

PROTECTED CABINET

MS23-003753



## Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

**To:** The Hon Michelle Rowland MP, Minister for Communications (for decision)

**Subject:** Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 (the Bill) – public consultation

**Critical Date:** Please action by **20 June 2023**, to allow sufficient time to finalise the communications material ahead of your office's planned release of the Bill on 22 June.

### Recommendation/s:

1. That you **sign** to the letters to major stakeholders at **Attachments A**.

**Signed** / Not Signed

2. **Note** the materials to support your announcement of consultation on your draft Bill to give the Australian Communications and Media Authority (ACMA) powers to combat mis- and disinformation which we will finalise with your office (at **Attachments B to F**).

**Noted** / Please Discuss

3. **Note** that the department has consulted your office in the development of the Guidance Note to the Bill and the Media Release.

**Noted** / Please Discuss

4. **Note** that the department has sought feedback from key Government departments and agencies on the Bill for any red line issues and no concerns have been raised.

**Noted** / Please Discuss

The Hon Michelle Rowland MP

Date:

20/6/23

### Comments:

1. Sign & date letters electronically please. 22/6 dispatch.

### Key Points:

1. This brief seeks your approval to write to digital platform industry stakeholders about the release of the draft Bill to give the ACMA new powers to combat mis- and disinformation and to brief you on the communication materials and our analysis of the stakeholder issues.

### Announcement of the Bill is subject to the Prime Minister's approval:

2. You have written to the Prime Minister seeking minor policy approval prior to the public consultation on your Bill. On 16 June, the Assistant Minister to the Prime Minister wrote to you on behalf of the Prime Minister agreeing to your request for the additional policy approval.

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3. The department has prepared a range of communication materials to support the announcement including a Guidance Note, media release, talking points, Q&A (internal use), fact sheet. These materials are at **Attachments B to F**.

4. Following your announcement, the department will email a broader range of stakeholders (listed in Additional Information), to draw their attention to the consultation.

**Consultation with agencies:**

5. We consulted key departments and agencies on the Bill and no redline concerns were raised. This included the Department of Home Affairs, Finance, the Australian Electoral Commission, Department of Foreign Affairs and Trade, and the Attorney-General's Department.

**Stakeholder engagement:**

6. Given the nature of the harms that the Bill is seeking to address, consultation is likely to attract significant public interest and discussion. The public consultation period is scheduled from 22 June to 6 August (over 6 weeks). The department will seek to hold:

- a. **Targeted briefing sessions** in early to mid-July with the digital platforms industry, advocacy groups, media sector, academia, think-tanks, and government departments and agencies.
- b. **Parliamentary briefing sessions** for all Members of Parliament and House and Senate Committees to be arranged by your office during the next available sitting week (w/c 1 August). At the recent Budget Estimates hearings of the Senate Environment and Communications Legislation Committee a number of questions were asked about the size of the penalties, the treatment of professional news content, and concerns about the potential overreach by the Government and digital platforms.

7. The stakeholder interest is expected to focus on: a) the substance of the Bill and how it will be operationalised and b) the broader policy question of the Government's involvement in addressing dis- and misinformation. Further analysis and details of the department's targeted consultation is in Additional Information.

**Financial impacts:** N/A

**Legal/Legislative impacts:** The Bill includes a new schedule to the *Broadcasting Services Act 1992* and consequential amendments.

**Stakeholder Implications:** Further stakeholder analysis is in Additional Information.

**Consultation:** AEC, Department of Home Affairs, DFAT, Department of Finance, PM&C, Attorney-General's Department, Treasury, Department of Education, Defence.

**Media Opportunities:** Media release and materials are attached.

**Attachments:**

Attachment A: Letters to major stakeholders

Attachment B: Guidance Note to the Bill

Attachment C: Fact Sheet

Attachment D: Talking Points

Attachment E: Q&A

Attachment F: Media Release

Cleared By: Pauline Sullivan  
 Position: First Assistant Secretary  
 Division: Online Safety, Media and Platforms  
 Ph: 6271 s22(1) | Mob: s22(1)(a)(ii)  
 Cleared Date: 15 June 2023

Name: Andrew Irwin  
 Position: A/g Assistant Secretary  
 Division: Platforms and News Branch  
 Ph: 6271 s22(1) | Mob: s22(1)(a)(ii)

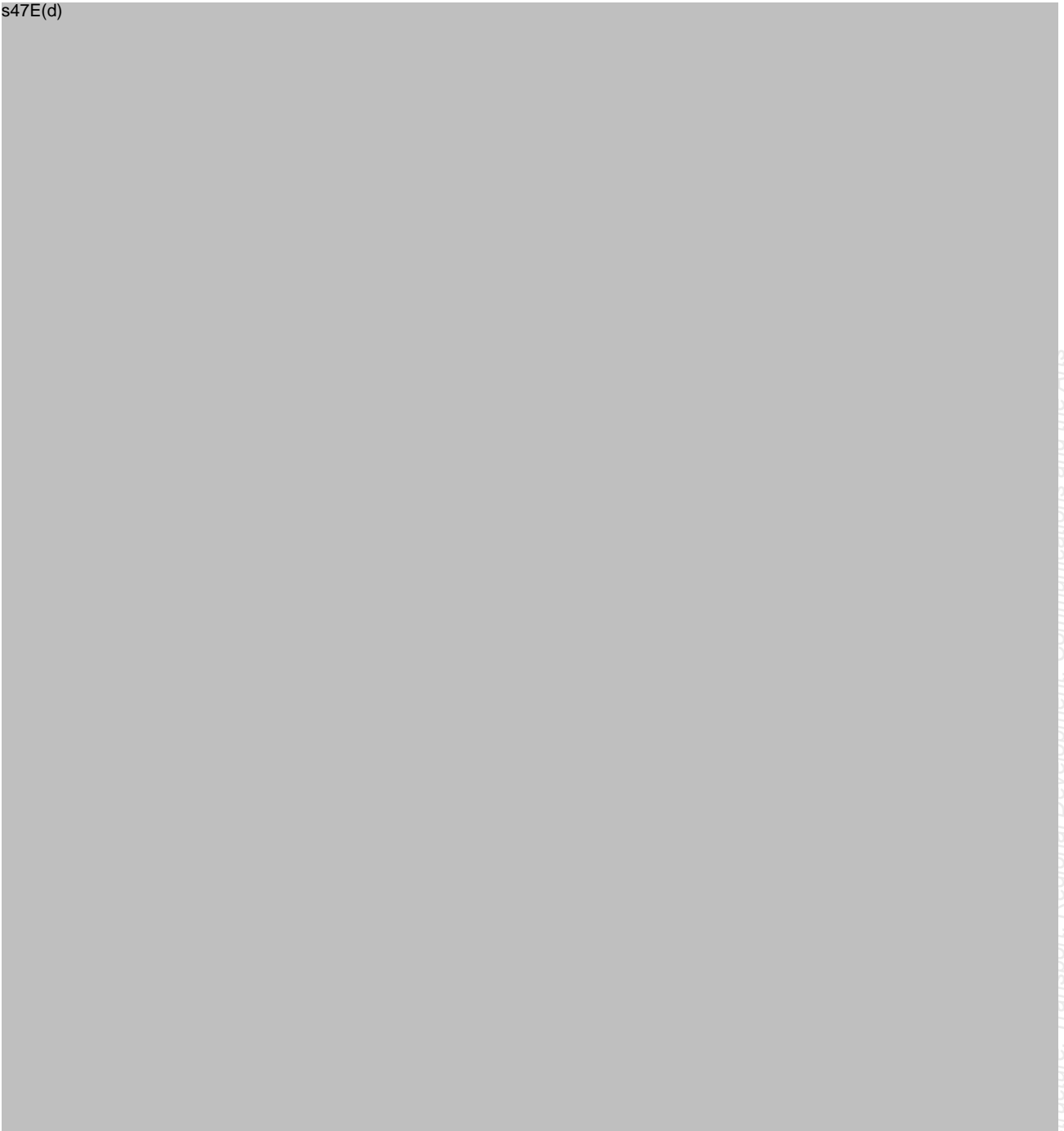
**Responsible Adviser:** s22(1)(a)(ii)

**PDMS Distribution List:** Jim Betts, Richard Windeyer, Pauline Sullivan, Chris Burke, s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii)

### Additional Information:

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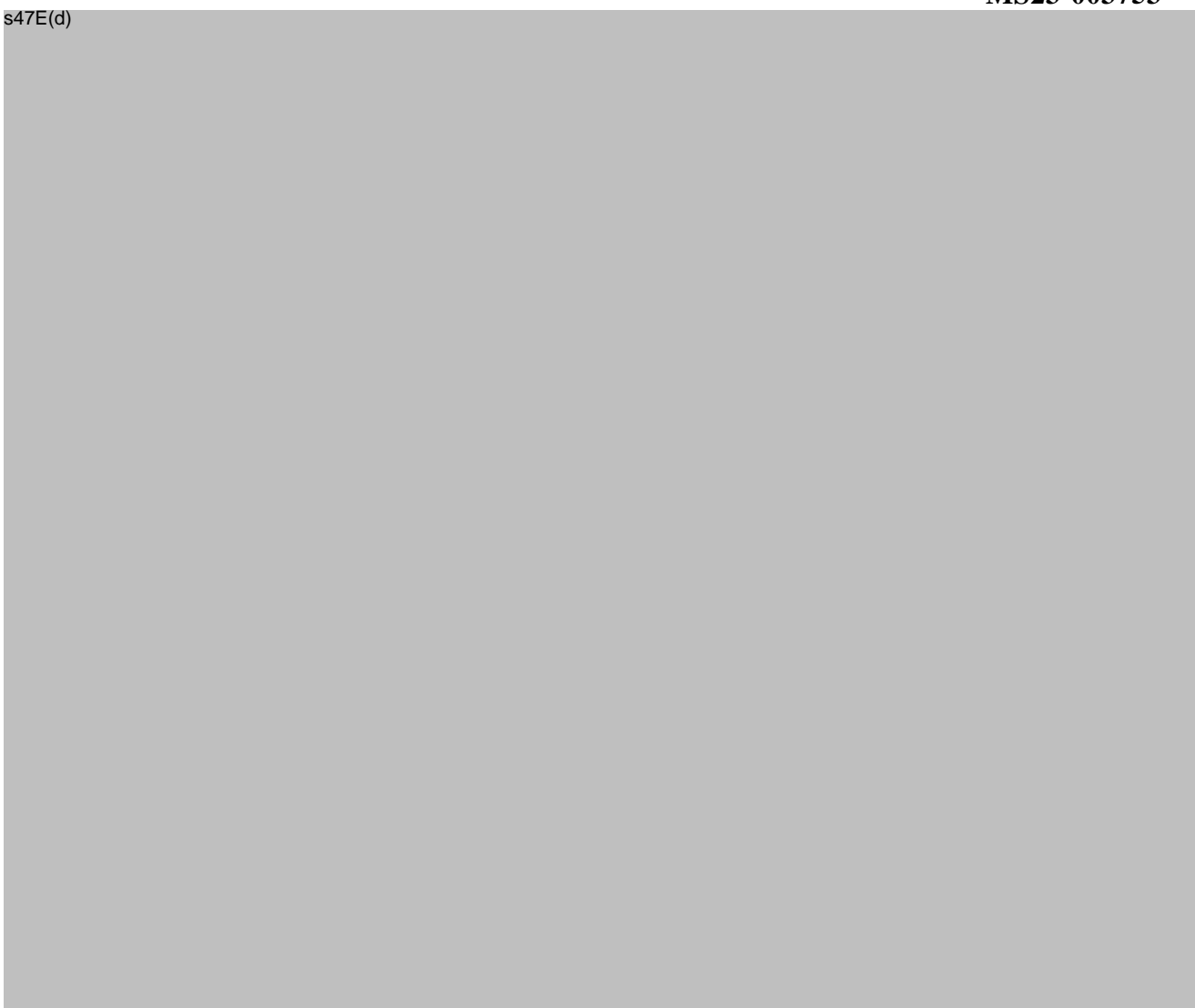
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### Key activities during the public consultation

Timing	Activity
<b>Week 1</b> 22 to 29 June	<ul style="list-style-type: none"> <li>- Media release announcing the start of the public consultation (22 June)</li> <li>- The Minister to write to key industry stakeholders (<b>Attachment A</b>)</li> <li>- Your office will circulate material to MPs (e.g. Fact Sheet and Guidance Note)</li> <li>- Department to promote the public consultation through its               <ul style="list-style-type: none"> <li>• website – links to the Bill, Guidance Note and Fact Sheet</li> <li>• social media (Facebook, Twitter, LinkedIn)</li> <li>• emails to key stakeholders</li> </ul> </li> </ul>
<b>Week 2</b> 30 June to 7 July	<ul style="list-style-type: none"> <li>- Department will hold targeted consultation sessions               <ul style="list-style-type: none"> <li>• DIGI and DIGI signatories (Sydney)</li> <li>• non-signatories of the DIGI code (Sydney)</li> <li>• media sector, advocacy and civic groups (Sydney)</li> </ul> </li> </ul>
<b>Week 3</b> 8 to 15 July	<ul style="list-style-type: none"> <li>- Department to promote consultation through social media reminder posts</li> </ul>
<b>Week 4</b> 16 to 23 July	<ul style="list-style-type: none"> <li>- Department will hold targeted consultation sessions               <ul style="list-style-type: none"> <li>• media sector, advocacy and civic groups (Canberra)</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>government departments and agencies (Canberra)</li> </ul>
<b>Week 5</b> 24 to 31 July	- Department to promote consultation through social media reminder posts
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# The Hon Michelle Rowland MP

Minister for Communications  
Federal Member for Greenway

MS23-003753

Mr s47F

s47F

Apple Australia

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s47F @apple.com

Dear s47F

I am pleased to inform you that I have released for public consultation the Australian Government's Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

In January, the Government announced that it would release a draft Bill to provide the independent regulator, the Australian Communications and Media Authority (ACMA), with new powers to combat online misinformation and disinformation.

The proposed powers are consistent with the key recommendations in the ACMA's *Report to government on the adequacy of digital platforms' disinformation and news quality measures* (the Report). A copy of the Report can be found here: [www.acma.gov.au/report-government-adequacy-digital-platforms-disinformation-and-news-quality-measures](http://www.acma.gov.au/report-government-adequacy-digital-platforms-disinformation-and-news-quality-measures).

In summary, the new ACMA powers would:

- enable the ACMA to gather information from, or require digital platform providers to keep certain records about matter regarding misinformation and disinformation
- enable the ACMA to request industry develop a code of practice covering measures to combat misinformation and disinformation on digital platforms, which the ACMA could register and enforce
- allow the ACMA to create and enforce an industry standard (a stronger form of regulation) should a code of practice be deemed to be ineffective in combatting misinformation and disinformation on digital platforms.

The ACMA will not have the power to request specific content or posts be removed from digital platform services. In balancing freedom of expression with the need to address online harm, the code and standard making powers will not apply to authorised electoral and referendum content and other types of content such as professional news and satire.

