The Minister must consult the ACMA before the Minister makes
8 an instrument under subclause (6).

9 **5 Interactive feature**

10 For the purposes of this Schedule, a digital service has an
11 ***interactive feature*** if at least one of the following applies to the
12 digital service:

- 13 (a) the digital service allows end-users to post content on the
14 digital service;
- 15 (b) the digital service provides a means for end-users to share,
16 using the digital service, content that is provided on the
17 digital service with another end-user of the digital service;
- 18 (c) the digital service makes:
19 (i) interaction between end-users; or
20 (ii) interaction by end-users with content provided on the
21 digital service;
22 observable to other end-users.

23 **6 Excluded services for misinformation purposes**

- 24 (1) For the purposes of this Schedule, the following services are
25 ***excluded services for misinformation purposes***:
- 26 (a) an email service;
- 27 (b) a media sharing service that does not have an interactive
28 feature;
- 29 (c) a digital platform service specified by the Minister in an
30 instrument under subclause (2).

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- 1 (2) The Minister may, by legislative instrument, specify that a digital
2 platform service is an excluded service for misinformation
3 purposes.

4 **7 Misinformation and disinformation**

- 5 (1) For the purposes of this Schedule, dissemination of content using a
6 digital service is ***misinformation*** on the digital service if:
7 (a) the content contains information that is false, misleading or
8 deceptive; and
9 (b) the content is not excluded content for misinformation
10 purposes; and
11 (c) the content is provided on the digital service to one or more
12 end-users in Australia; and
13 (d) the provision of the content on the digital service is
14 reasonably likely to cause or contribute to serious harm.
- 15 (2) For the purposes of this Schedule, dissemination of content using a
16 digital service is ***disinformation*** on the digital service if:
17 (a) the content contains information that is false, misleading or
18 deceptive; and
19 (b) the content is not excluded content for misinformation
20 purposes; and
21 (c) the content is provided on the digital service to one or more
22 end-users in Australia; and
23 (d) the provision of the content on the digital service is
24 reasonably likely to cause or contribute to serious harm; and
25 (e) the person disseminating, or causing the dissemination of, the
26 content intends that the content deceive another person.
- 27 Note: Disinformation includes disinformation by or on behalf of a foreign
28 power.
- 29 (3) For the purposes of this Schedule, in determining whether the
30 provision of content on a digital service is reasonably likely to
31 cause or contribute to serious harm, have regard to the following
32 matters:
33 (a) the circumstances in which the content is disseminated;

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- 1 (b) the subject matter of the false, misleading or deceptive
2 information in the content;
3 (c) the potential reach and speed of the dissemination;
4 (d) the severity of the potential impacts of the dissemination;
5 (e) the author of the information;
6 (f) the purpose of the dissemination;
7 (g) whether the information has been attributed to a source and,
8 if so, the authority of the source and whether the attribution is
9 correct;
10 (h) other related false, misleading or deceptive information
11 disseminated;
12 (i) any other relevant matter.

13 Note: See the definition of *harm* in clause 2.

14 (4) Subclause (2) does not limit subclause (1).

15 **8 Digital platform provider**

- 16 (1) For the purposes of this Schedule, a person does not provide a
17 digital platform service merely because the person supplies an
18 internet carriage service that enables content to be delivered or
19 accessed.
20 (2) For the purposes of this Schedule, a person does not provide a
21 digital platform service merely because the person provides a
22 billing service, or a fee collection service, in relation to a digital
23 platform service.

24 **9 When content is provided on a digital service**

- 25 (1) For the purposes of this Schedule, content is *provided on* a digital
26 service if the content is:
27 (a) delivered by the digital service; or
28 (b) accessible to end-users using the digital service.
29 (2) For the purposes of this Schedule, content is *provided on* a digital
30 service to an end-user if the content is:
31 (a) delivered to the end-user by the digital service; or

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1 (b) accessible to the end-user using the digital service.

2 **10 When a service is provided to the public etc.**

3 (1) For the purposes of this Schedule, a service is *provided to the*
4 *public* if, and only if, the service is provided to at least one person
5 outside the immediate circle (within the meaning of the
6 *Telecommunications Act 1997*) of the person who provides the
7 service.

8 (2) For the purposes of this Schedule, a service that is provided to the
9 public is taken to be different from a service that is not provided to
10 the public, even if the content provided on the services is identical.

11 **11 Extended meaning of *using***

12 A reference in this Schedule to *using* a thing is a reference to using
13 the thing either:

- 14 (a) in isolation; or
15 (b) in conjunction with one or more other things.

16 **12 Extra-territorial application**

17 This Schedule extends to acts, omissions, matters and things
18 outside Australia.

19 **Part 2—Information**

20 **Division 1—Scope**

21 **13 Part does not apply to excluded services for misinformation** 22 **purposes**

23 This Part does not apply in relation to a digital platform service to
24 the extent that it is an excluded service for misinformation
25 purposes.

1 **Division 2—Record keeping and reporting**

2 **14 ACMA may make digital platform rules in relation to records**

3 *Records*

- 4 (1) The digital platform rules may require a digital platform provider
5 of:
- 6 (a) a digital platform service specified in the rules; or
 - 7 (b) a digital platform service in a class of digital platform
8 services specified in the rules;
- 9 to make and retain records relating to the following:
- 10 (c) misinformation or disinformation on the service;
 - 11 (d) measures implemented by the provider to prevent or respond
12 to misinformation or disinformation on the service, including
13 the effectiveness of the measures;
 - 14 (e) the prevalence of content containing false, misleading or
15 deceptive information provided on the service (other than
16 excluded content for misinformation purposes).
- 17 (2) Before the ACMA makes a digital platform rule for the purposes of
18 this clause in relation to a digital platform service, the ACMA must
19 consider:
- 20 (a) the privacy of end-users of the service; and
 - 21 (b) whether the rule is required for the performance of the
22 ACMA's function under paragraph 10(1)(mb), (mc), (md),
23 (me), (mf), (mg) or (q) of the *Australian Communications
24 and Media Authority Act 2005*.
- 25 (3) Digital platform rules made for the purposes of this clause must not
26 require digital platform providers to make or retain records of the
27 content of private messages.
- 28 (4) Digital platform rules may specify the manner and form in which
29 the records are to be made. Digital platform rules may specify the
30 period for which the records are to be retained.

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1

Reporting

2

(5) Digital platform rules may also require those digital platform providers to prepare reports consisting of information contained in the records.

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(6) Digital platform rules may also require those digital platform providers to give any or all of the reports to the ACMA.

6

7

(7) Digital platform rules may specify the manner and form in which reports are to be prepared.

8

9

(8) Digital platform rules may provide for:

10

(a) the preparation of reports as and when required by the ACMA; or

11

12

(b) the preparation of periodic reports relating to such regular intervals as are specified in the rules.

13

14

(9) Digital platform rules may require or permit a report prepared in accordance with the rules to be given to the ACMA, in accordance with specified software requirements and specified authentication requirements:

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17

(a) on a specified kind of data processing device (within the meaning of the *Telecommunications Act 1997*); or

18

19

(b) by way of a specified kind of electronic transmission.

20

21

(10) If digital platform rules require a digital platform provider to give a report to the ACMA, the rules must allow the provider to:

22

23

(a) identify to the ACMA any information in the report the publication of which the provider considers could be

24

25

expected to prejudice materially the commercial interests of a person; and

26

27

(b) provide reasons.

28

Relationship with information-gathering powers

29

(11) This clause does not limit clause 18 or 19 (which are about the general information-gathering powers of the ACMA).

30

15 Compliance with the digital platform rules

- (1) A digital platform provider must not contravene digital platform rules made for the purposes of clause 14.

Civil penalty provision

- (2) Subclause (1) is a civil penalty provision.
- (3) A digital platform provider who contravenes subclause (1) commits a separate contravention of that subclause in respect of each day (including a day of the making of a relevant civil penalty order or any subsequent day) during which the contravention continues.

Designated infringement notice provision

- (4) Subclause (1) is a designated infringement notice provision.

Warnings

- (5) If the ACMA is satisfied that a digital platform provider has contravened subclause (1), the ACMA may issue a formal warning to the provider.
- (6) For the purposes of this Act and the *Australian Communications and Media Authority Act 2005*, a warning under subclause (5) is taken to be a notice under this Schedule.