The release of the Bill provides an opportunity for industry and the wider community to provide feedback on whether the proposed legislation strikes an appropriate balance on a range of issues such as freedom of expression, potential constraints on platforms operationalising the Bill, the size of civil penalties and any other relevant issues.

The Government is now seeking submissions from interested individuals and organisations on the content of the draft Bill before the legislation is introduced to the Parliament later this year. The draft Bill and the process for lodging a submission can be found online at [www.infrastructure.gov.au/have-your-say/acma-powers](http://www.infrastructure.gov.au/have-your-say/acma-powers). Submissions are sought by Sunday, 6 August 2023.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts will hold a number of briefing sessions with key stakeholders in early July, and will be directly in contact with you shortly to provide further details.

I trust this information is of assistance to you.

Yours sincerely

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Michelle Rowland MP

26 / 6 /2023





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TikTok Australia

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Redbubble Limited

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Michelle Rowland MP

26 / 6 /2023





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Minister for Communications  
Federal Member for Greenway

MS23-003753

s47F

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Reddit, Inc

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@reddit.com

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Snap Inc.

s47F @snap.com

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Spotify

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## TALKING POINTS – DRAFT COMBATTING MISINFORMATION AND DISINFORMATION BILL

- The Government has commenced consultation on a draft Combatting Misinformation and Disinformation Bill. The Government would like all Australians to have their say.
- The Government's proposed Bill provides new powers to the Australian Communications and Media Authority (ACMA). These powers would:
  - require digital platform services (such as social media and search engines) to have systems and processes in place to prevent and respond to misinformation and disinformation
  - create transparency about misinformation and disinformation online and
  - enable the ACMA to hold digital platforms to account for the harmful content disinformation that they may host.
- The ACMA will **not have the power to request specific content or posts be removed** from digital platform services.
- The Government is determined to ensure that digital platforms take responsibility for protecting Australians from any seriously harmful misinformation and disinformation they host.

## THE DRAFT COMBATTING MISINFORMATION AND DISINFORMATION BILL PROPOSES TO

- Signal the clear intent of the Australian Government to **crack down on harmful misinformation and disinformation**, which pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy.
- Enhance transparency by enabling the ACMA to **gather information** from, or require digital platform providers to **keep certain records** about matters regarding misinformation and disinformation.
- Strengthen existing measures to **combat misinformation and disinformation** by allowing the ACMA to:

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- Request industry develop a code of practice covering measures to combat misinformation and disinformation on digital platforms, which the ACMA could register and enforce.
- Allow the ACMA to **create and enforce an industry standard** (a stronger form of regulation), should a code of practice be deemed ineffective in combatting misinformation and disinformation on digital platforms
- Strike a balance between protecting Australians from harmful misinformation and disinformation, and **protecting freedom of speech and privacy**.
  - The Bill is directed at encouraging digital platform providers to have robust systems and measures in place to **address seriously harmful misinformation and disinformation** on their services.
  - The ACMA will **not have the power to request specific content or posts be removed** from digital platform services.
  - The code and standard making powers will **not apply to authorised electoral and referendum content** and other types of content such as professional news and satire.
  - **Private messages will not be within scope of the powers.**
- In total, the draft Combatting Misinformation and Disinformation Bill will provide a **graduated framework** that will require platforms to be accountable for the content on their services, and empower the ACMA to act if that does not happen.
- This is an important reform that will help keep Australians safe from harm, and protect Australia's democracy, society and economy.

# Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 – Questions & Answers (Q&A)

22 June 2023

## Context of the ACMA reforms

### What is the context of these proposed reforms?

In 2019, the Australian Competition and Consumer Commission (ACCC) released its [Digital Platforms Inquiry Final Report](#). As part of its response to the report, the former Government requested online platforms in Australia develop a voluntary code of practice to address online disinformation and news quality.

The Australian Code of Practice on Disinformation and Misinformation (the voluntary code) was launched on 22 February 2021 by Digital Industry Group Inc (DIGI), following oversight by the independent regulator, Australian Communications and Media Authority (ACMA), on the voluntary code's development.

In March 2022, the ACMA released its [Report to government on the adequacy of digital platforms' disinformation and news quality measures](#), which made five recommendations and 48 findings. This includes recommendations to provide the ACMA with new information-gathering, record keeping, and code and standard-making powers.

In January 2023, the Minister for Communications announced that the Australian Government will introduce new laws to provide the ACMA with powers to combat online misinformation and disinformation.

### What is being proposed?

The purpose of the draft Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 (the Bill) is to amend the *Broadcasting Services Act 1992* (the Act), and other Acts as relevant for consequential amendments, to enact the ACMA's recommendations to have these new powers.

The powers are aimed at holding digital platforms accountable for, and improving efforts to tackle harmful online misinformation and disinformation in Australia. The powers will promote transparency around efforts by digital platforms to respond to misinformation and disinformation on their services.

## Freedom of expression and speech

### How will freedom of expression and speech be protected in the draft Bill?

The Bill has been designed carefully to balance the public interest in combatting misinformation and disinformation with freedom of expression. The proposed framework of the Bill is directed at encouraging digital platform providers to have robust systems and measures in place to address misinformation and disinformation on their services, rather than the ACMA directly regulating individual pieces of content. Examples of systems and measures could include having and enforcing policies in place to combat misinformation and disinformation on their services, as well as clear processes to allow users to report content they consider misinformation and disinformation.

Digital platforms will continue to be responsible for the content hosted on their services. The Australian Communications and Media Authority (ACMA) will not have the power to require digital platforms to remove specific misinformation or disinformation content.

Through the framework provided by the Bill, digital platforms may be required to have systems and processes in place to address misinformation and disinformation that meets a threshold of being reasonably likely to cause or contribute to 'serious harm' - that is, harms with significant implications for the Australian community. Refer to section 2.1.2 of the Guidance Note to the Bill for further information.

### How will political speech be impacted?

Any codes and standards made under these powers will not apply to electoral and referendum content that is required to be authorised. They would also not apply to any other electoral matter content unless it is disinformation, for example, disinformation spread by a foreign state actor on a digital platform service to influence the outcome of an election in Australia.

The Bill also exempts certain types of content from the new ACMA powers including content produced in good faith for the purposes of entertainment, satire or parody; professional news content; content produced by or for an accredited educational institution; and content authorised by any government in Australia.

Refer to section 2.1.4 of the Guidance Note to the Bill for further information.

## Private messages and group chats open to the public

### Will private messages on a digital platform service be within scope of the powers?

No. The ACMA powers would not apply to direct private messages sent from one user to one or more other users on a messaging service or social media platform or the content of a closed group conversation on a messaging service such as a family group chat.

### Will group chats open to the public on an instant messaging service be within scope?

Yes. The content of group chats that are open to the public or public "channels" on instant messaging services are intended to be within scope of the ACMA powers. This is also the case for posts in a forum or message board. In these cases, digital platform services will be responsible for ensuring they prevent and respond to misinformation and disinformation on their services.

### If private messages are exempt, how will the powers apply to instant messaging services?

While the content of private messages will be exempt from the scope of the powers, the ACMA would be able to use its information-gathering and recording keeping powers to understand the measures that digital platforms take on their services to combat the spread of misinformation and disinformation and to gain a better understanding of the number of complaints made about such content on their services. These powers will not require providers of digital platform services to reveal the contents of private messages or have requirements related to breaking encryption of private messages.

To strengthen their ability to combat misinformation and disinformation, providers of digital platform services may choose to have systems and processes in place such as user reporting tools, complaints handling and educative programs to empower users. These requirements may also be articulated in industry codes and standards made under the Bill.

## The role of the ACMA and digital platform services

### What is the role of the ACMA under the proposed framework?

The ACMA would administer the new regulatory framework. Should voluntary industry efforts to combat misinformation and disinformation on digital platforms services fail or be considered by the ACMA to be ineffective or inadequate, the ACMA would have the power to either ask industry to make new enforceable codes or, if this proves inadequate, make mandatory standards for digital platform services. Codes and standards could require digital platform services to implement processes and systems to effectively combat misinformation and disinformation on their services.

The ACMA would also have information-gathering and record keeping powers to increase transparency about misinformation and disinformation on digital platform services and the platforms' measures to combat misinformation and disinformation on their services. The ACMA will also have compliance and enforcement powers to ensure industry complies with rules made under the Bill.

### Will providers of digital platform services be responsible for the content on their services?

Yes. Digital platform providers will continue to be responsible for the content they host and promote to users on their services.

### Will the ACMA be able to remove or moderate online content?

No. The ACMA will not be given powers to require the removal of individual posts or accounts, and will not have a role in determining what information on digital platform services is true or false. The ACMA will also not be referring individual pieces of content to digital platform services to seek that it be removed.

### Will the ACMA resolve online user complaints made to digital platforms?

Specific complaints about misinformation or disinformation on digital platform services should be raised directly with the relevant digital platform provider.

The ACMA may investigate potential breaches of codes or standards made under the Bill. Complaints about systemic issues may be a trigger for the ACMA to investigate a digital platform provider's effort to combat misinformation and disinformation on their service.

The record keeping and information-gathering powers will also enable the ACMA to determine whether a digital platform provider's complaints handling procedures are effective.



### Is the ACMA resourced for this?

The 2023-24 Budget included a commitment to provide the ACMA with \$7.9 million over four years from 2023-24 to combat online misinformation and disinformation. In 2023-24, the costs of this measure will be met from within the Communications portfolio.

## Information-gathering and record keeping powers

### How will the information-gathering and record keeping powers apply?

Information-gathering and record keeping powers would allow the ACMA to require digital platform providers to provide information and to keep and maintain certain ongoing records in relation to misinformation and disinformation on their services and their efforts to combat it.

This would allow the ACMA to gain insights on the extent of misinformation and disinformation on digital platform services and the effectiveness of measures to combat its spread. These insights will then inform the ACMA's assessment of the effectiveness of voluntary codes, registered codes or standards. To support transparency, the ACMA would be able to publish its findings whilst protecting user privacy.

### Who will the information powers apply to?

The information-gathering, record keeping and publishing powers would apply to digital platform services, refer to section 2.1.1 of the Guidance Note to the Bill for the digital platform services in scope.

The ACMA may also obtain information and documents from other persons, such as third person fact checkers, if the ACMA considers these persons may be capable of giving evidence relevant to misinformation or disinformation on a digital platform service. The ACMA may only do this if it considers it requires it for its monitoring and compliance functions.

### What kind of information and records could the ACMA require?

The ACMA could require digital platforms to provide information on an as-needed basis about the prevalence of false, misleading or deceptive information, misinformation or disinformation on digital platform services, and measures implemented by providers to prevent and respond to misinformation or disinformation on their services.

This could include, for example, information about the volume of user reports and complaints made relating to misinformation, policies and procedures to combat misinformation and disinformation, the effectiveness of measures, and how platforms are actioning user reports and complaints about misinformation and disinformation.

### Will the ACMA be able to collect information from individuals about their content online?

Under the framework, the ACMA's role is not to collect information about, or content posted by, specific individuals. The ACMA will be focused on addressing systemic issues and actions taken by digital platform providers.

The ACMA's regulatory powers are directed towards digital platform providers, or other individuals such as fact-checkers or contractors to digital platform providers, for the purpose of **monitoring digital platforms' compliance** with codes or standards.



## Code and standard-making powers

### How would a registered code protect online users?

The ACMA could ask industry to make a new code that provides stronger measures to prevent and respond to misinformation and disinformation. The ACMA could register the code which would make compliance with its obligations mandatory. This could apply either for a section of the industry or across the entire industry.

A number of preconditions would need to be met before the ACMA could register a code – see section 4.4.1 of the Guidance Note to the Bill.

### What is an industry standard?

The ACMA could make an enforceable standard in the event of industry failing to develop a code, if a code is deemed by the ACMA to be ineffective in protecting Australians from misinformation or disinformation on digital platform services or in urgent or exceptional circumstances. A standard is generally intended to be the final step used in the graduated reserve powers framework, unless exceptional circumstances required otherwise. Compliance with a standard's obligations would be mandatory for all digital platform services covered by the standard.

Several preconditions must be met before the ACMA would be able to make a standard – see section 4.5.1 of the Guidance Note to the Bill.

## Enforcement of the ACMA powers

### How will the powers be enforced?

In the event of non-compliance, the ACMA would be able to choose from a range of compliance and enforcement actions. These actions would be graduated dependent on the harm caused, or risk of harm and include issuing formal warnings, infringement notices, remedial directions, injunctions and civil penalties.

Criminal penalties would only apply to digital platforms or individuals in instances where they knowingly make or retain false or misleading information or records, or knowingly give false or misleading evidence in response to an information-gathering request.

### What are the penalties for a breach of a code or standard?

Penalties for breaches of codes or standards are graduated and take into consideration the level of harm caused and/or the actions that a non-complying party did or did not take to mitigate risks and harms.

The maximum civil penalties include:

- **Registered codes:** 10,000 penalty units or 2 per cent of global turnover (whatever is greater) for corporations or 2,000 penalty units for individuals, intended to be imposed where there is systemic non-compliance by a digital platform of a registered code.
- **Standards:** 25,000 penalty units or 5 per cent of global turnover (whatever is greater) for corporations or 5,000 penalty units for individuals, intended to be imposed where there is systemic non-compliance by a digital platform of an ACMA mandated standard.

These penalties are intended to apply in instances of serious and egregious large scale social, economic and/or environmental harms that result from the systemic spread of misinformation or disinformation.

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The significant penalties that apply in these instances are intended to act as a strong disincentive to digital platform services failing to act to combat misinformation and disinformation on their platforms. Refer to section 5 of the Guidance Note to the Bill for further information.

#### How can we expect international digital platforms to comply with ACMA's powers?

Commonwealth regulators commonly commence proceedings against foreign entities for conduct that occurs outside of Australia, where there is some connection to Australia. While there can be jurisdictional difficulties, foreign entities that conduct business in Australia generally have an incentive to participate in domestic proceedings and comply with enforcement actions. This includes international digital platforms. Regulators have been successful in obtaining judgements against foreign entities in the past, including those involving the imposition of pecuniary penalties.

#### Interaction with the voluntary code

##### Will voluntary codes in place before the ACMA powers come into effect be automatically replaced by the new powers?

No. The Bill seeks to incentivise and strengthen the voluntary framework. The ACMA would work with industry to ensure continuous improvement to the voluntary code which is overseen by industry. However, should those efforts prove inadequate, the ACMA would have the option to use the graduated set of reserve powers to ask industry to make a new, registrable code, or if necessary, the ACMA could make a standard.

##### Will a voluntary code need to adopt the definitions in the Bill?

No. As the ACMA has no role in determining the provisions within any voluntary codes, the industry does not need to adopt definitions in the Bill. If the ACMA were to register a code, then it would need to draw upon the Bill's definitions.