16 Remedial directions—contravention of digital platform rules

Scope

- (1) This clause applies if the ACMA is satisfied that a digital platform provider has contravened, or is contravening, digital platform rules made for the purposes of clause 14.

Remedial directions

- (2) The ACMA may give the provider a written direction requiring the provider to take specified action directed towards ensuring that the provider does not contravene digital platform rules made for the

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1 purposes of clause 14, or is unlikely to contravene those rules, in
2 the future.

3 Note: For variation and revocation, see subsection 33(3) of the *Acts*
4 *Interpretation Act 1901*.

5 (3) A digital platform provider must not contravene a direction under
6 subclause (2).

7 *Civil penalty provision*

8 (4) Subclause (3) is a civil penalty provision.

9 (5) A digital platform provider who contravenes subclause (3)
10 commits a separate contravention of that subclause in respect of
11 each day (including a day of the making of a relevant civil penalty
12 order or any subsequent day) during which the contravention
13 continues.

14 *Notice*

15 (6) For the purposes of this Act and the *Australian Communications*
16 *and Media Authority Act 2005*, a direction under subclause (2) is
17 taken to be a notice under this Schedule.

18 **17 Incorrect records**

19 (1) A person commits an offence if:
20 (a) the person makes or retains a record in compliance, or
21 purported compliance, with digital platform rules made for
22 the purposes of clause 14; and
23 (b) the person does so knowing that the record:
24 (i) is false or misleading; or
25 (ii) omits any matter or thing without which the record is
26 misleading.

27 Penalty: 100 penalty units.

28 (2) Section 15.4 of the *Criminal Code* (Extended geographical
29 jurisdiction—category D) applies to an offence against
30 subclause (1).

1 **Division 3—Information gathering**

2 **18 ACMA may obtain information and documents from digital**
3 **platform providers**

4 *Scope*

- 5 (1) This clause applies to a digital platform provider of a digital
6 platform service if:
- 7 (a) the ACMA has reason to believe that the provider:
 - 8 (i) has information or a document that is relevant to a
9 matter mentioned in subclause (2); or
 - 10 (ii) is capable of giving evidence which the ACMA has
11 reason to believe is relevant to a matter mentioned in
12 subclause (2); and
 - 13 (b) the ACMA considers that it requires the information,
14 document or evidence for the performance of the ACMA's
15 function under paragraph 10(1)(mb), (mc), (md), (me), (mf),
16 (mg) or (q) of the *Australian Communications and Media*
17 *Authority Act 2005*.
- 18 (2) For the purposes of paragraph (1)(a), the matters are as follows:
- 19 (a) misinformation or disinformation on the service;
 - 20 (b) measures implemented by the provider to prevent or respond
21 to misinformation or disinformation on the service, including
22 the effectiveness of the measures;
 - 23 (c) the prevalence of content containing false, misleading or
24 deceptive information provided on the service (other than
25 excluded content for misinformation purposes).

26 *ACMA may require information, documents or evidence*

- 27 (3) The ACMA may, by written notice given to the provider, require
28 the provider:
- 29 (a) to give to the ACMA, within the period and in the manner
30 and form specified in the notice, any such information; or
 - 31 (b) to produce to the ACMA, within the period and in the
32 manner specified in the notice, any such documents; or

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- 1 (c) to make copies of any such documents and to produce to the
2 ACMA, within the period and in the manner specified in the
3 notice, those copies; or
- 4 (d) if the provider is an individual—to appear before the ACMA
5 at a time and place specified in the notice to give any such
6 evidence, either orally or in writing, and produce any such
7 documents; or
- 8 (e) if the provider is a body corporate or a public body—to cause
9 a competent officer of the body to appear before the ACMA
10 at a time and place specified in the notice to give any such
11 evidence, either orally or in writing, and produce any such
12 documents; or
- 13 (f) if the provider is a partnership—to cause an individual who
14 is:
- 15 (i) a partner in the partnership; or
16 (ii) an employee of the partnership;
17 to appear before the ACMA at a time and place specified in
18 the notice to give any such evidence, either orally or in
19 writing, and produce any such documents.

20 (4) However, a notice cannot require a person to give information or
21 evidence, or produce a document or copy, that would reveal the
22 content of a private message.

23 (5) A digital platform provider must comply with a requirement under
24 subclause (3).

25 *Civil penalty provision*

26 (6) Subclause (5) is a civil penalty provision.

27 (7) A digital platform provider who contravenes subclause (5)
28 commits a separate contravention of that subclause in respect of
29 each day (including a day of the making of a relevant civil penalty
30 order or any subsequent day) during which the contravention
31 continues.

32 *Designated infringement notice provision*

33 (8) Subclause (5) is a designated infringement notice provision.

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Requirements for notice

- 1
- 2 (9) A notice given to a digital platform provider under subclause (3)
- 3 must set out the effect of the following provisions:
- 4 (a) subclauses (5), (6) and (7);
- 5 (b) subclause 22(1) (false or misleading evidence);
- 6 (c) subsection 205F(1) (civil penalty orders).

Warnings

- 7
- 8 (10) If the ACMA is satisfied that a digital platform provider has
- 9 contravened subclause (5), the ACMA may issue a formal warning
- 10 to the provider.
- 11 (11) For the purposes of this Act and the *Australian Communications*
- 12 *and Media Authority Act 2005*, a warning under subclause (10) is
- 13 taken to be a notice under this Schedule.

19 ACMA may obtain information and documents from other persons

Scope

- 14
- 15
- 16
- 17 (1) This clause applies to a person if:
- 18 (a) the ACMA has reason to believe that the person:
- 19 (i) has information or a document that is relevant to a
- 20 matter mentioned in subclause (2); or
- 21 (ii) is capable of giving evidence which the ACMA has
- 22 reason to believe is relevant to a matter mentioned in
- 23 subclause (2); and
- 24 (b) the ACMA considers that it requires the information,
- 25 document or evidence for the performance of the ACMA's
- 26 function under paragraph 10(1)(md) of the *Australian*
- 27 *Communications and Media Authority Act 2005*.
- 28 (2) For the purposes of paragraph (1)(a), the matters are as follows:
- 29 (a) misinformation or disinformation on a digital platform
- 30 service;

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- 1 (b) measures implemented by a digital platform provider to
2 prevent or respond to misinformation or disinformation on a
3 digital platform service, including the effectiveness of the
4 measures;
5 (c) the prevalence of content containing false, misleading or
6 deceptive information provided on a digital platform service
7 (other than excluded content for misinformation purposes).

8 *ACMA may require information, documents or evidence*

- 9 (3) The ACMA may, by written notice given to the person, require the
10 person:
11 (a) to give to the ACMA, within the period and in the manner
12 and form specified in the notice, any such information; or
13 (b) to produce to the ACMA, within the period and in the
14 manner specified in the notice, any such documents; or
15 (c) to make copies of any such documents and to produce to the
16 ACMA, within the period and in the manner specified in the
17 notice, those copies; or
18 (d) if the person is an individual—to appear before the ACMA at
19 a time and place specified in the notice to give any such
20 evidence, either orally or in writing, and produce any such
21 documents; or
22 (e) if the person is a body corporate or a public body—to cause a
23 competent officer of the body to appear before the ACMA at
24 a time and place specified in the notice to give any such
25 evidence, either orally or in writing, and produce any such
26 documents; or
27 (f) if the person is a partnership—to cause an individual who is:
28 (i) a partner in the partnership; or
29 (ii) an employee of the partnership;
30 to appear before the ACMA at a time and place specified in
31 the notice to give any such evidence, either orally or in
32 writing, and produce any such documents.
33 (4) However, a notice cannot require a person to give information or
34 evidence, or produce a document or copy, that would reveal the
35 content of a private message.

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1 (5) A person to whom a notice is given under subclause (3) must
2 comply with a requirement under subclause (3).

3 *Civil penalty provision*

4 (6) Subclause (5) is a civil penalty provision.

5 (7) A person who contravenes subclause (5) commits a separate
6 contravention of that subclause in respect of each day (including a
7 day of the making of a relevant civil penalty order or any
8 subsequent day) during which the contravention continues.

9 *Designated infringement notice provision*

10 (8) Subclause (5) is a designated infringement notice provision.

11 *Requirements for notice*

12 (9) A notice given to a person under subclause (3) must set out the
13 effect of the following provisions:

- 14 (a) subclauses (5), (6) and (7);
15 (b) subclause 22(1) (false or misleading evidence);
16 (c) subsection 205F(1) (civil penalty orders).