#### Interaction with the *Online Safety Act 2021*

##### How is this Bill different to the *Online Safety Act 2021*?

Under the *Online Safety Act 2021*, the eSafety Commissioner's responsibilities include a cyber abuse takedown scheme for Australian adults, cyber-bullying of children, and intimate image abuse. The scheme provides a pathway for those experiencing the most seriously harmful online abuse to have this material removed from the internet. The scheme operates on the basis of complaints made to the eSafety Commissioner, where services have failed to remove abusive content, and applies to a broad range of online services used by Australians. Services who fail to remove abusive content following an eSafety removal notice may be subject to significant financial penalty. An individual can make reports at [esafety.gov.au](https://esafety.gov.au).

A key feature of the *Online Safety Act 2021* is that it contains takedown powers for individual pieces of content which is harmful to specific persons. The proposed ACMA powers to combat misinformation and disinformation will focus on systemic misinformation and disinformation that is reasonably likely to cause or contribute to serious harm to wider Australian society.

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Phone: [REDACTED]

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Phone: [REDACTED]

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**From:** s22(1)(a)  
**To:** s22(1)(a)(ii)  
**Cc:** [Irwin, Andrew](#)  
**Subject:** FW: Key Stakeholder Contact List.docx [SEC=OFFICIAL]  
**Date:** Monday, 26 June 2023 3:25:00 PM

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## OFFICIAL

Thanks s22(1)(a)(ii) – we have extended the offer of a departmental briefing for these stakeholders as well.

Regards

s22(1)(a)

## OFFICIAL

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**From:** s22(1)(a)(ii) @MO.communications.gov.au>  
**Sent:** Monday, 26 June 2023 4:08 PM  
**To:** s22(1)(a)(ii) @infrastructure.gov.au>  
**Subject:** RE: Key Stakeholder Contact List.docx [SEC=OFFICIAL]

## OFFICIAL

+  
 Independent Media Council  
[Independent Media Council | Home](#)

## OFFICIAL

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**From:** s22(1)(a)(ii)  
**Sent:** Monday, 26 June 2023 4:03 PM  
**To:** s22(1)(a)(ii) @infrastructure.gov.au>  
**Subject:** RE: Key Stakeholder Contact List.docx [SEC=OFFICIAL]

## OFFICIAL

Hi s22(1)(a)

As discussed, on the Mis and Dis ED, please also extend correspondence / briefings to the following:

s47F

s47F

Seven West Media

s47F

s47F [REDACTED]

s47F [REDACTED]

Nine Entertainment Co

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

Paramount / Ten

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

Commercial Radio & Audio

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

NewsCorp Australia

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

Foxtel

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

Guardian Australia

s47F [REDACTED]

s47F [REDACTED]

s47F [REDACTED]

Local & Independent News Association

s47F [REDACTED]

Regards

s22(1)  
(a)(ii) [REDACTED]

s22(1)(a)(ii) [REDACTED]

Senior Adviser • Minister for Communications

Office of the Hon Michelle Rowland MP • Member for Greenway

s22(1)(a)(ii) [REDACTED] [@MO.communications.gov.au](mailto:MO.communications.gov.au) • s22(1)(a)(ii) [REDACTED]

Commonwealth Parliament Offices, Level 21, 1 Bligh Street Sydney NSW 2000

Suite M1.41, Parliament House, Canberra ACT 2600

OFFICIAL

From: s22(1)(a)(ii) [REDACTED] [@infrastructure.gov.au](mailto:infrastructure.gov.au)>

**Sent:** Friday, 23 June 2023 4:04 PM

**To:** s22(1)(a)(ii) @MO.communications.gov.au>

**Subject:** Key Stakeholder Contact List.docx [SEC=OFFICIAL]

OFFICIAL

OFFICIAL

**From:** s22(1)(a)(ii)  
**To:** s22(1)(a)  
**Subject:** RE: ACMA attendees [SEC=OFFICIAL]  
**Date:** Thursday, 29 June 2023 7:37:37 AM

---

Hi s22(1)(a),

It will be Rochelle and I.

Cheers

s22(1)(a)(iii)

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**From:** s22(1)(a)(ii)@infrastructure.gov.au>  
**Sent:** Thursday, 29 June 2023 9:15 AM  
**To:** s22(1)(a)(ii)@acma.gov.au>  
**Subject:** ACMA attendees [SEC=OFFICIAL]

OFFICIAL

Hi s22(1)(a)(iii) – are you able to confirm all ACMA attendees for 6 and 7 July stakeholder briefings?  
 M s22(1)(a) thanks s22(1)(a)

OFFICIAL

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**From:** s22(1)(a)  
**To:** Rochelle Zurnamer; s22(1)(a)(ii)  
**Cc:** Irwin, Andrew  
**Subject:** Stakeholder sessions - ACMA powers [SEC=OFFICIAL]  
**Date:** Friday, 30 June 2023 9:55:00 AM  
**Attachments:** [Agenda - session 1.docx](#)

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## OFFICIAL

Hi Rochelle and s22(1)(a)(ii)

Below are the attendees for the sessions next week.

The draft agenda for the 3 sessions is attached.

s22(1)(a)

## Session 1

### Confirmed

#### In-person

- s47F , Twitter
- s47F , Apple Australia
- s47F , Meta
- s47F , Google
- s47F TikTok Australia
- s47F ACMA
- s47F Manager, Disinformation and Platforms, ACMA

#### Virtual

- s47F , DIGI
- s47F , Microsoft
- s47F Redbubble Limited

## Session 2

### Confirmed

#### In-person

- s47F – APAC, Snap Inc.
- s47F , Amazon
- s47F Reddit, Inc
- s47F Interactive Games & Entertainment Association (IGEA)
- s47F , Executive Manager, Content Safeguards Branch, ACMA
- s47F Manager, Disinformation and Platforms

#### Virtual

- s47F , Twitch



## To be confirmed

- s47F [REDACTED], Spotify

## Session 3

### Confirmed

#### In-person

- s47F [REDACTED], Nine
- s47F [REDACTED] Human Technology Institute
- s47F [REDACTED] Seven West Media
- s47F [REDACTED] Digital Media Research Centre, QUT
- s47F [REDACTED], Executive Manager, Content Safeguards Branch, ACMA
- s47F [REDACTED], Manager, Disinformation and Platforms
- s47F [REDACTED], Australian Press Council
- s47F [REDACTED], SBS
- s47F [REDACTED]  
Paramount/Network Ten
- s47F [REDACTED], AAP Factcheck
- s47F [REDACTED] AAP Factcheck
- s47F [REDACTED], Free TV Australia
- s47F [REDACTED] Centre for Future Technology

#### Virtual

- s47F [REDACTED], Nine
- s47F [REDACTED], RMIT FactLab
- s47F [REDACTED] Croakey Health Media
- s47F [REDACTED], Local and Independent News Association (LINA)
- s47F [REDACTED], NewsCorp Australia
- s47F [REDACTED] Journalism Education and  
Research Association of Australia
- s47F [REDACTED], RMIT University
- s47F [REDACTED], RMIT ABC Fact Check
- s47F [REDACTED], AAP Factcheck
- s47F [REDACTED], QUT
- s47F [REDACTED] Commercial Radio & Audio
- s47F [REDACTED], University of  
Technology Sydney
- s47F [REDACTED], ABC
- s47F [REDACTED] Reset.Tech Australia

- s47F [REDACTED] Reset.Tech Australia
- s47F [REDACTED] Australian  
Communications Consumer Action Network

### To be confirmed

- s47F [REDACTED], Guardian Australia

OFFICIAL



Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

Attachment A - Document 5

# Consultation on the ACMA powers Exposure Draft Bill AGENDA

**Date:** Thursday, 6 July 2023

**Time:** 1:00pm to 2:30pm

**Location:** Level 6, 23-33 Mary Street, Surry Hills, Sydney NSW

**Facilitator:** Ms Pauline Sullivan, First Assistant Secretary, DITRDCA

**Instructions:** Please arrive **at least 15 minutes** before then event. For any issues on the day  
please contact s22(1)(a)(ii) on s22(1)(a)(ii) or s22(1)(a)(ii) on s22(1)(a)(ii)

ITEM	TOPIC	LEAD
1.	<b>Introduction and welcome</b>	DITRDCA
2.	<b>Context of the ACMA reforms</b>	DITRDCA
3.	<b>Definitions and key terms</b> <ul style="list-style-type: none"><li>- Digital platforms within scope</li><li>- Misinformation, disinformation and serious harm</li><li>- Excluded content for misinformation purposes</li><li>- Private messages</li></ul>	DITRDCA
4.	<b>Information powers</b> <ul style="list-style-type: none"><li>- Scope of the information powers</li><li>- Record keeping</li><li>- Information gathering</li></ul>	DITRDCA
5.	<b>Misinformation codes and standards</b> <ul style="list-style-type: none"><li>- Scope of the code and standing-making powers</li><li>- Code registration and making powers</li><li>- Standard making powers</li></ul>	DITRDCA
6.	<b>Enforcement powers</b>	DITRDCA
7.	<b>Consequential amendments and transitional provisions</b>	DITRDCA
8.	<b>Stakeholder perspectives</b> <ul style="list-style-type: none"><li>- This an opportunity for stakeholders to raise issues any issues or ask questions – please also refer to Attachment A.</li></ul>	ALL
9.	<b>Closing and next steps</b>	DITRDCA

## ATTACHMENT A

We are seeking your views on the Exposure Draft Bill, particularly:

- the definitions of misinformation and disinformation
- the definition of digital platform services and the types of services we propose be subject to the new framework
- how instant messaging services will be brought within the scope of the framework while safeguarding privacy
- the scope of the information-gathering and recording keeping powers, which includes the prevalence of false, misleading or deceptive information on digital platform services
- the preconditions that must be met before the ACMA can require a new code, register a code and make an industry standard
- how the digital platforms industry may be able to operationalise the Bill and various content exemptions (e.g. professional news, satire, authorised electoral content)
- appropriate civil penalties and enforcement mechanisms for non-compliance
- whether the proposed legislation strikes an appropriate balance of a range of issues such as freedom of expression

**From:** s22(1)(a)  
**To:** s22(1)(a)(ii) @acma.gov.au"  
**Subject:** Annotated agenda and other material [SEC=OFFICIAL]  
**Date:** Tuesday, 4 July 2023 10:58:00 AM  
**Attachments:** [Annotated agenda meeting 1- DIGI and signatories.docx](#)  
[Attachment x - potential questions from stakeholders \(003\).docx](#)  
[stakeholder positions \(002\).docx](#)

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OFFICIAL

Hi s22(1)(a)(iii) – as discussed.

Cheers

s22(1)(a)

OFFICIAL



Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

Attachment A - Document 6

# Consultation on the ACMA powers Exposure Draft Bill

## ANNOTATED AGENDA – Session 1

**Date:** Thursday, 6 July 2023

**Time:** 1:00pm to 2:30pm

**Location:** Level 6, 23-33 Mary Street, Surry Hills, Sydney NSW

**Facilitator:** Ms Pauline Sullivan, First Assistant Secretary, DITRDCA

### ATTENDEES

#### Confirmed

##### In-person

- s47F Senior Director for Public Policy and Philanthropy, Asia Pacific, Twitter
- s47F Legal Counsel, Apple Australia
- s47F Head of Public Policy, Meta
- s47F Government Affairs and Public Policy, Google
- s47F , Product Policy Manager, TikTok Australia
- Rochelle Zurnamer, Executive Manager, Content Safeguards Branch, ACMA
- s22(1)(a)(ii) Manager, Disinformation and Platforms, ACMA

##### Virtual

- s47F Director Policy, Regulatory Affairs, and Research, DIGI
- s47F Corporate Affairs Manager, Microsoft
- s47F General Counsel, Redbubble Limited

#### Attachments:

**Attachment 1a:** Stakeholder issues – session 1 participants (DIGI and code signatories)

**Attachment 2a:** Stakeholder views – session 1 participants

**Attachment 3a:** Biographies

**Attachment 4:** DITRDCA Q&A

**Attachment 5:** ACMA Q&A

**Attachment 6:** Fact Sheet

**Attachment 7:** Guidance Note

**Attachment 8:** Exposure Draft Bill

ITEM	TOPIC	LEAD
1.	<p data-bbox="316 221 730 255"><b>Introduction and welcome</b></p> <p data-bbox="316 302 710 336"><u>Acknowledgement of Country</u></p> <ul data-bbox="363 356 1241 622" style="list-style-type: none"> <li data-bbox="363 356 1241 501">• I would like to acknowledge the traditional custodians of the lands on which we all meet, including the lands from those joining us virtually. In Sydney, the traditional custodians are the Gadigal people of the Eora Nation.</li> <li data-bbox="363 512 1241 622">• I would also like to pay respect to the Elders past, present and emerging and extend that respect to any other Aboriginal and Torres Strait Islander people present.</li> </ul> <p data-bbox="316 676 440 710"><u>Welcome</u></p> <ul data-bbox="363 730 1241 1440" style="list-style-type: none"> <li data-bbox="363 730 1241 840">• Good afternoon and I welcome everyone to this briefing session on the exposure draft of the Combatting Misinformation and Disinformation Bill released by the Government last month.</li> <li data-bbox="363 851 1241 960">• We extended an invitation to this session to <b>DIGI and all signatories</b> of the voluntary industry code – so we appreciate your participation today.</li> <li data-bbox="363 972 1241 1081">• As part of the public consultation on the Bill, we are hosting several stakeholder sessions with platforms, academia, media, advocacy groups and fact checkers.</li> <li data-bbox="363 1093 1241 1202">• The aim of these sessions is to answer any questions and discuss any issues or concerns you may have, particularly any implementation issues.</li> <li data-bbox="363 1214 1241 1323">• We look forward to getting your views in helping us to finalise the Bill before it is introduced in Parliament later this year, and encourage you to make a formal submission before 6 August.</li> <li data-bbox="363 1335 1241 1440">• We would ask that, for the purpose of having an open and frank discussion on the Bill, this group operate on <b>Chatham House rules</b>, and treat the detail of all discussions here as confidential.</li> </ul> <p data-bbox="316 1494 730 1527"><b>[REFER TO SLIDE - SLIDE 3]</b></p> <ul data-bbox="363 1538 1241 1608" style="list-style-type: none"> <li data-bbox="363 1538 1241 1608">• As you can see, we have a full agenda today, but I would like to start by going around the room with some brief introductions.</li> </ul>	DITRDCA

2.	<p><b>Context of the ACMA reforms</b></p> <p><b>[REFER TO SLIDES - SLIDE 5]</b></p> <p><u>2019 DPI report and DIGI voluntary code</u></p> <ul style="list-style-type: none"> <li>• Misinformation and disinformation are not a new phenomenon – what has changed is the speed and reach with which it is disseminated online.</li> <li>• Australia is following the EU’s lead on regulation to tackle this growing problem which raises some complex issues – such as definitions, its impact on freedom of expression, the type of online content to be within scope and implementation issues.</li> <li>• Before we discuss the Bill, it would be useful to give some context for the Government’s decision to release the Bill.</li> <li>• As you all know, in 2019, the ACCC released its Digital Platforms Inquiry Final Report. In response, the former government requested online platforms to develop a voluntary code.</li> <li>• On 22 February 2021, DIGI released the voluntary Australian Code of Practice on Disinformation and Misinformation.</li> <li>• The voluntary code has been an important initial step to tackling the spread of misinformation and disinformation.</li> </ul> <p><b>[REFER TO SLIDES - SLIDE 6]</b></p> <p><u>ACMA recommendations</u></p> <ul style="list-style-type: none"> <li>• The exposure draft Bill seeks to enact: <ul style="list-style-type: none"> <li>- <b>Recommendations 3 and 4</b> in ACMA’s report – that the ACMA be provided with new information gathering, record keeping, code and standard-making powers to tackle online misinformation and disinformation.</li> </ul> </li> </ul> <p><b>[REFER TO SLIDES - SLIDE 7]</b></p> <p><u>Graduated application of the powers</u></p> <ul style="list-style-type: none"> <li>• An effective self-regulatory scheme is the preferred approach under the proposed framework.</li> <li>• However, the Bill provides a graduated set of powers that allows the ACMA to act if voluntary efforts are inadequate.</li> <li>• Where the voluntary efforts prove inadequate that ACMA could use its reserve code and standard making powers which places obligations on the platforms to do more to protect end-users.</li> <li>• The obligations would be enforceable through penalties.</li> </ul>	DITRDCA
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	<ul style="list-style-type: none"> <li>This will be supported with new information-gathering powers and record keeping powers to provide greater transparency.</li> </ul> <p><b>[REFER TO SLIDES - SLIDE 8]</b></p> <ul style="list-style-type: none"> <li>This slide illustrates the broad approach of the regulatory framework and what it does and does not seek to do.</li> <li>The draft Bill gives the ACMA new powers that would: <ul style="list-style-type: none"> <li>require digital platforms to have <b><u>systems and processes</u></b> in place to prevent and respond to misinformation and disinformation</li> <li><b><u>improve transparency</u></b> about misinformation and disinformation online and the effectiveness of platform efforts</li> <li>enable the ACMA to <b><u>hold digital platforms to account</u></b> for the harmful content that they may host.</li> </ul> </li> <li>The ACMA <b><u>will not have the power to request specific content or posts be removed</u></b> from digital platform services, which is different to takedown powers of the eSafety Commissioner under the <i>Online Safety Act 2021</i>.</li> <li>The Government is determined to ensure that digital platforms take responsibility for protecting Australians from any seriously harmful misinformation and disinformation they host.</li> </ul> <p><b><u>IF ASKED</u></b></p> <ul style="list-style-type: none"> <li><b>What does hold platforms to account mean?</b> <ul style="list-style-type: none"> <li>The ACMA will be able to use its powers to increase transparency and be able to verify that platforms have, and follow key processes in relation to misinformation. <ul style="list-style-type: none"> <li>For example, that digital platform providers keep records, track trends and have processes for users to report misinformation and disinformation.</li> </ul> </li> </ul> </li> </ul> <p><b>[FURTHER QUESTIONS ARE AT ATTACHMENT 1a]</b></p>	
3.	<p><b>Definitions and key terms</b></p> <p><b>Note: Part 1 of the new Schedule 9 in the BSA – Introduction.</b></p> <p>This part of the Bill provides the simplified outline of the purpose of the Bill, includes definitions of key terms in Schedule 9, such as disinformation, misinformation, digital platform services, excluded digital services and excluded content.</p> <hr/> <p><b>[REFER TO SLIDES - SLIDE 10]</b></p> <ul style="list-style-type: none"> <li>The first part of the Bill includes the key definitions of the Bill, the types of platforms covered and content that is excluded.</li> </ul>	DITRDCA

	<p><u>Misinformation and disinformation</u></p> <ul style="list-style-type: none"> <li>• Misinformation in the Bill is intended to capture content that is: <ul style="list-style-type: none"> <li>- disseminated on a digital service, where that content is <u>false, misleading or deceptive</u>, and</li> <li>- where that content is reasonably likely to cause or contribute to <u>serious harm</u>.</li> </ul> </li> <li>• Disinformation is intended to capture ‘<b>misinformation</b> that has been disseminated with the <b>intention of deceiving</b> another person’.</li> </ul> <p><u>Serious harm</u></p> <ul style="list-style-type: none"> <li>• For misinformation to be covered by the powers, it must be reasonably likely that it would cause or contribute to serious harm.</li> <li>• For harm to be serious, it is intended that it <u>must have severe and wide-reaching impacts</u> on Australians.</li> <li>• The Bill outlines the <b>matters that are relevant</b> to determining whether the content could cause or contribute to serious harm: <ul style="list-style-type: none"> <li>- the <u>circumstances</u> in which the content is disseminated</li> <li>- the <u>subject matter</u> of the false, misleading or deceptive information in the content</li> <li>- the <u>potential reach and speed</u> of the dissemination</li> <li>- the <u>severity of the potential impacts</u> of the dissemination</li> <li>- the <u>author</u> of the information</li> <li>- the <u>purpose</u> of the dissemination</li> <li>- whether the information has been <u>attributed to a source</u> and, if so, the <u>authority of the source</u> and whether the attribution is correct.</li> </ul> </li> </ul> <p><u>Excluded content from misinformation and disinformation</u></p> <ul style="list-style-type: none"> <li>• There are certain types of content that are excluded from the scope of the powers to ensure that it strikes an appropriate balance such as satire, professional news, educational content, and authorised government content.</li> </ul> <p><u>Private messages</u></p> <ul style="list-style-type: none"> <li>• The ACMA powers <b><u>would not apply to direct private messages</u></b>. For example, it would not apply to: <ul style="list-style-type: none"> <li>- a message sent from one user to one or more other users on a messaging service or social media platform</li> <li>- or to the content of a closed group conversation on a messaging service such as a family group chat.</li> </ul> </li> <li>• However, <b><u>group chats open to the public on an instant messaging service will be within scope</u></b>. For example:</li> </ul>	
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	<ul style="list-style-type: none"> <li>- The content of group chats that are open to the public or public “channels” on instant messaging services are intended to be within scope of the ACMA powers.</li> <li>- This is also the case for posts in a forum or message board.</li> </ul> <p><u>Instant messaging services</u></p> <ul style="list-style-type: none"> <li>• While the content of private messages will be exempt from the scope of the powers, the ACMA would be able to use its information-gathering and recording keeping powers.</li> <li>- This is to understand the measures that digital platforms take on their services to combat the spread of misinformation and disinformation and to gain a better understanding of the number of complaints made about such content on their services.</li> <li>• These powers will not require providers of digital platform services to reveal the contents of private messages or have requirements related to breaking encryption of private messages.</li> </ul> <p><b>[REFER TO SLIDES - SLIDE 11]</b></p> <p><u>Digital platform services</u></p> <ul style="list-style-type: none"> <li>• The powers apply to <b>digital platform services</b> that are <b><u>accessible in Australia</u></b>.</li> <li>• The Bill has three subcategories of digital platform services such as content aggregators, connective media and media sharing services. <ul style="list-style-type: none"> <li>- This includes search engines, news aggregators, instant messaging services, social media, web-forums, dating sites, and online peer-to-peer marketplaces.</li> </ul> </li> <li>• The powers <b><u>would not apply</u></b> to SMS and MMS (text messages sent via mobile telecommunications networks), email, SVODs (e.g. Netflix), and BVODs (e.g. ABC iView).</li> </ul> <p><b><u>IF ASKED</u></b></p> <ul style="list-style-type: none"> <li>• <b>How will you define the professional news content and other excluded content?</b> <ul style="list-style-type: none"> <li>- Many of the exclusions are based on existing laws.</li> <li>- The draft Bill uses the same professional standards test as in the News Media Bargaining Code for consistency. In most cases, content should be clear if it is professional news. <ul style="list-style-type: none"> <li>○ I’ll defer to the ACMA representatives present, but I would not expect that the ACMA would take action over edge cases or small incidents.</li> </ul> </li> </ul> </li> </ul>	
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	<ul style="list-style-type: none"> <li>• <b>If private messages are exempt, how will the powers apply then for instant messaging services?</b> <ul style="list-style-type: none"> <li>- These powers will not require platforms to reveal contents of private messages. The information powers could give the ACMA more insights on the number of complaints on these services or their measures to tackle misinformation.</li> <li>- Any codes or standards could require platforms to have systems and process such as user reporting tools, complaints handling and educative programs to empower users.</li> </ul> </li> </ul>	
4.	<p><b>Information powers</b></p> <p><b>Note: Part 2 of Schedule 9 in BSA – Information:</b></p> <p>This part of the Bill has four divisions which sets the scope of the information powers and provides the ACMA with powers that allow it to make record keeping and reporting rules, gather information on an as needed basis and to publish information obtained from platforms</p> <hr/> <p><b>[REFER TO SLIDES - SLIDE 13]</b></p> <p><u>Record keeping rules</u></p> <ul style="list-style-type: none"> <li>• The ACMA would have a power to make rules requiring providers of particular digital platform services (or classes of services) to maintain and keep records relating to: <ul style="list-style-type: none"> <li>- misinformation or disinformation on their services</li> <li>- measures implemented, and the effectiveness of those measures</li> <li>- the prevalence of content containing false, misleading or deceptive information</li> </ul> </li> <li>• Digital platforms providers may be required to periodically report on this to the ACMA. This would enhance transparency and allow tracking of digital platforms' progress in addressing misinformation and disinformation on their services.</li> </ul> <p><u>Information-gathering powers</u></p> <ul style="list-style-type: none"> <li>• The ACMA would have powers to obtain information, documents and evidence from providers of digital platform services when needed for investigating matters relating to the same type mentioned above.</li> <li>• The ACMA may also obtain information from other persons to assist the ACMA monitor compliance with misinformation codes, misinformation standards and digital platform rules. <ul style="list-style-type: none"> <li>- They could include fact-checkers or other third-party contractors to digital platform service providers.</li> </ul> </li> </ul>	DITRDCA

	<p><u>Publication of information</u></p> <ul style="list-style-type: none"> <li>• To promote transparency, the ACMA would have the ability to publish information collected under its information-gathering and record keeping powers on its website, including the identity of the provider or service to which the information relates.</li> <li>• The ACMA would not be permitted to publish personal information and will be required to consult with impacted digital platform service providers prior to publishing any information.</li> </ul> <p><u>IF ASKED</u></p> <ul style="list-style-type: none"> <li>• <b>Who will the information powers apply to?</b> <ul style="list-style-type: none"> <li>- The powers apply to the full range of digital platform services and providers, including those providers who chose not to sign up to a voluntary code. The ACMA could ask information on as needed basis or ask platforms to keep and maintain records.</li> <li>- The ACMA will consult with industry on the development of the record keeping rules.</li> <li>- The ACMA may obtain information from other persons, such as third person fact checkers only for its monitoring and compliance functions</li> </ul> </li> </ul>	
5.	<p><b>Misinformation codes and standards</b></p> <p><b>Note: Part 3 of Schedule 9 in the BSA – Misinformation codes and standards:</b></p> <p>This part of the Bill has seven divisions which sets the scope of the misinformation codes and standards powers, the sections of the industry to which the powers apply, matters that may be dealt with in a code or standard, limitations of the powers, and details relating to the code and standard-making powers.</p> <p>The ACMA will be required to maintain a register of the codes and standards, and make it available for inspection on the internet.</p> <hr/> <p><b>[REFER TO SLIDES - SLIDE 15]</b></p> <p><u>Scope of the codes and standards</u></p> <ul style="list-style-type: none"> <li>• The code and standard-making powers <b><u>will not apply to electoral and referendum content that is required to be authorised.</u></b> <ul style="list-style-type: none"> <li>- They would also not apply to any other electoral matter content unless it is disinformation, for example, disinformation spread by a foreign state actor on a digital platform service to influence the outcome of an election in Australia.</li> </ul> </li> <li>• As noted earlier, code and standard making powers will not apply to professional news, satire and educational content.</li> </ul>	DITRDCA

	<p><u>Key policy intent</u></p> <ul style="list-style-type: none"> <li>• Under the framework of the Bill, in certain circumstances, the ACMA would have <b><u>reserve powers</u></b> to register codes and make standards to compel digital platform service providers to act against misinformation and disinformation on their services.</li> <li>• The ACMA has a longstanding role oversight role in the development of industry codes and standards in the telecommunications sector and broadcasting sectors.</li> <li>• The code and standard making powers include <b><u>strong protections for privacy and freedom of speech:</u></b> <ul style="list-style-type: none"> <li>- It is directed at encouraging digital platform providers to have robust systems and measures in place to address misinformation and disinformation on their services</li> <li>- The ACMA will not regulate individual pieces of content, <u>this will not operate like the eSafety Commissioner's powers.</u></li> </ul> </li> </ul> <p><u>Registered Codes</u></p> <ul style="list-style-type: none"> <li>• If the ACMA <b><u>determines that stronger action is needed</u></b> to protect Australians, it could request that a section of the industry put in place a new and more effective code.</li> <li>• Once the ACMA is satisfied a draft code meets a number of criteria, it may register it which makes compliance with it compulsory for <u>all</u> digital services providers in the relevant segment of the industry. This <b><u>may include</u></b> providers who chose not to sign up to a voluntary code.</li> </ul> <p><u>Standards</u></p> <ul style="list-style-type: none"> <li>• In the event previous efforts through a code had not been effective, or a code was not developed, or otherwise in <b><u>urgent and exceptional circumstances</u></b>, the ACMA would have the power to make an enforceable standard.</li> <li>• Such a <b><u>standard would have higher penalties</u></b> than registered codes and would generally reflect a determination that previous efforts had not been effective.</li> </ul> <p><b>[REFER TO SLIDES - SLIDE 16]</b></p> <p><u>Examples of matters in a code or standard</u></p> <ul style="list-style-type: none"> <li>• A code or a standard would include a number of matters or obligations on the platforms. The Bill includes a number of examples, such as: <ul style="list-style-type: none"> <li>- Allowing end-users to detect and report misinformation or disinformation on services</li> <li>- Policies and procedures for receiving and handling reports and complaints from end users</li> </ul> </li> </ul>	
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	<ul style="list-style-type: none"> <li>- Preventing monetisation or disinformation on digital platforms</li> <li>- Using technology to prevent or respond to misinformation or disinformation on services.</li> </ul> <p><u>Consultation</u></p> <ul style="list-style-type: none"> <li>• Public consultation by the industry body or association producing a code is a requirement prior to the ACMA registering it.</li> <li>• If the ACMA were to make a standard, appropriate consultation, would also occur under the provisions of the Bill.</li> </ul> <p><u>IF ASKED</u></p> <ul style="list-style-type: none"> <li>• <b>How likely is it the voluntary code will be replaced by a registered code or standard?</b> <ul style="list-style-type: none"> <li>- The Bill seeks to incentivise and strengthen the voluntary framework. The ACMA would continue to ensure continuous improvement to the voluntary code.</li> <li>- However, should those efforts prove inadequate based on the information that the ACMA collects, then it would have the option to use its reserve code and standard-making powers.</li> </ul> </li> </ul>	
6.	<p><b>Enforcement powers</b></p> <p>[REFER TO SLIDES - SLIDE 18]</p> <ul style="list-style-type: none"> <li>• In the event of non-compliance with the information-gathering and record keeping rules, codes or standards, the ACMA would be able to choose from a range of formal enforcement actions.</li> <li>• These actions would generally be applied in a <b><u>graduated</u></b> manner, dependent on the harm caused, or risk of harm and could include issuing formal warnings, infringement notices, remedial directions, injunctions and civil penalties.</li> <li>• Criminal penalties would only apply to persons who lie to the ACMA, or omit critical information.</li> <li>• Digital platform providers can face significant civil penalties under the Bill, and it is expected that the ACMA will actively seek penalty orders against those providers who routinely contravene provisions in a registered code or a standard, or fail to comply with remedial directions in particular.</li> <li>• The maximum amount of civil penalties is intended to deter systemic non-compliance by digital platform providers and reflects the serious large scale social, economic and/or environmental harms and consequences that could result from the spread of misinformation or disinformation.</li> </ul>	DITRDCA