17 *Warnings*

18 (10) If the ACMA is satisfied that a person has contravened
19 subclause (5), the ACMA may issue a formal warning to the
20 person.

21 (11) For the purposes of this Act and the *Australian Communications*
22 *and Media Authority Act 2005*, a warning under subclause (10) is
23 taken to be a notice under this Schedule.

24 **20 Copying documents—reasonable compensation**

25 A person is entitled to be paid by the ACMA reasonable
26 compensation for complying with a requirement covered by
27 paragraph 18(3)(c) or 19(3)(c).

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21 Self-incrimination

- (1) An individual is not excused from giving information or evidence or producing a document or a copy of a document under this Division on the ground that giving the information or evidence or producing the document or copy might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (2) However:

(a) the information or evidence given or document or copy produced; and

(b) the giving of the information or evidence or the production of the document or copy; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information or evidence or the production of the document or copy;

is not admissible in evidence against the individual in criminal proceedings other than:

(d) proceedings for an offence against subclause 22(1); or

(e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

- (3) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to giving information or evidence or producing a document or copy under this Division, the individual is not excused from giving the information or evidence or producing the document or copy under this Division on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

22 Giving false or misleading information or evidence

- (1) A person commits an offence if:

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- 1 (a) the person gives information or evidence, or produces a
2 document or copy, in compliance or purported compliance
3 with a requirement under subclause 18(3) or 19(3); and
4 (b) the person does so knowing that the information, evidence or
5 document or copy:
6 (i) is false or misleading; or
7 (ii) omits any matter or thing without which the
8 information, evidence, document or copy is misleading.

9 Penalty: Imprisonment for 12 months.

- 10 (2) Subclause (1) does not apply to the extent that the information,
11 evidence, document or copy is or contains information that:
12 (a) is false or misleading information that was disseminated
13 using a digital platform service; and
14 (b) the person identified to the ACMA as false or misleading
15 when giving the information or evidence or producing the
16 document or copy.
- 17 (3) Section 15.4 of the *Criminal Code* (Extended geographical
18 jurisdiction—category D) applies to an offence against
19 subclause (1).

20 **23 Copies of documents**

- 21 (1) The ACMA may inspect a document or copy produced under this
22 Division and may make and retain copies of, or take and retain
23 extracts from, such a document.
- 24 (2) The ACMA may retain possession of a copy of a document
25 produced in accordance with a requirement covered by
26 paragraph 18(3)(c) or 19(3)(c).

27 **24 ACMA may retain documents**

- 28 (1) The ACMA may take, and retain for as long as is necessary,
29 possession of a document produced under this Division.

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- 1 (2) The person otherwise entitled to possession of the document is
2 entitled to be supplied, as soon as practicable, with a copy certified
3 by the ACMA to be a true copy.
- 4 (3) The certified copy must be received in all courts and tribunals as
5 evidence as if it were the original.
- 6 (4) Until a certified copy is supplied, the ACMA must, at such times
7 and places as the ACMA thinks appropriate, permit the person
8 otherwise entitled to possession of the document, or a person
9 authorised by that person, to inspect and make copies of, or take
10 extracts from, the document.

11 **Division 4—Publishing information**

12 **25 Publication on website**

- 13 (1) The ACMA may publish information on its website relating to the
14 following:
- 15 (a) misinformation or disinformation on digital platform
16 services;
- 17 (b) measures implemented by digital platform providers to
18 prevent or respond to misinformation or disinformation on
19 digital platform services, including the effectiveness of the
20 measures;
- 21 (c) the prevalence of content containing false, misleading or
22 deceptive information provided on digital platform services
23 (other than excluded content for misinformation purposes).
- 24 (2) The information may relate to:
- 25 (a) a particular digital platform service or digital platform
26 provider; or
- 27 (b) a class of digital platform services or digital platform
28 providers; or
- 29 (c) all digital platform services or digital platform providers.
- 30 (3) The information may include information that was obtained by the
31 ACMA under this Part.

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1 **26 Consultation before publication**

2 Before the ACMA publishes information under clause 25 that:

3 (a) relates to a digital platform provider or a digital platform
4 service of a digital platform provider; and

5 (b) identifies the service or provider;

6 the ACMA must:

7 (c) provide a copy of the information proposed to be published
8 to the provider; and

9 (d) invite the provider to, before a specified date:

10 (i) make a submission in relation to the proposal to publish
11 the information; and

12 (ii) identify any of the information the publication of which
13 the provider considers could be expected to prejudice
14 materially the commercial interests of a person and
15 provide reasons; and

16 (e) consider any response given before the specified date by the
17 provider.

18 **27 Personal information**

19 The ACMA must not publish information under clause 25 if the
20 ACMA is satisfied that the information is personal information
21 (within the meaning of the *Privacy Act 1988*).

22 **28 Relationship with Part 7A of the *Australian Communications and***
23 ***Media Authority Act 2005***

24 This Division does not limit Part 7A of the *Australian*
25 *Communications and Media Authority Act 2005*.

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1 **Part 3—Misinformation codes and misinformation**
2 **standards**

3 **Division 1—Scope**

4 **29 Part does not apply to excluded services for misinformation**
5 **purposes**

- 6 (1) This Part does not apply in relation to a digital platform service to
7 the extent that it is an excluded service for misinformation
8 purposes.
- 9 (2) A misinformation code or misinformation standard does not apply
10 in relation to a digital platform service to the extent that it is an
11 excluded service for misinformation purposes.

12 **Division 2—Interpretation**

13 **30 Sections of the digital platform industry**

- 14 (1) For the purposes of this Schedule, *sections of the digital platform*
15 *industry* are to be ascertained in accordance with this clause.
- 16 (2) For the purposes of this Schedule, each of the following groups is a
17 *section of the digital platform industry*:
18 (a) digital platform providers who provide content aggregation
19 services;
20 (b) digital platform providers who provide connective media
21 services;
22 (c) digital platform providers who provide media sharing
23 services.
- 24 (3) For each kind of digital service specified by the Minister under
25 subclause 4(6), the digital platform providers who provide that
26 kind of service are a *section of the digital platform industry*.
- 27 (4) Digital platform rules may provide that persons who provide a kind
28 of digital platform service constitute a section of the digital
29 platform industry for the purposes of this Schedule.

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- 1 (5) The section of the digital platform industry must be identified in
2 the digital platform rules by a unique name and/or number.
- 3 (6) Digital platform rules made for the purposes of subclause (4) have
4 effect accordingly.
- 5 (7) Sections of the digital platform industry provided by digital
6 platform rules under subclause (4):
- 7 (a) need not be mutually exclusive; and
8 (b) may consist of the aggregate of any 2 or more sections of the
9 digital platform industry mentioned in subclause (2) or (3) or
10 provided under subclause (4); and
11 (c) may be subsets of a section of the digital platform industry
12 mentioned in subclause (2) or (3) or provided under
13 subclause (4).
- 14 (8) Subclause (7) does not, by implication, limit subclause (4).

15 **31 Participants in a section of the digital platform industry**

16 For the purposes of this Schedule, if a digital platform provider is a
17 member of a group that constitutes a section of the digital platform
18 industry, the provider is a *participant* in that section of the digital
19 platform industry.

20 **Division 3—General principles relating to misinformation** 21 **codes and misinformation standards**

22 **32 Statement of regulatory policy**

23 The Parliament intends that one or more bodies or associations that
24 the ACMA is satisfied represent sections of the digital platform
25 industry should develop one or more codes (*misinformation codes*)
26 that require participants in those sections of the digital platform
27 industry to implement measures to prevent or respond to
28 misinformation and disinformation on digital platform services.

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33 Examples of matters that may be dealt with by misinformation codes and misinformation standards

- (1) This clause sets out examples of matters that may be dealt with by misinformation codes and misinformation standards.
- (2) The applicability of a particular example will depend on which section of the digital platform industry is involved.
- (3) The examples are as follows:
 - (a) preventing or responding to misinformation or disinformation on digital platform services;
 - (b) using technology to prevent or respond to misinformation or disinformation on digital platform services;
 - (c) preventing or responding to misinformation or disinformation on digital platform services that constitutes an act of foreign interference (within the meaning of the *Australian Security Intelligence Organisation Act 1979*);
 - (d) preventing advertising involving misinformation or disinformation on digital platform services;
 - (e) preventing monetisation of misinformation or disinformation on digital platform services;
 - (f) supporting fact checking;
 - (g) allowing end-users to detect and report misinformation or disinformation on digital platform services;
 - (h) giving information to end-users about the source of political or issues-based advertisements;
 - (i) policies and procedures for receiving and handling reports and complaints from end-users;
 - (j) giving end-users and others information about misinformation or disinformation on digital platform services.