	<ul style="list-style-type: none"> <li>The civil penalties for breaches of standards are greater than breaches of codes (or information-gathering powers) as a standard is the highest level of regulatory action in the regulatory framework. For example: <ul style="list-style-type: none"> <li><b>Maximum penalties for non-compliance with a registered code:</b> 10,000 penalty units (over \$2.75 million in 2023) or 2 per cent of global turnover (whichever is greater) for corporations.</li> <li><b>Maximum penalties for non-compliance with a standard:</b> Maximum of 25,000 penalty units (over \$6.88 million in 2023) or 5 per cent of global turnover (whichever is greater) for corporations.</li> </ul> </li> </ul> <p><b>IF ASKED</b></p> <ul style="list-style-type: none"> <li><b>Why are the penalties so high?</b> <ul style="list-style-type: none"> <li>The intention of the powers is to ensure Australians are protected from misinformation and disinformation that is based on a high threshold of serious harm.</li> <li>Based on history to date, the ACMA will generally aim to use the lowest level of enforcement measures required to meet that objective. This could simply be a warning, or enforceable undertaking, which need not require any penalties to be given.</li> <li>There has been some media attention about the maximum penalties for breaching a code or standard.</li> <li>These would only be given in the most egregious of cases, such as when a platform has continually and deliberately not complied with the powers.</li> <li>Civil penalties are decided by a court and not the ACMA.</li> </ul> </li> </ul>	
7.	<p><b>Consequential amendments and transitional provisions</b></p> <p><b>Note: Schedule 2 of the Bill – Consequential amendments and transitional provisions.</b></p> <p>This part of the Bill makes consequential amendments to the Australian Communications and Media Authority Act 2005 (the ACMA Act), the BSA, the Online Safety Act 2021 and the Telecommunications Act 1997, as well as sets out transitional provisions.</p> <hr/> <p><b>[REFER TO SLIDES - SLIDE 20]</b></p> <ul style="list-style-type: none"> <li>The Bill deals also has a number of consequential amendments and transitional provisions related to the ACMA powers.</li> <li>The key changes here include: <ul style="list-style-type: none"> <li>confers a number of new functions to the ACMA related to the powers such as code and standard making</li> <li>provisions that enable certain decisions by the ACMA to be subject to merits review</li> </ul> </li> </ul>	DITRDCA



	<ul style="list-style-type: none"> <li>- details around the new civil penalty amounts, such as the maximum penalty unit amounts.</li> <li>• I don't intend to go into further detail on these changes unless you have any particular questions on these.</li> </ul>	
8.	<p><b>Stakeholder perspectives</b></p> <p><b>[REFER TO SLIDES - SLIDE 22]</b></p> <ul style="list-style-type: none"> <li>• I would like to use the remaining part of this meeting to answers any other questions you may have or any issues you may wish to raise.</li> </ul> <p><u>Some questions you may wish to ask:</u></p> <p>We would be interested in any views on a range of issues</p> <ul style="list-style-type: none"> <li>- the definitions of misinformation and disinformation</li> <li>- the definition of digital platform services and the types of services we propose be subject to the new framework</li> <li>- how instant messaging services will be brought within the scope of the framework while safeguarding privacy</li> <li>- the scope of the information-gathering and recording keeping powers, which includes the prevalence of false, misleading or deceptive information on digital platform services</li> <li>- the preconditions that must be met before the ACMA can require a new code, register a code and make an industry standard</li> <li>- how the digital platforms industry may be able to operationalise the Bill and various content exemptions (e.g. professional news, satire, authorised electoral content)</li> <li>- appropriate civil penalties and enforcement mechanisms for non-compliance</li> <li>- whether the proposed legislation strikes an appropriate balance of a range of issues such as freedom of expression.</li> </ul>	ALL
9.	<p><b>Closing and next steps</b></p> <ul style="list-style-type: none"> <li>• In terms of next steps, we encourage you to make a formal submission by 6 August, when the public consultation ends.</li> <li>• We would be happy to answer any further questions you may have about the Bill – feel free to contact Andrew Irwin.</li> <li>• The Government will consider the feedback from the public consultation and seek to finalise the Bill before its introduction in the Parliament later this year.</li> </ul>	DITRDCA

# Potential stakeholder questions – Digital Platform Providers

## Combatting Misinformation and Disinformation Bill Group Meetings

### Content exemptions

#### How are we going to decide what is and isn't professional news content?

Many of the exclusions are based on existing laws. The draft Bill uses the same professional standards test as in the News Media Bargaining Code for consistency. In most cases, content should be clear if it is professional news. I'll defer to representatives present, but I would not expect that the ACMA would take action over edge cases or small incidents.

#### What would be an example of electoral content that is unauthorised disinformation? How do we tell it apart from unauthorised misinformation?

Firstly, content that is not required to be authorised is content not from a disclosure entity, you should have experience with this already from previous elections. Secondly, the difference between misinformation and disinformation is intent. Examples of disinformation that the ACMA would expect you to act on include:

- Falsified images of polling booths being closed early, spread with the intent of voter suppression.
- Coordinated accounts based overseas spreading false information about candidates, as an act of foreign interference.

### Definitions

#### How do we decide if content would cause or contribute to serious harm?

Subclause 7(3) has a list of things to consider when determining if content could reasonably be expected to cause or contribute to serious harm. Of course, you will not be needing to apply this list to inspect every post.

In many cases, this is going to be the same type of content that is already against your terms of service or community guidelines. For example, during the pandemic many platforms had rules against COVID misinformation.

#### What if my service could be in two categories (e.g. media sharing and connective media)?

The definitions of digital platform service are based on a *primary function* of the service. For most services that should be pretty clear.

Some platforms will fall into two categories. For example, YouTube would be both a connective media service, as interaction between users is a primary feature, and a media sharing service, as sharing video content is a primary feature.

I imagine that if the ACMA were to register a code for connective media sharing services, and then register another code for connective media services later, it would ensure that any issues have been worked through before registration.

## Penalties

### Why are the penalties so high?

The intention of the powers is to ensure Australians are protected from misinformation and disinformation that is based on a high threshold of serious harm. Based on history to date, the ACMA will generally aim to use the lowest level of enforcement measures required to meet that objective. This could simply be a warning, or enforceable undertaking, which need not require any penalties to be given.

There has been some media attention about the maximum penalties for breaching a code or standard. These would only be given in the most egregious of cases, such as when a platform has continually and deliberately not complied with the powers. Civil penalties are decided by a court and not the ACMA.

## DIGI Code

### NON-SIGNATORIES: Do we have to join the DIGI code?

The powers are designed to protect Australians from misinformation and disinformation. The ACMA would like to do this with the lowest level of regulatory action needed. Thus, the powers support the success of voluntary industry measures, that's why the ACMA does not need to register a code or make a standard if it doesn't think it is necessary. The ACMA would be less likely to decide that regulatory action is required if there was a strong voluntary code with high participation.



\*Media sharing services that do not have an interactive feature (such as likes or share features on a podcast) are not in scope of the powers

Content Aggregation Service	Connective Media Service	Media Sharing Service*
<ul style="list-style-type: none"> <li>• Google (Google)</li> <li>• Google News (Google)</li> <li>• Bing (Microsoft)</li> <li>• Yahoo</li> <li>• Apple News (Apple)</li> <li>• Feedly</li> </ul>	<ul style="list-style-type: none"> <li>• Facebook (Meta)</li> <li>• Facebook Messenger (Meta)</li> <li>• Instagram (Meta)</li> <li>• WhatsApp (Meta)</li> <li>• LinkedIn (Microsoft)</li> <li>• Minecraft (Microsoft)</li> <li>• Twitter</li> <li>• Telegram</li> <li>• Signal</li> <li>• WeChat</li> <li>• Tinder (Match)</li> <li>• 4Chan</li> <li>• Wattpad</li> <li>• Reddit</li> <li>• Pinterest</li> <li>• BeReal</li> <li>• Twitch (Amazon)</li> <li>• Discord</li> <li>• Counter Strike (Valve)</li> <li>• Fortnite (Epic Games)</li> <li>• Gumtree</li> </ul>	<ul style="list-style-type: none"> <li>• Spotify</li> <li>• Soundcloud</li> <li>• Apple music (Apple)</li> <li>• Netflix</li> <li>• Binge</li> <li>• ABC iView</li> </ul>
		<ul style="list-style-type: none"> <li>• Youtube (Google)</li> <li>• Google Play (Google)</li> <li>• TikTok</li> </ul>

\*Media sharing services that do not have an interactive feature (as above) are not in scope of the powers

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STAKEHOLDER VIEWS TO DATE

## SESSION 1 – DIGI & Signatories – July 6, 13:00-14:30, Sydney

Organisation	Positions on Regulator Powers
Apple	No public statement on the powers. Apple has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
Meta	No public statement on the powers. Meta has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
Google	No public statement on the powers. Google has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
Microsoft	Microsoft has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
Twitter	Twitter has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
TikTok AU	TikTok has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
Redbubble	Redbubble has adopted the <i>Australian Code of Practice on Disinformation and Misinformation</i> launched by DIGI. <a href="#">*</a>
DIGI	<b>In-principle support subject to the detail on the Bill.</b>

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## SESSION 2 – non-DIGI signatories – July 6, 15:30-17:00, Sydney

Organisation		Positions on Regulator Powers
Reddit	s47E(d)	No mention.
Snap		No mention.
Spotify		No mention.
Amazon		“Recognising that there are some inevitable overlaps between the roles and responsibilities of different regulations and regulators in these areas, Amazon Australia recommends more specific consideration be given to how any proposed new regulatory framework that may be administered by the ACCC works with the other competent specialist regulators such as ACMA, the OAIC, the eSafety Commissioner and others, in order to avoid duplication, unnecessary red-tape, potential inconsistency and legal and business uncertainty.” <a href="#">*</a>
Twitch		No mention.

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## Session 3 – Media, Academia, Fact-Checkers &amp; Advocacy – July 7, 10:30-12:00, Sydney

Organisation	Positions on Regulator Powers
ABC	ABC's submission frequently mentions ACMA's reports in support. They support ACMA's continued role in identifying services in the scope of the DIGI Code, and believe ACMA should continue to monitor private messaging platforms as part of its reporting back to government.*
SBS	No mention.
RMIT Factlab	No mention.
AAP Factcheck	No mention.
APC	No mention.
FreeTV	No mention.
Croakey	Croakey's submission frequently mentions ACMA's reports in support. *
JERAA	JERAA's submission frequently mentions ACMA's reports in support. Additionally, they cite ACMA's extensive experience in media regulation as reason why ACMA should "play a continuing role in identifying those services that are within the scope of the [Code]". *
UTS Centre for Media Transition	UTS CMT's submission frequently mentions ACMA's reports in support. Specifically regarding ACMA powers, they believe it would bypass the reluctance of some platforms to sign up to the currently-voluntary code.*



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	s47E(d)	
ACCAN		ACCAN supports the idea that AMCA should play a role in overseeing the DIGI Code, including its scope. ACCAN supports ACMA's requirement for greater transparency regarding sponsored content. *
Centre for Responsible Technology		CRT's submission frequently mentions ACMA's reports in support. Though they did not explicitly mention the ACMA powers, they show support for the EU model where there is more oversight by regulators. *
Reset.Tech		According to submissions, Reset.Tech is likely to conditionally support granting ACMA powers, since they often cite lack of enforcement power from regulators as an issue. * * *
UTS Human Technology Institute		No mention.
QUT Digital Media Research Centre		No mention.
Nine		No mention.
Seven West Media		No mention.
NewsCorp		"Given the power imbalance between digital platforms and consumers, there is a role for regulators to empower consumers to resist the collection and commercialisation of their data." *
Paramount/10		No mention.
LINA		No mention.
Commercial Radio & Audio		No mention.
Guardian AU		No mention.
IGEA		Regarding Privacy regulation, they believe that if a mandatory code were to be pursued, it should follow the regulator-led process of the UK.

## Session 4 – Media &amp; Advocacy, July 20, 13:30-15:00, Canberra

Organisation	s47E(d)	Positions on Regulator Powers
Alannah & Madeleine Foundation		They suggest that any reform to the DIGI Code align with the work by the Digital Platform Regulators Forum, which includes ACMA, to address the impacts of algorithms in the promotion of mis and dis. <a href="#">*</a>
Tertiary Education Quality and Standards Agency		No mention.
Australian Muslim Advocacy Network		AMAN supports at least a co-regulatory framework between the government and stakeholders, allowing the regulator (ACMA) to have enforcement abilities and monitoring powers. <a href="#">*</a>
Australian Academy of Technology & Engineering		Their submission frequently mentions ACMA's reports in support. <a href="#">*</a>
The Australian Academy of Science		
FECCA		No mention.
Australian Strategic Policy Institute		No mention.
Australasian Cyber Law Institute		ACLI used the UK's regulatory framework, which grants regulator Ofcom with enforcement powers over policy issues, as an positive example of a government response to cyber interference. <a href="#">*</a>
UC News and Media Research Centre		UC proclaims the need for greater regulatory responses to misinformation which should be enforceable by law. <a href="#">*</a>
Independent Media Council		No mention.

## Session 5 – Government, July 19, 10:00-11:30, Canberra

Organisation	s47E(d)	Positions on Regulator Powers
ACMA		Not applicable

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OAIC	s47E(d)	OAIC supported co-regulation with ACCC regarding common matters in the DPI. *
ACCC		Not applicable.
eSafety		Not applicable.
FAS IDC/EL2		Not applicable.
Treasury		Not applicable.
Session 6 – TBC		
<b>Organisation</b>		<b>Positions on Regulator Powers</b>
Institute of Public Affairs		IPA has stated that then-Minister Fletcher's package of granting ACMA powers is "Orwellian". *

**From:** s22(1)(a)  
**To:** s22(1)(a)(ii)  
**Cc:** [Irwin, Andrew](#)  
**Subject:** suggested response - The Australian [SEC=OFFICIAL]  
**Date:** Tuesday, 4 July 2023 1:34:00 PM

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OFFICIAL

Hi s22(1)(a)(ii)

As discussed – suggested response below.