34 Limitation—private messages

The ACMA must not register a code (or part of a code), or determine a standard, under this Part that contains requirements relating to:

- (a) the content of private messages; or

1 (b) encryption of private messages.

2 **35 Limitation—electoral and referendum matters**

3 (1) The ACMA must not register a code (or part of a code), or
4 determine a standard, under this Part that contains requirements
5 relating to electoral and referendum content unless:

- 6 (a) the requirements relate to preventing or responding to
7 disinformation on a digital platform service; and
8 (b) the requirements do not relate to authorised content.

9 (2) In this clause:

10 ***authorised content*** means:

- 11 (a) electoral matter (within the meaning of the *Commonwealth*
12 *Electoral Act 1918*) that contains the particulars required by
13 section 321D of that Act to be notified; or
14 (b) referendum matter (within the meaning of the *Referendum*
15 *(Machinery Provisions) Act 1984*) that contains the
16 particulars required by section 110C of that Act to be
17 notified; or
18 (c) matter communicated or intended to be communicated for the
19 dominant purpose of influencing the way electors vote in a
20 State, Territory or local government election or referendum
21 that contains the particulars required to be notified by a State
22 or Territory law relating to the authorisation of such matter.

23 ***electoral and referendum content*** means:

- 24 (a) electoral matter (within the meaning of the *Commonwealth*
25 *Electoral Act 1918*); or
26 (b) referendum matter (within the meaning of the *Referendum*
27 *(Machinery Provisions) Act 1984*); or
28 (c) matter communicated or intended to be communicated for the
29 dominant purpose of influencing the way electors vote in a
30 State, Territory or local government election or referendum.

31 Note: Communications whose dominant purpose is to educate their audience
32 on a public policy issue, or to raise awareness of, or encourage debate
33 on, a public policy issue, are not for the dominant purpose of
34 influencing the way electors vote in an election (as there can be only
35 one dominant purpose for any given communication).

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36 Limitation—other instruments, codes and standards

For the purposes of this Schedule, a misinformation code or misinformation standard that deals with a particular matter has no effect to the extent (if any) to which the matter is dealt with by:

- (a) online content service provider rules (within the meaning of Schedule 8); or
- (b) basic online safety expectations determined under Part 4 of the *Online Safety Act 2021*; or
- (c) a code registered, or a standard determined, under Division 7 of Part 9 of that Act; or
- (d) a service provider determination made under Division 8 of Part 9 of that Act.

Division 4—Misinformation codes

Subdivision A—Registration of misinformation codes

37 Registration of codes

(1) This clause applies if:

- (a) the ACMA is satisfied that a body or association represents a particular section of the digital platform industry; and
- (b) that body or association develops a code that applies to participants in that section of the digital platform industry and deals with one or more matters relating to the operation of digital platform services by those participants; and
- (c) the body or association gives a copy of the code to the ACMA; and
- (d) the ACMA considers:
 - (i) whether the code burdens freedom of political communication; and
 - (ii) if so, whether the burden is reasonable and not excessive, having regard to any circumstances the ACMA considers relevant; and
- (e) the ACMA is satisfied that:
 - (i) the code (or part of the code) requires participants in that section of the digital platform industry to

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- 1 implement measures to prevent or respond to
2 misinformation or disinformation on the services; and
3 (ii) the code (or part of the code) enables assessment of
4 compliance with the measures; and
5 (iii) the code (or part of the code) provides adequate
6 protection for the community from misinformation or
7 disinformation on the services; and
8 (f) the ACMA is satisfied that, before giving the copy of the
9 code to the ACMA:
10 (i) the body or association published a draft of the code and
11 invited members of the public to make submissions to
12 the body or association about the draft within a
13 specified period; and
14 (ii) the body or association gave consideration to any
15 submissions that were received from members of the
16 public within that period; and
17 (g) the ACMA is satisfied that, before giving the copy of the
18 code to the ACMA:
19 (i) the body or association published a draft of the code and
20 invited participants in that section of the digital platform
21 industry to make submissions to the body or association
22 about the draft within a specified period; and
23 (ii) the body or association gave consideration to any
24 submissions that were received from participants in that
25 section of the digital platform industry within that
26 period; and
27 (h) the ACMA is satisfied that at least one body or association
28 that represents the interests of consumers has been consulted
29 about the development of the code.
- 30 (2) A period specified under subparagraph (1)(f)(i) or (1)(g)(i) must
31 run for at least 30 days.
- 32 (3) The ACMA may register the code or part of the code by including
33 the code or part in the Register kept under clause 55.
- 34 (4) If the ACMA registers part of a misinformation code, this Schedule
35 has effect as if the part were a misinformation code.

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- 1 (5) If:
2 (a) a misinformation code (the *new code*) is registered under this
3 Part; and
4 (b) the new code is expressed to replace another misinformation
5 code (the *old code*);
6 the old code ceases to be registered under this Part when the new
7 code is registered.

8 **38 ACMA may request codes**

- 9 (1) If the ACMA is satisfied that a body or association represents a
10 particular section of the digital platform industry, the ACMA may,
11 by written notice given to the body or association, request the body
12 or association to:
13 (a) develop a code that applies to participants in that section of
14 the digital platform industry and deals with one or more
15 specified matters relating to the operation of digital platform
16 services by those participants; and
17 (b) give the ACMA a copy of the code within the period
18 specified in the notice.
- 19 (2) The period specified in a notice under subclause (1) must run for at
20 least 120 days.
- 21 (3) The ACMA must not make a request under subclause (1) in
22 relation to a particular section of the digital platform industry
23 unless the ACMA is satisfied that:
24 (a) the development of the code is necessary or convenient in
25 order to:
26 (i) prevent or respond to misinformation or disinformation
27 on digital platform services of participants in that
28 section of the digital platform industry; or
29 (ii) address systemic issues in relation to misinformation or
30 disinformation on digital platform services of
31 participants in that section of the digital platform
32 industry; and
33 (b) in the absence of the request, it is unlikely that the code
34 would be developed within a reasonable period.

- 1 (4) The ACMA may vary a notice under subclause (1) by extending
2 the period specified in the notice.
- 3 (5) Subclause (4) does not, by implication, limit the application of
4 subsection 33(3) of the *Acts Interpretation Act 1901*.
- 5 (6) A notice under subclause (1) may specify indicative targets for
6 achieving progress in the development of the code (for example, a
7 target of 60 days to develop a preliminary draft of the code).

8 **39 Publication of notice where no body or association represents a** 9 **section of the digital platform industry**

- 10 (1) If the ACMA is satisfied that a particular section of the digital
11 platform industry is not represented by a body or association, the
12 ACMA may publish a notice on its website:
- 13 (a) stating that, if such a body or association were to come into
14 existence within a specified period, the ACMA would be
15 likely to give a notice to that body or association under
16 subclause 38(1); and
- 17 (b) setting out the matter or matters relating to the operation of
18 digital platform services that would be likely to be specified
19 in the subclause 38(1) notice.
- 20 (2) The period specified in a notice under subclause (1) must run for at
21 least 60 days.

22 **Subdivision B—Variation, replacement and deregistration of** 23 **misinformation codes**

24 **40 Variation of misinformation codes**

25 *Scope*

- 26 (1) This clause applies if:
- 27 (a) a misinformation code is registered under this Part; and
28 (b) the code:
- 29 (i) applies to participants in a particular section of the
30 digital platform industry; and

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- 1 (ii) deals with one or more matters relating to the operation
2 of digital platform services by those participants; and
- 3 (c) the body or association that developed the code gives a draft
4 variation of the code to the ACMA; and
- 5 (d) disregarding any provisions of the code that are not affected
6 (whether directly or indirectly) by the variation, the ACMA
7 considers:
- 8 (i) whether the code (as proposed to be varied) burdens
9 freedom of political communication; and
- 10 (ii) if so, whether the burden is reasonable and not
11 excessive, having regard to any circumstances the
12 ACMA considers relevant; and
- 13 (e) disregarding any provisions of the code that are not affected
14 (whether directly or indirectly) by the variation, the ACMA
15 is satisfied that:
- 16 (i) the code (as proposed to be varied) requires participants
17 in that section of the digital platform industry to
18 implement measures to prevent or respond to
19 misinformation or disinformation on the services; and
- 20 (ii) the code (as proposed to be varied) enables assessment
21 of compliance with the measures; and
- 22 (iii) the code (as proposed to be varied) provides adequate
23 protection for the community from misinformation or
24 disinformation on the services; and
- 25 (f) except in a case where the draft variation is of a minor
26 nature—the ACMA is satisfied that, before giving the draft
27 variation to the ACMA:
- 28 (i) the body or association published the draft variation on
29 its website and invited members of the public to make
30 submissions to the body or association about the draft
31 variation within a specified period; and
- 32 (ii) the body or association gave consideration to any
33 submissions that were received from members of the
34 public within that period; and
- 35 (g) except in a case where the draft variation is of a minor
36 nature—the ACMA is satisfied that, before giving the draft
37 variation to the ACMA:
-

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- 1 (i) the body or association published the draft variation on
2 its website and invited participants in that section of the
3 digital platform industry to make submissions to the
4 body or association about the draft variation within a
5 specified period; and
6 (ii) the body or association gave consideration to any
7 submissions that were received from participants in that
8 section of the digital platform industry within that
9 period; and
10 (h) except in a case where the draft variation is of a minor
11 nature—the ACMA is satisfied that at least one body or
12 association that represents the interests of consumers has
13 been consulted about the development of the draft variation.

14 *Period for making submissions*

- 15 (2) A period specified under subparagraph (1)(f)(i) or (1)(g)(i) must
16 run for at least 30 days.

17 *Approval of variation*

- 18 (3) The ACMA may, by written notice given to the body or
19 association, approve the draft variation.
20 (4) If the ACMA approves the draft variation, the code is varied
21 accordingly.

22 **41 Replacement of misinformation codes**

23 Changes to a misinformation code may be achieved by replacing
24 the code instead of varying the code. However, this does not
25 prevent the ACMA from removing under clause 42 a
26 misinformation code, or a provision of a misinformation code,
27 from the Register kept under clause 55.

28 **42 Deregistration of misinformation codes and provisions of** 29 **misinformation codes**

- 30 (1) The ACMA may remove from the Register kept under clause 55:
31 (a) a misinformation code; or

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- 1 (b) a provision of a misinformation code.
- 2 (2) A misinformation code ceases to be registered when it is removed
3 from the Register.
- 4 (3) If the ACMA removes a provision of a misinformation code from
5 the Register, this Schedule has effect in relation to things occurring
6 after the removal of the provision as if the code registered under
7 this Part did not include the provision removed.

8 **Subdivision C—Compliance with misinformation codes**

9 **43 Compliance with registered misinformation code**

- 10 (1) If:
- 11 (a) a misinformation code that applies to participants in a
12 particular section of the digital platform industry is registered
13 under this Part; and
- 14 (b) a digital platform provider is a participant in that section of
15 the digital platform industry;
16 the provider must comply with the code.

17 *Civil penalty provision*

- 18 (2) Subclause (1) is a civil penalty provision.

19 *Designated infringement notice provision*

- 20 (3) Subclause (1) is a designated infringement notice provision.

21 *Warnings*

- 22 (4) If the ACMA is satisfied that a digital platform provider has
23 contravened subclause (1), the ACMA may issue a formal warning
24 to the provider.
- 25 (5) For the purposes of this Act and the *Australian Communications*
26 *and Media Authority Act 2005*, a warning under subclause (4) is
27 taken to be a notice under this Schedule.

44 Remedial directions—contravention of misinformation code

Scope

- (1) This clause applies if:
- (a) a misinformation code that applies to participants in a particular section of the digital platform industry is registered under this Part; and
 - (b) a digital platform provider is a participant in that section of the digital platform industry; and
 - (c) the ACMA is satisfied that the provider has contravened, or is contravening, the code.

Remedial directions

- (2) The ACMA may give the provider a written direction requiring the provider to take specified action directed towards ensuring that the provider does not contravene the code, or is unlikely to contravene the code, in the future.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (3) A digital platform provider must not contravene a direction under subclause (2).

Civil penalty provision

- (4) Subclause (3) is a civil penalty provision.

Notice

- (5) For the purposes of this Act and the *Australian Communications and Media Authority Act 2005*, a direction under subclause (2) is taken to be a notice under this Schedule.

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1 **Division 5—Misinformation standards**

2 **Subdivision A—Determination of standards**

3 **45 General requirement—consideration of freedom of political**
4 **communication**

5 Before determining a standard under this Division, the ACMA
6 must consider:

- 7 (a) whether the standard would burden freedom of political
8 communication; and
9 (b) if so, whether the burden would be reasonable and not
10 excessive, having regard to any circumstances the ACMA
11 considers relevant.

12 **46 ACMA may determine standards—request for a code is not**
13 **complied with**

- 14 (1) This clause applies if:
15 (a) the ACMA has made a request under subclause 38(1) in
16 relation to the development of a code that is to:
17 (i) apply to participants in a particular section of the digital
18 platform industry; and
19 (ii) deal with one or more matters relating to the operation
20 of digital platform services by those participants; and
21 (b) any of the following conditions is satisfied:
22 (i) the request is not complied with;
23 (ii) if indicative targets for achieving progress in the
24 development of the code were specified in the notice of
25 request—any of those indicative targets were not met;
26 (iii) the request is complied with, but the ACMA
27 subsequently refuses to register the code; and
28 (c) the ACMA is satisfied that it is necessary or convenient for
29 the ACMA to determine a standard in relation to that matter
30 or those matters in order to provide adequate protection for
31 the community from misinformation or disinformation on the
32 services.

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- 1 (2) The ACMA may, by legislative instrument, determine a standard
2 that applies to participants in that section of the digital platform
3 industry and deals with that matter or those matters. A standard
4 under this subclause is to be known as a ***misinformation standard***.
- 5 (3) Before determining a standard under this clause, the ACMA must
6 consult the body or association to whom the request mentioned in
7 paragraph (1)(a) was made.

8 **47 ACMA may determine standards—no industry body or** 9 **association formed**

- 10 (1) This clause applies if:
11 (a) the ACMA is satisfied that a particular section of the digital
12 platform industry is not represented by a body or association;
13 and
14 (b) the ACMA has published a notice under subclause 39(1)
15 relating to that section of the digital platform industry; and
16 (c) that notice:
17 (i) states that, if such a body or association were to come
18 into existence within a particular period, the ACMA
19 would be likely to give a notice to that body or
20 association under subclause 38(1); and
21 (ii) sets out one or more matters relating to the operation of
22 digital platform services by participants in that section
23 of the digital platform industry; and
24 (d) no such body or association comes into existence within that
25 period; and
26 (e) the ACMA is satisfied that it is necessary or convenient for
27 the ACMA to determine a standard in relation to that matter
28 or those matters in order to provide adequate protection for
29 the community from misinformation or disinformation on the
30 services.
- 31 (2) The ACMA may, by legislative instrument, determine a standard
32 that applies to participants in that section of the digital platform
33 industry and deals with that matter or those matters. A standard
34 under this subclause is to be known as a ***misinformation standard***.

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Schedule 1 Main amendments

1 **48 ACMA may determine standards—total failure of**
2 **misinformation code**

- 3 (1) This clause applies if:
- 4 (a) a registered misinformation code that:
- 5 (i) applies to participants in a particular section of the
6 digital platform industry; and
- 7 (ii) deals with one or more matters relating to the operation
8 of digital platform services by those participants;
9 has been registered under this Part for at least 180 days; and
- 10 (b) the ACMA is satisfied that the code is totally deficient (as
11 defined by subclause (6)); and
- 12 (c) the ACMA has given the body or association that developed
13 the code a written notice requesting that deficiencies in the
14 code be addressed within a specified period; and
- 15 (d) that period ends and the ACMA is satisfied that it is
16 necessary or convenient for the ACMA to determine a
17 standard that applies to participants in that section of the
18 digital platform industry and deals with that matter or those
19 matters.
- 20 (2) The period specified in a notice under paragraph (1)(c) must run
21 for at least 30 days.
- 22 (3) The ACMA may, by legislative instrument, determine a standard
23 that applies to participants in that section of the digital platform
24 industry and deals with that matter or those matters. A standard
25 under this subclause is to be known as a ***misinformation standard***.
- 26 (4) If the ACMA is satisfied that a body or association represents that
27 section of the digital platform industry, the ACMA must consult
28 the body or association before determining a standard under
29 subclause (3).
- 30 (5) The code ceases to be registered under this Part on the day on
31 which the standard takes effect. However, this subclause does not
32 affect any investigation, proceeding or remedy in respect of a
33 contravention of the code that occurred before that day.
- 34 (6) For the purposes of this clause, a misinformation code that:
-

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- 1 (a) applies to participants in a particular section of the digital
2 platform industry; and
3 (b) deals with one or more matters relating to the operation of
4 digital platform services by those participants;
5 is **totally deficient** if, and only if, the code is not operating to
6 provide adequate protection for the community from
7 misinformation or disinformation on the services.