- The draft Bill excludes certain content from the definition of misinformation and disinformation to balance the public interest in combatting misinformation and disinformation with freedom of speech. For example, the powers will not apply to professional news, content produced in good faith for the purposes of parody or satire, and authorised government content in Australia such as a social media alert from a state emergency service about an ongoing emergency situation such as a natural disaster.

Thanks

s22(1)(a)

OFFICIAL

**From:** s22(1)(a)(ii)  
**To:** [Media](#)  
**Cc:** s22(1)(a)(ii)  
**Subject:** RE: Media inquiry- proposed misinformation laws [SEC=OFFICIAL]  
**Date:** Wednesday, 5 July 2023 11:28:12 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.jpg](#)

OFFICIAL

Hi again,  
 Stand down on this one. Thanks so much

s22(1)  
 (a)(ii)

OFFICIAL

**From:** s22(1)(a)(ii)  
**Sent:** Wednesday, 5 July 2023 12:01 PM  
**To:** Media  
**Cc:** s22(1)(a)(ii)  
**Subject:** FW: Media inquiry- proposed misinformation laws [SEC=OFFICIAL]

OFFICIAL

Hey s22(1)  
 (a)(ii)  
 We have some follow up questions on this one. Can you please arrange a response?

I'll get in touch with s47F to find out his deadline and come back to you.

Thanks!

s22(1)  
 (a)(ii)

s22(1)(a)(ii)

s22(1)(a)(ii) • Minister for Communications

Office of the Hon Michelle Rowland MP • Member for Greenway

s22(1)(a)(ii) [@communications.gov.au](mailto:@communications.gov.au)

ps22(1)(a) Ms22(1)(a)(ii)

Suite M1.41 Parliament House, Canberra, ACT 2600

*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.*

*I recognise and respect their continuing connection to the land, waters and communities.  
 I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

**From:** s47F [<@mailonline.com>](mailto:@mailonline.com)  
**Sent:** Wednesday, 5 July 2023 11:55 AM  
**To:** s22(1)(a)(ii) [<@MO.communications.gov.au>](mailto:@MO.communications.gov.au); s22(1)(a)(ii) [<@MO.communications.gov.au>](mailto:@MO.communications.gov.au)  
**Cc:** s22(1)(a)(ii) [<@MO.communications.gov.au>](mailto:@MO.communications.gov.au); s22(1)(a)(ii) [<@COMMUNICATIONS.gov.au>](mailto:@COMMUNICATIONS.gov.au)  
**Subject:** RE: Media inquiry- proposed misinformation laws [SEC=OFFICIAL]

Cheers,

So to be clear if someone sets up their own website and puts podcasts on it the laws won't apply to them? They are not a "digital platform or service". I understand the intent might not be to go after them but would these laws still leave that open?

Also as a supplementary –but please I'd like to be clear on the top question first so I don't mind if you answer that singularly – the minister keeps saying ACMA's job won't be as an arbiter of truth but surely the terms mis and disinformation mean it will be determining that some things aren't true otherwise the terms are meaningless?

Many regards

s47F

**From:** s22(1)(a)(ii) [MO.communications.gov.au](mailto:MO.communications.gov.au)>

**Sent:** 05 July 2023 11:42 AM

**To:** s47F [s47F@maillonline.com](mailto:s47F@maillonline.com)>; s22(1)(a)(ii)

[s47F@MO.communications.gov.au](mailto:s47F@MO.communications.gov.au)>

**Cc:** s22(1)(a)(ii) [s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)>; s22(1)(a)(ii)

[s22\(1\)\(a\)\(ii\)@COMMUNICATIONS.gov.au](mailto:s22(1)(a)(ii)@COMMUNICATIONS.gov.au)>

**Subject:** RE: Media inquiry- proposed misinformation laws [SEC=OFFICIAL]

**External Sender**

## OFFICIAL

Hey s47F

Thanks for your patience.

On background -

- The proposed powers would apply to a broad range of **digital platform services** such as search engines, news aggregators, social media and podcast services (which host individual podcasts) with an interactive feature as specified in clause 5 of the Bill. The powers will **not apply** to certain types of content such as professional news.
- The draft legislation aims to incentivise **digital platform providers** to have robust systems and measures in place to address misinformation and disinformation on their services, rather than the ACMA directly regulating individual pieces of content. The ACMA will have an oversight role under the proposed framework which could require digital platform providers to have stronger tools to identify and report misinformation and disinformation and better complaints handling processes. Digital platform providers will continue to be responsible for the content they host and promote to users.
- A broad range of digital platform services are already subject to the self-regulatory framework, the Australian Code of Practice on Disinformation and Misinformation. Questions about the voluntary code should be directed to DIGI.

Thanks,

s22(1)(a)(ii)

Office of the Hon Michelle Rowland MP  
Minister for Communications  
Federal Member for Greenway

Suite M1.41 Parliament House, Canberra

**P:** s22(1)(a)(ii) **M:** + 61 s22(1)(a)(ii)

**E:** s22(1)(a)(ii) [s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)

Newest MO Signature



cid:image002.png@01D93BD2.8903D140

## OFFICIAL

**From:** s47F @mailonline.com>

**Sent:** Tuesday, 4 July 2023 3:48 PM

**To:** s22(1)(a)(ii) @MO.communications.gov.au>; s22(1)(a)(ii) @MO.communications.gov.au>

**Subject:** Media inquiry- proposed misinformation laws

Hi,

My name is s47F and report for Daily Mail Australia.

In the below ABC article on the proposed misinformation laws it says: Social media platforms, news-aggregators and even podcasts would all be subject to the regulator's new powers."

Does that mean individual podcasters would fall under it's sway? What about amateur "news aggregators".

Could these individuals be hauled before ACMA?

Could I get a reply in an hour if that is possible please?

<https://www.abc.net.au/news/2023-06-25/fines-to-punish-online-misinformation-under-new-draft-bill/102521500>

Many regards

s47F

s47F

s47F



M: +61 s47F

Email: s47F @mailonline.com

**Daily Mail Australia** | Level 12, 207 Kent Street, Sydney, NSW 2000

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**From:** s22(1)(a)  
**To:** Media; s22(1)(a)(ii)  
**Cc:** s22(1)(a)(ii)  
**Subject:** RE: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 [SEC=OFFICIAL]  
**Date:** Monday, 10 July 2023 8:26:01 AM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)

OFFICIAL

Good to go! Thanks s22(1)

OFFICIAL

**From:** Media  
**Sent:** Monday, 10 July 2023 10:20 AM  
**To:** s22(1)(a)(ii)  
**Cc:** Media ; s22(1)(a)(ii)  
**Subject:** RE: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 [SEC=OFFICIAL]

OFFICIAL

Good morning team

Just following up on this one as the journalist is chasing – could you please let me know if any concerns with the proposed responses below?

Many thanks

s22(1)

s22(1)(a)(ii)

Media Manager (Arts) • Media Services • Communication, Ministerial and Parliamentary Services

P +61 s22(1)(a)

OFFICIAL

**From:** Media <[media@communications.gov.au](mailto:media@communications.gov.au)>  
**Sent:** Friday, 7 July 2023 9:23 AM  
**To:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)>; s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)>; s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@COMMUNICATIONS.gov.au](mailto:s22(1)(a)(ii)@COMMUNICATIONS.gov.au)>  
**Cc:** Media <[media@communications.gov.au](mailto:media@communications.gov.au)>; s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)>; s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)>  
**Subject:** FW: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 [SEC=OFFICIAL]

OFFICIAL

Morning,

The journalist had a follow-up – proposed response below if okay from your end? We'll send from a dept spokesperson:

1. If ACMA has no role in determining truthfulness, how will it determine what is or is not mis- and disinformation? And without a method of determining truthfulness, how would ACMA be able to effectively measure/monitor whether platforms are disseminating truthful information vs. mis- and disinformation? Which group, department or organisation will be charged with this responsibility?  
*The ACMA will be provided with the power to make rules to require digital platform providers to make and retain records relating to misinformation or disinformation as defined in the Bill. This would enable comparison of metrics and key indicators across the digital platforms industry, leading to increased transparency and comparability. The ACMA would consult with industry in developing the record keeping rules and measurement framework.*
2. Could you articulate how ACMA's activity will differ from the way eSafety, DHA and DOH have operated to date, whereby they flag individual posts, groups and so on to the platforms, issue take down requests, and issue fines to platforms that do not comply with their requests?

*The ACMA will not have the power to request specific content or posts be removed from digital platform services. The proposed powers are designed to encourage digital platform services to be accountable for improving and implementing measures to counter the spread of misinformation and disinformation online. The powers are aimed at ensuring that platforms have, and adhere to, systems and processes to handle mis and disinformation, rather than addressing any single piece of content.*

*For cases where a specific individual is subject to race-based harassment, abuse or trolling, this would be a matter for the eSafety Commissioner. The Commissioner has powers to require digital platform services to remove adult cyber abuse content.*

s22(1)  
[REDACTED]

OFFICIAL

**From:** s47F [REDACTED] <[REDACTED]@umbrellanews.com.au>

**Sent:** Thursday, 6 July 2023 12:28 PM

**To:** Media <media@communications.gov.au>

**Subject:** RE: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 [SEC=OFFICIAL]

Hi s22(1)  
[REDACTED]

Thanks for your response.

The only detail I'm still not clear on is how what ACMA, under the proposed legislation, will deal with content that is determined to be mis- and disinformation.

This is an important clarification because the bill has been reported in some articles as a 'censorship' bill, implying that ACMA proposes to function similarly to eSafety, the DHA and the DOH by 'flagging' information to social media platforms and requesting that these platforms comply with takedown requests. If this is not the case, I want to ensure that the distinction is clearly articulated.

On the one hand there is quite a lot of detail in the Bill about what does and does not constitute misinformation, and how this would be determined at the level of individual units (eg: a post disseminated via Facebook). On the other hand, your email response states, "*The ACMA would have no role in determining truthfulness, nor will it have a role in taking down or requesting action regarding individual pieces of content.*" "*Criminal penalties would only apply to digital platforms or individuals in instances where they knowingly make or retain false or misleading information or records, or knowingly give false or misleading evidence in response to an information gathering request.*"

Questions for clarification:

1. If ACMA has no role in determining truthfulness, how will it determine what is or is not mis- and disinformation? And without a method of determining truthfulness, how would ACMA be able to effectively measure/monitor whether platforms are disseminating truthful information vs. mis- and disinformation? Which group, department or organisation will be charged with this responsibility?
2. Could you articulate how ACMA's activity will differ from the way eSafety, DHA and DOH have operated to date, whereby they flag individual posts, groups and so on to the platforms, issue take down requests, and issue fines to platforms that do not comply with their requests?

Many thanks,



s47F [REDACTED]  
s47F [REDACTED]  
Umbrella News

s47F [REDACTED] <[REDACTED]@umbrellanews.com.au>  
[\[REDACTED\]@umbrellanews.com.au](mailto:[REDACTED]@umbrellanews.com.au)  
s47F [REDACTED]



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----- Original Message -----

On Thursday, July 6th, 2023 at 9:21 AM, Media <media@communications.gov.au> wrote:

OFFICIAL

Hi s47F [REDACTED]

Apologies, below for attribution to a departmental spokesperson:

- Why are extra ACMA powers provided for in this Bill needed?

*Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy. The draft legislation will empower the Australian Communications and Media Authority (ACMA) to increase transparency by requiring platforms to provide information as well ask for mandatory codes and standards which hold digital platforms to account with stronger systems and processes to tackle misinformation and disinformation. This could include greater use of fact checkers, stronger tools to identify and report misinformation and disinformation and better complaints handling processes.*

- Could you please clarify the scope of penalties for both platforms and individuals should they be determined by ACMA to have disseminated mis- or disinformation? Which department or body would be responsible for enacting penalties?

*The draft legislation is aimed at holding platforms to account – ensuring that they adopt and adhere to systems and measures relating to combatting misinformation and disinformation. To this end, the draft legislation provides the ACMA with a graduated set of tools to enforce platform compliance. This includes formal warnings, infringement notices, remedial directions, injunctions and civil penalties. The ACMA will be able to seek penalty orders in court for providers who routinely contravene provisions in a registered code or a standard, or fail to comply with remedial directions.*

*Criminal penalties would only apply to digital platforms or individuals in instances where they knowingly make or retain false or misleading information or records, or knowingly give false or misleading evidence in response to an information gathering request.*

- Section 2 states that content produced in 'good faith' for entertainment, parody or satire will not be considered as misinformation? How will 'good faith' be determined? What is the proposed metric? I see that this caveat is also in your existing voluntary [Code of Practice](#), so the current metric would suffice if a new one has not been developed that is specific to this legislation.

*The exemption of content produced in good faith for entertainment, parody or satire is intended to protect freedom of expression which may include elements of exaggeration and humour. Good faith is intended to be determined consistent with how platforms manage this under the existing voluntary Australian Code of Practice on Disinformation and Misinformation (the voluntary code). Digital platform providers will need to make assessments on the purpose of the content and whether it is aimed at presenting it as factual assertions or truth, or is instead created for humour, irony, comedic or artistic purposes.*

- In Section 2, the definition of 'harm' includes, (b) "disruption of public order or society in Australia." Would (or could) this include protests, or posts related to organising protests?

*The proposed powers are not intended to impact on individuals or groups right to peaceful assembly or protest. Harm that is disruption of public order or society in Australia, would need to be reasonably likely to cause or contribute to serious disruption of public order in society and a number of factors in sub-section 7(3) of the Bill would be relevant to determining this. An example of this would be misinformation that encouraged or caused a group of people to destroy critical communications infrastructure.*

- Section 7.3(h) states that in determining whether content could cause harm, ACMA will consider, "other related false, misleading or deceptive information disseminated." Could you please clarify: Does this relate to the user's own history, or does it relate to posting on other related or even unrelated accounts?

*Paragraph 7(3)(h) takes account of the general information environment and how the content may amplify existing misinformation or disinformation disseminated on digital*

platforms.

- Section 7.3(i) adds, or “any other relevant matter.” Could ACMA please provide an example?

*Paragraph 7(3)(i) enables consideration of any other matters relevant to whether provision of the content on a digital platform service is reasonably likely to contribute to or cause serious harm.*

- Section 60 states that the Bill’s provisions will not counter implied freedom of political communication. How will this be balanced against the definition of harm on, say, environmental issues, which are highly polarised. (Section 2: harm means, (e) harm to the Australian environment).

*The definition of misinformation and disinformation includes a high threshold of serious harm to balance the public interest in combatting misinformation and disinformation with freedom of expression and public debate on a range of social and political issues. The proposed powers will focus on ensuring digital platform providers have systems and measures in place to combat misinformation and disinformation on their services which pose a risk of serious harm.*

*The ACMA would have no role in determining truthfulness, nor will it have a role in taking down or requesting action regarding individual pieces of content. If the ACMA uses its reserve code registration or standard making powers, it will be required to consider whether there are any potential burdens on freedom of political communication, and if so, to consider whether they are reasonable and not excessive.*

*The code and standard making powers will not apply to electoral and referendum communications that are required to be authorised.*

- Is it likely that ACMA will work in collaboration with the E Safety Commissioner, the Department of Home Affairs or other Government Departments in monitoring mis- and disinformation in the future?

Part 7A of the Australian Communications and Media Act

*The ACMA will be able to disclose certain information to Ministers, departments and agencies consistent with its existing powers under Part 7A of the Australian Communications and Media Authority Act 2005.*

Thanks,

s22(1)  
(s22(1))

OFFICIAL

**From:** s47F [redacted] <[redacted]@umbrellanews.com.au>

**Sent:** Thursday, 6 July 2023 9:50 AM

**To:** Media <media@communications.gov.au>

**Subject:** RE: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 [SEC=OFFICIAL]

Hi s22(1)  
(s22(1))

Following up on this request,

Thank you,



s47F [redacted]  
Writer  
Umbrella News

s47F [redacted] <[redacted]@umbrellanews.com.au>  
[\[redacted\]@umbrellanews.com.au](mailto:[redacted]@umbrellanews.com.au)  
s47F [redacted]



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----- Original Message -----

On Wednesday, July 5th, 2023 at 09:23, s47F <[s47F@umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)> wrote:

Thanks s22(1)



s47F  
Writer  
Umbrella News

s47F <[s47F@umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)>  
[umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)  
s47F



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----- Original Message -----

On Wednesday, July 5th, 2023 at 07:42, Media <[media@communications.gov.au](mailto:media@communications.gov.au)> wrote:

#### OFFICIAL

Hi s47F

Coming back to you soon, sorry thought I came back to you to confirm receipt the other day

s22(1)

#### OFFICIAL

**From:** s47F <[s47F@umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)>

**Sent:** Wednesday, 5 July 2023 6:30 AM

**To:** Media <[media@communications.gov.au](mailto:media@communications.gov.au)>

**Subject:** Re: Media Request: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

Hello,  
can I confirm that this has been received?

Many thanks,



s47F  
Writer  
Umbrella News

s47F <[s47F@umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)>  
[umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)  
s47F



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----- Original Message -----

On Monday, July 3rd, 2023 at 13:55, s47F <[s47F@umbrellanews.com.au](mailto:s47F@umbrellanews.com.au)> wrote:

Hello,  
Regarding the proposed new Bill to combat mis- and disinformation, would you kindly provide insight on the following queries:

- Why are extra ACMA powers provided for in this Bill needed?
- 
- 
- Could you please clarify the scope of penalties for both platforms and individuals should they be determined by ACMA to have disseminated mis- or disinformation? Which department or body would be responsible for enacting penalties?
- 
- 
- Section 2 states that content produced in 'good faith' for entertainment, parody or satire will not be considered as misinformation? How will 'good faith' be determined? What is the proposed metric? I see that this caveat is also in your existing voluntary [Code of Practice](#), so the current metric would suffice if a new one has not been developed that is specific to this legislation.
- In Section 2, the definition of 'harm' includes, (b) "disruption of public order or society in Australia." Would (or could) this include protests, or posts related to organising protests?
- 
- 
- Section 7.3(h) states that in determining whether content could cause harm, ACMA will consider, "other related false, misleading or deceptive information disseminated." Could you please clarify: Does this relate to the user's own history, or does it relate to posting on other related or even unrelated accounts?
- Section 7.3(i) adds, or "any other relevant matter." Could ACMA please provide an example?
- 
- 
- Section 60 states that the Bill's provisions will not counter implied freedom of political communication. How will this be balanced against the definition of harm on, say, environmental issues, which are highly polarised. (Section 2: harm means, (e) harm to the Australian environment).
- 
- 
- Is it likely that ACMA will work in collaboration with the E Safety Commissioner, the Department of Home Affairs or other Government Departments in monitoring mis- and disinformation in the future?

•  
I would appreciate a response by COB  
Wednesday 05 July for our publication deadline.  
Many thanks,



s47F  
Writer  
Umbrella News

s47F @umbrellanews.com.au  
[umbrellanews.com.au](mailto:umbrellanews.com.au)  
s47F



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---

**From:** s22(1)(a)(ii)  
**To:** [Media](#)  
**Cc:** s22(1)(a)(ii) ; [CHARLES, Susan](#)  
**Subject:** RE: Meta on misinformation [SEC=OFFICIAL]  
**Date:** Tuesday, 11 July 2023 2:04:03 PM  
**Attachments:** [image001.png](#)  
[image002.jpg](#)

OFFICIAL

Thank you!

OFFICIAL

**From:** Media  
**Sent:** Tuesday, 11 July 2023 3:21 PM  
**To:** s22(1)(a)(ii)  
**Cc:** s22(1)(a)(ii) ; CHARLES, Susan ; Media  
**Subject:** RE: Meta on misinformation [SEC=OFFICIAL]

OFFICIAL

Hi s22(1)(a)(ii)  
 Please find suggested responses below.  
 Many thanks

s22(1)(a)(ii)  
 +++

#### **What is the Minister's response to this criticism?**

The Government welcomes feedback from the public and all stakeholders, including the digital platform industry, on the design of the legislation to be introduced in Parliament later this year. Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy. The proposed powers are designed to strengthen the voluntary Australian Code of Practice on Disinformation and Misinformation (the code) which requires signatories to commit to a range of measures to tackle misinformation and disinformation on their services. The Australian Communications and Media Authority (ACMA) would work with industry to ensure continuous improvement to the voluntary code which is overseen the industry.

The proposed powers provide a graduated framework that will require platforms to be accountable for the content on their services, and the empower the ACMA to ask platforms to provide stronger protections for Australians if that does not happen.

- The definition of misinformation and disinformation includes a high threshold of serious harm to balance the public interest in combatting misinformation and disinformation with freedom of expression and public debate on a range of social and political issues.
- The proposed powers will focus on ensuring digital platform providers have systems and measures in place to combat misinformation and disinformation on their services which pose a risk of serious harm.
- The ACMA would have no role in determining truthfulness, nor will it have a role in taking down or requesting action regarding individual pieces of content.
- If the ACMA uses its reserve code registration or standard making powers, it will be required to consider whether there any potential burdens on freedom of political communication, and if so, to consider whether they are reasonable and not excessive.
- The code and standard making powers will not apply to electoral and referendum communications that are required to be authorised.



In March 2022, the former Government announced its support to provide the ACMA with these graduated powers.

### **Has she spoken to Meta/the platforms about these concerns?**

The Minister for Communications wrote to the major digital platforms including Meta and other signatories of the voluntary code to invite feedback on the draft Bill. The Department of Infrastructure, Transport, Regional Development, Communications and the Arts recently held a number of stakeholder meetings with digital platforms such as Meta and other stakeholders to discuss key aspects of the Bill.

This consultation process gives industry and the public the opportunity to have their say on the proposed framework, which aims to strike the right balance between protection from harmful misinformation and disinformation online and freedom of speech. I encourage all industry stakeholders and the wider community to make a submission before 6 August 2023.

s22(1)(a)(ii)

Media Manager (Arts) • Media Services • Communication, Ministerial and Parliamentary Services

P +61 s22(1)(a)(ii)

### **OFFICIAL**

**From:** s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>

**Sent:** Tuesday, 11 July 2023 1:26 PM

**To:** Media <media@communications.gov.au>

**Cc:** s22(1)(a)(ii) <s22(1)(a)(ii)@COMMUNICATIONS.gov.au>; s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>

**Subject:** FW: Meta on misinformation [SEC=OFFICIAL]

### **OFFICIAL**

Hey team – see below. Grateful for a few lines by 330pm if possible please?

Cheers

s22(1)

s22(1)(a)(ii)

Office of the Hon Michelle Rowland MP  
Minister for Communications  
Federal Member for Greenway

Commonwealth Parliamentary Offices

Level 21, 1 Bligh Street, Sydney

**P:** s22(1)(a)(ii) **M:** + 61 s22(1)(a)(ii)

**E:** s22(1)(a)(ii) <s22(1)(a)(ii)@mo.communications.gov.au>

Footer1



### **OFFICIAL**

**From:** s47F <s47F@theaustralian.com.au>

**Sent:** Tuesday, 11 July 2023 1:22 PM

**To:** s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>

**Subject:** Meta on misinformation

Hey mate

Here's what Meta said below

**What is the Minister's response to this criticism?**

**Has she spoken to Meta/the platforms about these concerns?**

Social media giant Meta has criticised controversial legislation proposed by the

Albanese government to tackle misinformation online, saying that it has the potential to be “abused” and to “chill free and legitimate political expression”. Meta’s head of public policy in Australia Josh Machin told a select committee hearing that the tech giant was combing through the draft legislation and could “see some potential for that power to be abused”.

Mr Machin said the legislation went further than enforcing an industry code on misinformation and would instead “develop a binding standard”.

“The draft legislation goes further than just enforcing this particular component,” he said.

“It also empowers the ACMA to for example develop binding standards around misinformation and disinformation with some very substantial civil penalties and also criminal penalties for individuals who are involved.

“That is a part of the legislation that we’re looking at quite closely.

“We can see some potential for that power to be abused, or for it to be used in a way that inadvertently chills free and legitimate political expression online.

“We’re thinking through some constructive suggestions.”

Response by 430pm would be ideal

--

s47F

s47F

Press Gallery Parliament House Suite 117 Canberra ACT 2600

[E s47F@theaustralian.com.au](mailto:s47F@theaustralian.com.au) [W NewsCorpAustralia.com](http://www.news.com.au)

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#IStandWithEvan - To learn more about Evan Gershkovich, our Wall Street Journal colleague unjustly detained in Russia, [click here](#).



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**From:** s22(1)(a)(ii)  
**To:** Media; s22(1)(a)(ii)  
**Cc:** s22(1)(a)(ii) CHARLES, Susan  
**Subject:** RE: Reuters Inquiry - Misinformation and the Voice [SEC=OFFICIAL]  
**Date:** Tuesday, 11 July 2023 2:03:14 PM  
**Attachments:** image001.png

## OFFICIAL

Thank you s22(1)(a)(ii)! Much appreciated!

s22(1)(a)(ii)

s22(1)(a)(ii)

s22(1)(a)(ii) • Minister for Communications

Office of the Hon Michelle Rowland MP • Member for Greenway

s22(1)(a)(ii) @communications.gov.au

P s22(1)(a)(ii) M s22(1)(a)(ii)

Suite M1.41 Parliament House, Canberra, ACT 2600

*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.*

*I recognise and respect their continuing connection to the land, waters and communities.*

*I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

## OFFICIAL

**From:** Media

**Sent:** Monday, 10 July 2023 4:18 PM

**To:** s22(1)(a)(ii)

**Cc:** Media ; s22(1)(a)(ii) CHARLES, Susan

**Subject:** RE: Reuters Inquiry - Misinformation and the Voice [SEC=OFFICIAL]

## OFFICIAL

Hi s22(1)(a)(ii) and s22(1)(a)(ii)

Suggested responses to these queries below.

Many thanks

s22(1)(a)(ii)

+++

\*If the bill is expected to be passed before the voice referendum takes place?

The Australian Government has committed to introduce the legislation in the Parliament during the second half of this year and the timing of its passage will be subject to parliamentary processes.

The ACMA powers are designed to strengthen the voluntary Australian Code of Practice on Disinformation and Misinformation (the code) which requires signatories to commit to a range of measures to tackle misinformation and disinformation on their services. It will be important that digital platforms implement these existing commitments during Australia's Referendum on an Aboriginal and Torres Strait Islander Voice to be held later this year.

\*If the federal government's stated concerns about dis/misinformation include dis/misinformation about the voice?

Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy. To be subject to the proposed powers, the draft Bill requires that the online content is likely to cause or contribute to serious harm such as harm to the health of Australians, the integrity of Australian democratic processes, economic or financial harm to Australians and hatred against a group in Australian society.

\*If submissions in the consultation will be published?

Formal submissions will be made available in tranches after 6 August 2023 on the Department of

Infrastructure, Transport, Regional Development and Communications (DITRDCA) website. The Department will not publish private submissions or comments.

s22(1)(a)(ii)

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*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.  
I recognise and respect their continuing connection to the land, waters and communities.  
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

## OFFICIAL

**From:** s22(1)(a)(ii) [@MO.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au)>

**Sent:** Monday, 10 July 2023 12:51 PM

**To:** Media <[media@communications.gov.au](mailto:media@communications.gov.au)>

**Subject:** FW: Reuters Inquiry - Misinformation and the Voice [SEC=OFFICIAL]

## OFFICIAL

Hey team,

Seems like some pretty simple answers on this one. Grateful for you to advise.

s22(1)

(a)(ii)

## OFFICIAL

**From:** s47F [@thomsonreuters.com](mailto:s47F@thomsonreuters.com)>

**Sent:** Monday, 10 July 2023 12:36 PM

**To:** s22(1)(a)(ii) [@MO.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au)>

**Subject:** Reuters Inquiry - Misinformation and the Voice

Hi s22(1)

(a)(ii)

I hope you're well. I'm a Reuters journalist looking into the misinformation and disinformation bill currently under consultation. I note that the bill coincides with the referendum on whether to introduced the voice to parliament, which has generated a significant amount of misinformation on social media sites.

I was wondering if you could let me know:

\*If the bill is expected to be passed before the voice referendum takes place?

\*If the federal government's stated concerns about dis/misinformation include dis/misinformation about the voice?

\*If submissions in the consultation will be published?

\*If the minister for communications would be interested in a short phone interview about the bill, specifically in relation to the voice?

Thanks very much for taking the time to read this, and I look forward to your reply.

s47F

s47F

**Thomson Reuters**

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Pymont 2009

Phone: s47F

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[thomsonreuters.com](mailto:thomsonreuters.com)

**From:** [Cathy Rainsford](#)  
**To:** [Windeyer, Richard](#); [Irwin, Andrew](#); s22(1)(a) @esafety.gov.au; s22(1)(a) @eSafety.gov.au  
**Subject:** Nerida will be joining us for the appearance tomorrow at the hearing [SEC=OFFICIAL]  
**Date:** Tuesday, 11 July 2023 7:20:48 AM

---

All,

In light of overnight media, Nerida has decided to join us for tomorrow's hearing. She will be coming into Canberra later this afternoon and will be joining us for the 3.30pm pre-meeting (albeit she'll be doing so from the airport).

Regards  
Cath

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**From:** [Irwin, Andrew](#)  
**To:** [Cathy Rainsford](#)  
**Subject:** RE: Nerida will be joining us for the appearance tomorrow at the hearing [SEC=OFFICIAL]  
**Date:** Tuesday, 11 July 2023 8:02:00 AM

---

OFFICIAL

Thanks Cath – talk at 3.30!

OFFICIAL

---

**From:** s22(1)(a) @esafety.gov.au  
**To:** Cathy Rainsford; Windeyer, Richard; Irwin, Andrew; s22(1)(a) @eSafety.gov.au  
**Subject:** Re: Nerida will be joining us for the appearance tomorrow at the hearing [SEC=OFFICIAL]  
**Date:** Tuesday, 11 July 2023 8:46:11 AM

---

**OFFICIAL**

Hi Cath

Thank you. I will be joining by phone as well, just prior to heading to the airport for my own flight.