8 **49 ACMA may determine standards—partial failure of**
9 **misinformation code**

- 10 (1) This clause applies if:
11 (a) a misinformation code that:
12 (i) applies to participants in a particular section of the
13 digital platform industry; and
14 (ii) deals with 2 or more matters relating to the operation of
15 digital platform services by those participants;
16 has been registered under this Part for at least 180 days; and
17 (b) clause 48 does not apply to the code; and
18 (c) the ACMA is satisfied that the code is deficient (as defined
19 by subclause (6)) to the extent to which the code deals with
20 one or more of those matters (the **deficient matter** or
21 **deficient matters**); and
22 (d) the ACMA has given the body or association that developed
23 the code a written notice requesting that deficiencies in the
24 code be addressed within a specified period; and
25 (e) that period ends and the ACMA is satisfied that it is
26 necessary or convenient for the ACMA to determine a
27 standard that applies to participants in that section of the
28 digital platform industry and deals with the deficient matter
29 or deficient matters.
30 (2) The period specified in a notice under paragraph (1)(d) must run
31 for at least 30 days.
32 (3) The ACMA may, by legislative instrument, determine a standard
33 that applies to participants in that section of the digital platform
34 industry and deals with the deficient matter or deficient matters. A

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- 1 standard under this subclause is to be known as a ***misinformation***
2 ***standard***.
- 3 (4) If the ACMA is satisfied that a body or association represents that
4 section of the digital platform industry, the ACMA must consult
5 the body or association before determining a standard under
6 subclause (3).
- 7 (5) On and after the day on which the standard takes effect, the code
8 has no effect to the extent to which it deals with the deficient
9 matter or deficient matters. However, this subclause does not
10 affect:
11 (a) the continuing registration of the remainder of the code; or
12 (b) any investigation, proceeding or remedy in respect of a
13 contravention of the code that occurred before that day.
- 14 (6) For the purposes of this clause, a misinformation code that:
15 (a) applies to participants in a particular section of the digital
16 platform industry; and
17 (b) deals with 2 or more matters relating to the operation of
18 digital platform services by those participants;
19 is ***deficient*** to the extent to which it deals with a particular one of
20 those matters if, and only if, in relation to that matter, the code is
21 not operating to provide adequate protection for the community
22 from misinformation or disinformation on the services.

50 ACMA may determine standards—emerging circumstances

- 23
24 (1) This clause applies if the ACMA is satisfied that:
25 (a) it is necessary or convenient for the ACMA to determine a
26 standard that:
27 (i) applies to participants in a particular section of the
28 digital platform industry; and
29 (ii) deals with one or more matters relating to the operation
30 of digital platform services by those participants;
31 in order to provide adequate protection for the community
32 from misinformation or disinformation on the services; and
33 (b) there are exceptional and urgent circumstances justifying the
34 determination of the standard under this clause; and

- 1 (c) it is unlikely that a code dealing with that matter or matters
2 could be developed under this Part within a reasonable period
3 in the circumstances.
- 4 (2) The ACMA may, by legislative instrument, determine a standard
5 that applies to participants in that section of the digital platform
6 industry and deals with that matter or those matters. A standard
7 under this subclause is to be known as a ***misinformation standard***.
- 8 (3) If the ACMA is satisfied that a body or association represents that
9 section of the digital platform industry, the ACMA must consult
10 the body or association before determining a standard under
11 subclause (2).

12 **Subdivision B—Variation and revocation of misinformation** 13 **standards**

14 **51 Variation of misinformation standards**

- 15 (1) The ACMA may, by legislative instrument, vary a misinformation
16 standard that applies to participants in a particular section of the
17 digital platform industry if it is satisfied that it is necessary or
18 convenient to do so to provide adequate protection for the
19 community from misinformation or disinformation on digital
20 platform services of those participants.
- 21 (2) Before varying the standard, the ACMA must consider:
22 (a) whether the standard (as varied) would burden freedom of
23 political communication; and
24 (b) if so, whether the burden would be reasonable and not
25 excessive, having regard to any circumstances the ACMA
26 considers relevant.

27 **52 Revocation of misinformation standards**

28 The ACMA may, by legislative instrument, revoke a
29 misinformation standard.

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Schedule 1 Main amendments

1 **Subdivision C—Compliance with misinformation standards**

2 **53 Compliance with misinformation standard**

3 (1) If:

4 (a) a misinformation standard that applies to participants in a
5 particular section of the digital platform industry is
6 determined under this Part; and

7 (b) a digital platform provider is a participant in that section of
8 the digital platform industry;

9 the provider must comply with the standard.

10 *Civil penalty provision*

11 (2) Subclause (1) is a civil penalty provision.

12 *Designated infringement notice provision*

13 (3) Subclause (1) is a designated infringement notice provision.

14 *Warnings*

15 (4) If the ACMA is satisfied that a digital platform provider has
16 contravened subclause (1), the ACMA may issue a formal warning
17 to the provider.

18 (5) For the purposes of this Act and the *Australian Communications*
19 *and Media Authority Act 2005*, a warning under subclause (4) is
20 taken to be a notice under this Schedule.

21 **54 Remedial directions—contravention of misinformation standard**

22 *Scope*

23 (1) This clause applies if:

24 (a) a misinformation standard that applies to participants in a
25 particular section of the digital platform industry is
26 determined under this Part; and

27 (b) a digital platform provider is a participant in that section of
28 the digital platform industry; and

1 (c) the ACMA is satisfied that the provider has contravened, or
2 is contravening, the standard.

3 *Remedial directions*

4 (2) The ACMA may give the provider a written direction requiring the
5 provider to take specified action directed towards ensuring that the
6 provider does not contravene the standard, or is unlikely to
7 contravene the standard, in the future.

8 Note: For variation and revocation, see subsection 33(3) of the *Acts*
9 *Interpretation Act 1901*.

10 (3) A digital platform provider must not contravene a direction under
11 subclause (2).

12 *Civil penalty provision*

13 (4) Subclause (3) is a civil penalty provision.

14 *Notice*

15 (5) For the purposes of this Act and the *Australian Communications*
16 *and Media Authority Act 2005*, a direction under subclause (2) is
17 taken to be a notice under this Schedule.

18 **Division 6—Register of misinformation codes and**
19 **misinformation standards**

20 **55 ACMA to maintain Register of misinformation codes and**
21 **misinformation standards**

22 (1) The ACMA is to maintain a Register in which the ACMA
23 includes:
24 (a) all misinformation codes registered under this Part; and
25 (b) all misinformation standards; and
26 (c) all requests made under clause 38; and
27 (d) all notices under clause 39.

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1 (2) Paragraph (1)(a) does not require the ACMA to continue to include
2 in the Register a misinformation code, or a provision of a
3 misinformation code, removed from the Register under clause 42.

4 (3) The Register is to be maintained by electronic means.

5 (4) The Register is to be made available for inspection on the internet.

6 **Division 7—Miscellaneous**

7 **56 Misinformation standards prevail over inconsistent** 8 **misinformation codes**

9 If a misinformation code is:

10 (a) registered under this Part; and

11 (b) applicable to a digital platform provider;

12 the code has no effect to the extent to which it is inconsistent with
13 a misinformation standard that is:

14 (c) determined under this Part; and

15 (d) applicable to the provider.

16 **Part 4—Miscellaneous** 17

18 **57 Service of notices by electronic means**

19 Paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act*
20 *1999* do not apply to:

21 (a) a notice under this Schedule; or

22 (b) a notice under any other provision of this Act, so far as that
23 provision relates to this Schedule.

24 Note: Paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act 1999*
25 deal with the consent of the recipient of information to the information
26 being given by way of electronic communication.

1 **58 Service of summons, process or notice on corporations**
2 **incorporated outside Australia**

3 *Scope*

- 4 (1) This clause applies to:
5 (a) a summons or process in any proceedings under, or
6 connected with, this Schedule; or
7 (b) a notice under this Schedule; or
8 (c) a notice under any other provision of this Act, so far as that
9 provision relates to this Schedule;
10 where:
11 (d) the summons, process or notice, as the case may be, is
12 required to be served on, or given to, a body corporate
13 incorporated outside Australia; and
14 (e) the body corporate does not have a registered office or a
15 principal office in Australia; and
16 (f) the body corporate has an agent in Australia.

17 *Service*

- 18 (2) The summons, process or notice, as the case may be, is taken to
19 have been served on, or given to, the body corporate if it is served
20 on, or given to, the agent.
21 (3) Subclause (2) has effect in addition to section 28A of the *Acts*
22 *Interpretation Act 1901*.

23 Note: Section 28A of the *Acts Interpretation Act 1901* deals with the service
24 of documents.

25 **59 Relationship with other laws**

- 26 (1) This Schedule does not limit the operation of Part 13 of this Act or
27 Schedule 8 to this Act.
28 (2) This Schedule does not limit the operation of Part 9 of the *Online*
29 *Safety Act 2021*.

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Schedule 1 Main amendments

1 (3) This Schedule does not limit the operation of the *Commonwealth*
2 *Electoral Act 1918*, the *Referendum (Machinery Provisions) Act*
3 *1984* or the *Telecommunications Act 1997*.

4 **60 Implied freedom of political communication**

5 (1) The provisions of:
6 (a) this Schedule; and
7 (b) the digital platform rules; and
8 (c) any misinformation code registered under Part 3; and
9 (d) any misinformation standard;
10 have no effect to the extent (if any) that their operation would
11 infringe any constitutional doctrine of implied freedom of political
12 communication.
13 (2) Subclause (1) does not limit the application of section 15A of the
14 *Acts Interpretation Act 1901* to this Act.

15 **61 Acquisition of property**

16 The provisions of:
17 (a) this Schedule; and
18 (b) the digital platform rules; and
19 (c) any misinformation code registered under Part 3; and
20 (d) any misinformation standard;
21 have no effect to the extent (if any) to which their operation would
22 result in an acquisition of property (within the meaning of
23 paragraph 51(xxxi) of the Constitution) from a person otherwise
24 than on just terms (within the meaning of that paragraph).

25 **62 Concurrent operation of State and Territory laws**

26 It is the intention of the Parliament that this Schedule is not to
27 apply to the exclusion of a law of a State or Territory to the extent
28 to which that law is capable of operating concurrently with this
29 Schedule.

1 **63 Schedule not to affect performance of State or Territory**
2 **functions**

3 A power conferred by this Schedule must not be exercised in such
4 a way as to prevent the exercise of the powers, or the performance
5 of the functions, of government of a State, the Northern Territory
6 or the Australian Capital Territory.

7 **64 Digital platform rules**

8 (1) The ACMA may, by legislative instrument, make rules (the *digital*
9 *platform rules*) prescribing matters:

- 10 (a) required or permitted by this Act to be prescribed by the
11 digital platform rules; or
12 (b) necessary or convenient to be prescribed for carrying out or
13 giving effect to this Schedule.

14 (2) To avoid doubt, the digital platform rules may not do the
15 following:

- 16 (a) create an offence or civil penalty;
17 (b) provide powers of:
18 (i) arrest or detention; or
19 (ii) entry, search or seizure;
20 (c) impose a tax;
21 (d) set an amount to be appropriated from the Consolidated
22 Revenue Fund under an appropriation in this Act;
23 (e) directly amend the text of this Act.

24 (3) Digital platform rules that are inconsistent with the regulations
25 have no effect to the extent of the inconsistency, but digital
26 platform rules are taken to be consistent with the regulations to the
27 extent that the digital platform rules are capable of operating
28 concurrently with the regulations.

EXPOSURE DRAFT

Schedule 2 Consequential amendments and transitional provisions

1 **Schedule 2—Consequential amendments and**
2 **transitional provisions**
3

4 *Australian Communications and Media Authority Act 2005*

5 **1 Section 3 (subparagraph (b)(i) of the definition of**
6 ***authorised disclosure information*)**

7 After “or 13 of”, insert “, or Schedule 9 to,”.

8 **2 After paragraph 10(1)(ma)**

9 Insert:

10 (mb) to assist bodies or associations that the ACMA is satisfied
11 represent sections of the digital platform industry to develop
12 codes under Part 3 of Schedule 9 to the *Broadcasting*
13 *Services Act 1992*;

14 (mc) to develop standards under Part 3 of Schedule 9 to the
15 *Broadcasting Services Act 1992*;

16 (md) to monitor compliance with misinformation codes,
17 misinformation standards and digital platform rules;

18 (me) to conduct investigations relating to misinformation and
19 disinformation on digital platform services;

20 (mf) to inform itself and advise the Minister in relation to
21 misinformation and disinformation on digital platform
22 services;

23 (mg) to make available to the public information about matters
24 relating to misinformation and disinformation on digital
25 platform services;

26 **3 Paragraph 53(2)(k)**

27 After “Schedule 8” (wherever occurring), insert “or 9”.

EXPOSURE DRAFT

Consequential amendments and transitional provisions **Schedule 2**

1 ***Broadcasting Services Act 1992***

2 **4 Title**

3 Omit “**and content services**”, substitute “**, content services and digital**
4 **platform services**”.

5 **5 After paragraph 3(1)(hb)**

6 Insert:

7 (hc) to encourage digital platform providers to protect the
8 community against harm caused, or contributed to, by
9 misinformation and disinformation on digital platform
10 services; and

11 **6 Subsection 3(2)**

12 Insert:

13 ***digital platform provider*** has the same meaning as in Schedule 9.

14 ***digital platform service*** has the same meaning as in Schedule 9.

15 ***disinformation*** has the same meaning as in Schedule 9.

16 ***harm*** has the same meaning as in Schedule 9.

17 ***misinformation*** has the same meaning as in Schedule 9.

18 **7 After subsection 4(3AB)**

19 Insert:

20 (3AC) The Parliament also intends that digital platform services be
21 regulated, in order to prevent and respond to misinformation and
22 disinformation on the services, in a manner that:

23 (a) has regard to freedom of expression; and

24 (b) respects user privacy; and

25 (c) protects the community and safeguards end-users against
26 harm caused, or contributed to, by misinformation and
27 disinformation on digital platform services; and

28 (d) enables public interest considerations in relation to
29 misinformation and disinformation on digital platform

EXPOSURE DRAFT

Schedule 2 Consequential amendments and transitional provisions

- 1 services to be addressed in a way that does not impose
2 unnecessary financial and administrative burdens on digital
3 platform providers; and
4 (e) will readily accommodate technological change; and
5 (f) encourages the provision of digital platform services to the
6 Australian community; and
7 (g) encourages the development of technologies relating to
8 digital platform services.

8 Subsection 4(4)

9 Insert:

10 *digital platform provider* has the same meaning as in Schedule 9.

11 *digital platform service* has the same meaning as in Schedule 9.

12 *disinformation* has the same meaning as in Schedule 9.

13 *harm* has the same meaning as in Schedule 9.

14 *misinformation* has the same meaning as in Schedule 9.

9 Paragraph 5(1)(a)

15 Omit “and the online content service industry”, substitute “, the online
16 content service industry and the digital platform service industry”.

10 Subsection 5(4)

17 Insert:

18 *digital platform service* has the same meaning as in Schedule 9.

11 Subsection 6(1) (definition of *newspaper*)

19 Before “means”, insert “, other than in Schedule 9,”.

12 Subsection 204(1) (at the end of the table)

20 Add:

To give a remedial direction	Subclause 16(2), 44(2) or 54(2) of Schedule 9	The person to whom the direction was given
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EXPOSURE DRAFT

Consequential amendments and transitional provisions **Schedule 2**

Variation of a remedial direction	Subclause 16(2), 44(2) or 54(2) of Schedule 9	The person to whom the direction was given
Refusal to revoke a remedial direction	Subclause 16(2), 44(2) or 54(2) of Schedule 9	The person to whom the direction was given
Refusal to register a misinformation code or part of a misinformation code	Subclause 37(3) of Schedule 9	The body or association that developed the misinformation code

1 **13 After subsection 204(4)**

2 Insert:

3 *Decisions under the digital platform rules*

4 (4A) Applications may be made to the Administrative Appeals Tribunal
5 for review of decisions of the ACMA under the digital platform
6 rules, so long as those rules provide that the decision is a
7 reviewable decision for the purposes of this section.

8 **14 Subsection 204(5) (heading)**

9 Repeal the heading, substitute:

10 *Definitions*

11 **15 Subsection 204(5)**

12 Insert:

13 *digital platform rules* has the same meaning as in Schedule 9.

14 **16 Subsections 205F(4) and (5)**

15 Omit “or subclause 25(1) or 26(4) of Schedule 8”, substitute “,
16 subclause 25(1) or 26(4) of Schedule 8 or subclause 15(1), 16(3), 18(5),
17 19(5), 43(1), 44(3), 53(1) or 54(3) of Schedule 9”.

18 **17 After subsection 205F(5D)**

19 Insert:

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Schedule 2 Consequential amendments and transitional provisions

- 1 (5E) The pecuniary penalty payable by a person in respect of:
2 (a) a contravention of subclause 15(1) or 16(3) of Schedule 9; or
3 (b) a contravention of section 205E that relates to a
4 contravention of subclause 15(1) or 16(3) of Schedule 9;
5 must not exceed:
6 (c) if the person is a body corporate—5,000 penalty units; or
7 (d) if the person is not a body corporate—1,000 penalty units.
- 8 (5F) The pecuniary penalty payable by a person in respect of:
9 (a) a contravention of subclause 18(5) or 19(5) of Schedule 9; or
10 (b) a contravention of section 205E that relates to a
11 contravention of subclause 18(5) or 19(5) of Schedule 9;
12 must not exceed:
13 (c) if the person is a body corporate—40 penalty units; or
14 (d) if the person is not a body corporate—30 penalty units.
- 15 (5G) The pecuniary penalty payable by a person in respect of:
16 (a) a contravention of subclause 43(1) or 44(3) of Schedule 9; or
17 (b) a contravention of section 205E that relates to a
18 contravention of subclause 43(1) or 44(3) of Schedule 9;
19 must not exceed:
20 (c) if the person is a body corporate—the greater of:
21 (i) 10,000 penalty units; and
22 (ii) 2% of the annual turnover of the body corporate during
23 the period (the *turnover period*) of 12 months ending at
24 the end of the month in which the conduct constituting
25 the contravention occurred; or
26 (d) if the person is not a body corporate—2,000 penalty units.
- 27 (5H) The pecuniary penalty payable by a person in respect of:
28 (a) a contravention of subclause 53(1) or 54(3) of Schedule 9; or
29 (b) a contravention of section 205E that relates to a
30 contravention of subclause 53(1) or 54(3) of Schedule 9;
31 must not exceed:
32 (c) if the person is a body corporate—the greater of:
33 (i) 25,000 penalty units; and

EXPOSURE DRAFT

Consequential amendments and transitional provisions **Schedule 2**

- 1 (ii) 5% of the annual turnover of the body corporate during
2 the period (the *turnover period*) of 12 months ending at
3 the end of the month in which the conduct constituting
4 the contravention occurred; or
5 (d) if the person is not a body corporate—5,000 penalty units.
- 6 (5J) For the purposes of this section, the *annual turnover* of a body
7 corporate, during the turnover period, is the sum of the values of all
8 the supplies that the body corporate, and any body corporate
9 related to the body corporate, have made, or are likely to make,
10 during that period, other than the following supplies:
11 (a) supplies made from any of those bodies corporate to any
12 other of those bodies corporate;
13 (b) supplies that are input taxed;
14 (c) supplies that are not for consideration (and are not taxable
15 supplies under section 72-5 of the *A New Tax System (Goods
16 and Services Tax) Act 1999*);
17 (d) supplies that are not made in connection with an enterprise
18 that the body corporate carries on.
- 19 (5K) For the purposes of subsection (5J), it is immaterial whether the
20 supplies were made, or are likely to be made, within or outside
21 Australia.
- 22 (5L) Expressions used in subsections (5J) and (5K) that are also used in
23 the *A New Tax System (Goods and Services Tax) Act 1999* have the
24 same meaning in those subsections as they have in that Act.
- 25 (5M) The question whether 2 bodies corporate are related to each other
26 is to be determined for the purposes of subsection (5J) in the same
27 way as for the purposes of the *Corporations Act 2001*.

18 At the end of section 205PA

28 Add:

- 29
- 30 • The Federal Court may also grant injunctions in relation to
31 contraventions of certain provisions of Schedule 9 (which
32 deals with digital platform services).

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Schedule 2 Consequential amendments and transitional provisions

1 **19 Section 205Q**

2 Omit “or subsection 121FG(3) or section 136A, 136B, 136C, 136D or
3 136E or subclause 49(3) of Schedule 6”, substitute “,
4 subsection 121FG(3), section 136A, 136B, 136C, 136D or 136E,
5 subclause 49(3) of Schedule 6 or subclause 15(1), 43(1) or 53(1) of
6 Schedule 9”.

7 **20 Section 205XA**

8 After “designated infringement notice provision”, insert “(other than a
9 designated infringement notice provision in Schedule 9)”.

10 **21 Subsection 205Y(3)**

11 Omit “subsection (4)”, substitute “subsections (4) and (5)”.

12 **22 At the end of section 205Y**

13 Add:

14 (5) Subsection (4) does not apply in relation to a contravention of a
15 designated infringement notice provision in Schedule 9.

16 **23 After paragraph 205ZA(1)(aa)**

17 Insert:

18 (ab) if the infringement notice relates to subclause 15(1), 16(3),
19 43(1), 44(3), 53(1) or 54(3) of Schedule 9 and the person is a
20 body corporate—60 penalty units; or

21 (ac) if the infringement notice relates to subclause 18(5) or 19(5)
22 of Schedule 9 and the person is a body corporate—8 penalty
23 units; or

24 (ad) if the infringement notice relates to subclause 18(5) or 19(5)
25 of Schedule 9 and the person is not a body corporate—6
26 penalty units; or

27 **24 Paragraph 205ZA(1)(a)**

28 Omit “subclause 25(1) of Schedule 8”, substitute “a provision
29 mentioned in paragraph (aa), (ab), (ac) or (ad)”.

EXPOSURE DRAFT

Consequential amendments and transitional provisions **Schedule 2**

1 **25 Section 216E (heading)**

2 Omit “(online content services)”, substitute “(online content
3 services—gambling promotional content)”.

4 **26 Schedule 8 (heading)**

5 After “services”, insert “(gambling promotional content)”.

6 **27 After clause 30 of Schedule 8**

7 Insert:

8 **31 This Schedule does not limit Schedule 9 (digital platform
9 services)**

10 This Schedule does not limit the operation of Schedule 9.

11 *Online Safety Act 2021*

12 **28 Section 231 (heading)**

13 After “Schedule 8”, insert “or 9”.

14 **29 Section 231**

15 After “Schedule 8”, insert “or 9”.

16 *Telecommunications Act 1997*

17 **30 Section 116 (heading)**

18 Omit “codes and standards under Part 9 of”, substitute “certain
19 codes and standards under”.

20 **31 Section 116**

21 After “code registered, or standard determined, under Part 9 of”, insert
22 “, or Schedule 9 to,”.

EXPOSURE DRAFT

Schedule 2 Consequential amendments and transitional provisions

1 **32 Transitional provisions**

2 *Misinformation and disinformation*

- 3 (1) Subclauses 7(1) and (2) of Schedule 9 to the *Broadcasting Services Act*
4 *1992* as amended by this Act apply in relation to any content
5 disseminated using a digital service, whether disseminated before or
6 after the commencement of this item.

7 *Information gathering*

- 8 (2) For the purposes of subparagraphs 18(1)(a)(i) and 19(1)(a)(i) of
9 Schedule 9 to the *Broadcasting Services Act 1992* as amended by this
10 Act, it does not matter whether the information or document came into
11 existence before or after the commencement of this item.