Looking forward to speaking later.

s22(1)  
(a)(ii)

---



**From:** s22(1)(a)(ii)  
**To:** s22(1)(a)  
**Cc:** s22(1)(a) [Rochelle Zurnamer](#)  
**Subject:** Requested info: advertising and journalism exemption [SEC=OFFICIAL]  
**Date:** Friday, 14 July 2023 2:59:28 PM  
**Attachments:** [image001.gif](#)  
[DITRDCA request for info - Advertising on platforms.docx](#)  
[DITRDCA request for info - Journalism exemption.docx](#)

---

Dear s22(1)(a),

As requested, we have pulled together some briefing notes on both advertising and the journalism exemption. We've pulled these together on the basis they will be used for internal briefing purposes only and aren't for broader distribution.

Have a good weekend and see you next week

s22(1)(a)(ii)

s22(1)(a)(ii)  
Manager, Disinformation and Platforms

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**OFFICIAL****Additional Information: Monetisation of misinformation and disinformation on digital platform services**

- Stakeholders have asked for clarity around the treatment of advertising content under the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* (the draft Bill).

Definitions

- Advertising content is paid and sponsored content that is public or semi-public, shared or distributed via a digital platform. Advertising content can fall within the definition of misinformation or disinformation in the draft Bill.
- Advertising content is included within scope of the Bill because it can be false or, misleading or deceptive and disseminate misinformation or disinformation that is seriously harmful. This is particularly true for advertising content that is distributed to a wide variety of users, as well as content that targets individuals or groups that may be susceptible to particular messages.
- There are limited circumstances where some advertising content is exempt from being misinformation or disinformation when it is authorised material, this is when the material is:
  - authorised content on an electoral matter;
  - authorised content on a referendum matter; or
  - communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in state, territory or local governments (e.g. issues based advertising around workplace relations).
- The draft Bill also makes clear that in determining what class of service a digital platform may be, it is immaterial whether they accept advertising or not.

Application under the draft Bill – codes or standards

- Under the draft Bill, enforceable codes or standards can be made about advertising content. For example, a code or standard may seek to prevent the monetisation of misinformation and disinformation on digital platform services. The systems and processes that platforms implement to achieve this outcome would be a matter for platforms. It would also be up to the platforms to identify whether certain advertising content could be misinformation or disinformation. The draft Bill does not empower the ACMA to seek the development of codes or standards to deal with individual pieces of content.
- If the monetisation of misinformation and disinformation is covered in a mandatory code or standard in future, then it would likely aim to achieve a similar outcome to what is already outlined in the voluntary Australian Code of Practice on Disinformation and Misinformation (the voluntary code).
- Signatories to the voluntary code have already agreed to have measures in place to disrupt advertising and the monetisation incentives for disinformation and

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misinformation, and to reduce advertising and monetisation incentives for disinformation. Measures that signatories can opt in to include:

- Using commercially reasonable efforts to deter advertisers from repeatedly placing digital advertisements that propagate disinformation or misinformation; and
- Implementing policies and processes that aim to disrupt advertising and monetisation incentives for disinformation – including through restricting the availability of advertising services and paid placements on accounts and websites that propagate disinformation.

Application under the draft Bill – Information gathering rules and record keeping rules

- The draft Bill aims to support the ACMA's oversight of the outcomes of the voluntary code. Powers under the Bill may be used to support the ACMA to determine if the objective of disrupting advertising and monetisation incentives for disinformation and misinformation is being achieved by signatories to the voluntary code as well as non-signatories.
  - The ACMA could make record-keeping rules requiring digital platform services to keep records of instances where advertising campaigns that monetised misinformation or disinformation had been disrupted in Australia.
  - The ACMA could use information-gathering powers to require that signatories and non-signatories to the voluntary code share information about the records they have been required to keep.

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## Background

### Details in the Australian Code of Practice on Disinformation and Misinformation

**Objective 2** of the code is 'disrupt advertising and monetisation incentives for disinformation and misinformation'. There is **one outcome under this objective**, that advertising and/or monetisation incentives for disinformation and misinformation are reduced. There are also **four measures listed in the code** that signatories may opt-in to reporting on. These are:

- Measure 5.15: Signatories that offer digital advertising services will use commercially reasonable efforts to deter advertisers from repeatedly placing digital advertisements that propagate disinformation or misinformation.
- Measure 5.16: Signatories will implement policies and processes that aim to disrupt advertising and/or monetisation incentives for disinformation or misinformation.
- Measure 5.17: Policies and processes implemented under 5.16 may for example, include:
  - A. promotion and/or inclusion of the use of brand safety and verification tools;
  - B. enabling engagement with third party verification companies;
  - C. assisting and/or allowing advertisers to assess media buying strategies and online reputational risks;
  - D. providing advertisers with necessary access to client-specific accounts to help enable them to monitor the placement of advertisements and make choices regarding where advertisements are placed; and /or
  - E. restricting the availability of advertising services and paid placements on accounts and websites that propagate Disinformation or Misinformation.
- Measure 5.18: Signatories recognise that all parties involved in the buying and selling of online advertising and the provision of advertising-related services need to work together to improve transparency across the online advertising ecosystem and thereby to effectively scrutinise, control and limit the placement of advertising on accounts and websites that propagate Disinformation.

### Details in the draft *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*

**Paragraph 33(3)(e)** provides that 'preventing monetisation of misinformation and disinformation on digital platform services' is an example of a matter that may be dealt with by misinformation codes and misinformation standards,

**Clause 14** provides that the ACMA may make digital platform rules in relation to records, requiring that either a specified digital platform service or a class of digital platform service make and retain records relating to matters in **paragraphs 14(1)(c) – (e)**.

**Clause 18** provides that the ACMA may obtain information and documents from digital platform providers if the ACMA has reason to believe that the provider has information or a document that is relevant to the matters in **subclause 18(2)**.

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### **Additional Information: Comments on professional news content that is seriously harmful misinformation and disinformation**

- Stakeholders have sought clarity about whether comments or posts that reference professional news content on digital platforms services could potentially be misinformation or disinformation under the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023* (the draft Bill).

#### Definitions

- Professional news content is exempt content under the draft Bill. Professional news content is defined as news content produced by a news source that is subject to industry rules or analogous internal editorial standards and rules, and that has editorial independence from the subjects of the news source's coverage.
- This exemption does not extend to comments or posts on digital platform services that reference professional news content. These posts or comments are not themselves professional news content and can be misinformation or disinformation under the draft Bill.
- This content has the potential to take professional news out of context, omit important information, or purport something to be true for the purposes of spreading misinformation or disinformation that may contribute to or cause serious harm.
- Comments or posts about professional news content are not made by the news source. This type of content is included in the scope of the draft Bill because it is provided on a digital platform service.

#### Application under the draft Bill

- Under the draft Bill, enforceable codes or standards could be made about comments or posts that reference professional news content. For example, a code or standard may seek that digital platforms have systems and processes in place to address comments or posts made about professional news content that cause or contribute to serious harm. The systems and processes that platforms implement would be a matter for platforms. It would also be up to the platforms to identify whether comments or posts could be misinformation or disinformation. The ACMA will not make judgements about individual pieces of content. This approach would be similar to how the existing voluntary code works.
- Factors for digital platforms to consider when determining if posts or comments on professional news content are misinformation or disinformation that is reasonably likely to cause or contribute to serious harm are outlined in subclause 7(3) of the draft Bill.

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- Reserve powers in the Bill may also provide the ACMA with the ability to require that digital platform services have these processes in place under a mandatory code or standard. Information-gathering powers could also be used to seek data to help the ACMA determine whether policies and processes are effective.

**Material that is exempt**

- Comments sections provided under news stories published by a news site – which are posted or shared on the news sites webpage – would likely be exempt from being misinformation or disinformation under the Bill.
- This is because these sites are unlikely to be defined as digital platforms services. The draft Bill does not prohibit news sources from taking additional measures to manage comments or posts on their own accounts or sites.

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### Background

#### Details in the Australian Code of Practice on Disinformation and Misinformation

**Paragraph 3.10** of the voluntary code defines 'professional news' as online material produced by a news source that reports, investigates or provides critical analysis of:

- Issues or events that are relevant in engaging end-users in public debate and in informing democratic decision-making; or
- Current issues or events of public significance to end-users at a local, regional or national level.

**Paragraph 4.4** of the code (scope, application and commencement of this Code) makes clear that professional news content disseminated by a news aggregation service is excluded from the definition of misinformation but may fall within the definition of disinformation if propagated by inauthentic behaviours.

- **Paragraph 3.5** defines 'inauthentic behaviours' as including spam and other forms of deceptive, manipulative or bulk, aggressive behaviours (which may be perpetrated via automated systems) and includes behaviours which are intended to artificially influence users' online conversations and/or to encourage users of digital platforms to propagate digital content.

**The note under paragraph 5.14** provides guidance on how the voluntary code envisages the treatment of comments sections on news stories published by an online newspaper on its ancillary services (e.g. their webpage). It reads that:

- The comments section provided under news stories published by an online newspaper would be ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher and therefore not subject to this commitment [commitments under outcome 1e].

#### Details in the draft *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*

**Paragraph (b) under the definition for 'excluded content for misinformation purposes' in clause 2** provides that professional news content is excluded content for misinformation purposes.

**The definition for professional news content in clause 2** defines the term to mean news content produced by a news source who is subject to any of the following:

- The rules of the Australian Press Council Standards of Practice or the Independent Media Council Code of Conduct;
- The rules of the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice or the Subscription Broadcast Television Code of Practice;
- Rules of a code of practice mentioned in paragraph 8(1)(e) of the *Australian Broadcasting Corporation Act 1983* or paragraph 10(1)(j) of the *Special Broadcasting Services Act 1991*;
- Rules or internal editorial standards that are analogous to the rules mentioned above to the extent that they relate to the provision of quality journalism;
- Rules specified for the purposes of this definition in the digital platform rules; and
- Editorial independence from the subjects of the news source's news coverage.

**The guidance note accompanying the draft Bill** for consultation makes clear that these criteria are the same as the professional standards test in the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021*.

**From:** s22(1)(a)(ii)  
**To:** Sullivan, Pauline; Irwin, Andrew; s22(1)(a)(ii)  
**Cc:** Cathy Rainsford; Rochelle Zurnamer; s22(1)(a)(ii)  
**Subject:** FW: Correspondence from the Chair ACMA to Minister Rowland [SEC=OFFICIAL]  
**Date:** Tuesday, 18 July 2023 3:37:56 PM  
**Attachments:** image001.gif  
 Correspondence from the Chair ACMA to Minister Rowland - 18 July 2023.pdf  
 Digital platform's efforts under Code of Practice on Disinformation and Misinformation.pdf  
 mg\_info.txt

---

Dear Pauline, Andrew s22(1)(a)(ii)

For your information, please find attached correspondence from our Chair to the Minister, providing a copy of an ACMA report outlining our current views on adequacy of measures adopted by digital platforms under the voluntary code.

The report also contains a link to the power BI report of the consumer research. You should be able to access an [embargoed version of the report](#). Let me know if you have any issues with accessing the report.

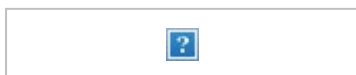
Kind regards

s22(1)(a)(ii)

s22(1)(a)(ii)  
 Manager, Disinformation and Platforms

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---

**From:** Office of the Chair  
**Sent:** Tuesday, 18 July 2023 5:26 PM  
**To:** s22(1)(a)(ii) [@mo.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au)  
**Cc:** DLO Rowland s22(1)(a)(ii) [@mo.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au); Windeyer, Richard <[Richard.Windeyer@communications.gov.au](mailto:Richard.Windeyer@communications.gov.au)>; Cathy Rainsford <[Cathy.Rainsford@acma.gov.au](mailto:Cathy.Rainsford@acma.gov.au)>; s22(1)(a)(ii) [@acma.gov.au](mailto:s22(1)(a)(ii)@acma.gov.au)  
**Subject:** Correspondence from the Chair ACMA to Minister Rowland [SEC=OFFICIAL]

Good afternoon

Please find attached correspondence from the Chair providing an ACMA Report: Dis- and misinformation – voluntary code – status update.

Kind regards

s22(1)(a)(ii)



s22(1)(a)(ii)

Executive Assistant to Nerida O'Loughlin PSM  
Chair & Agency Head

---

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The Hon Michelle Rowland MP  
Minister for Communications  
Parliament House  
Canberra ACT 2600

ACMA file reference - ACMA2019/1496

Dear Minister

### **ACMA Report: Dis- and misinformation – voluntary code – status update**

I would like to provide you with an ACMA report outlining our current views on adequacy of measures adopted by digital platforms under the voluntary [Australian Code of Practice on Disinformation and Misinformation](#) (the code).

The ACMA's report concludes that the Digital Industry Group Inc (DIGI) and industry have made some improvements to the code, but additional work is required. The improvements include:

- An updated definition of 'harm', which remove previous references to 'imminent', and more adequately addresses the full range of harms that can be caused by disinformation and misinformation, including cumulative harm.
- a new outcome aimed at improving transparency around the use of recommender systems.

In our view, the code's reporting and monitoring framework still needs significant development. We have consistently said (including in previous reports and our submission to DIGI's 2022 code review) that assessing the impact and effectiveness of an outcomes based self-regulatory code is heavily reliant on transparent, robust and specific reporting metrics. It is therefore disappointing that there has not been any demonstrable efforts to address that feedback to date.

This issue needs to be actioned as a priority and, in particular, signatories should move to establishing and publicly reporting on key performance indicators (KPIs) so that their progress to achieve the code's objectives and outcomes can be tracked.

Further work is also needed so the code addresses emerging challenges. Notably, private messaging services should be within scope of the code. Large scale group messaging is contributing to mis – and disinformation and can be addressed by industry whilst maintaining user privacy. Industry should also further consider whether the code adequately addresses the scope and impacts of generative artificial intelligence (AI).

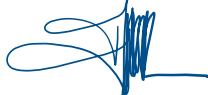
The report includes findings from new ACMA consumer research into the experiences of Australian adults who had reported or complained about harmful content to digital platforms. Overall, it is clear from the research that Australian users of digital platforms are willing to complain about the harmful content they are exposed to on digital platforms but are then generally dissatisfied with the responses they receive from platforms.

The ACMA is proposing to release the report and our consumer research on 25 July 2023 to help inform submissions to the current consultation process on the draft *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023*.

We would be very happy to provide further briefing material and/or to discuss the proposed release strategy with your Office.

The ACMA contact is Cathy Rainsford, General Manager Content & Consumer Division, via email [cathy.rainsford@acma.gov.au](mailto:cathy.rainsford@acma.gov.au) or phone (02) 6219 s22(1)

Yours sincerely



Nerida O'Loughlin PSM

18 July 2023

Copy: Mr Richard Windeyer, Deputy Secretary, Department of Infrastructure, Transport, Regional Development, Communications and the Arts

# Digital platform's efforts under the Australian Code of Practice on Disinformation and Misinformation Second report to government

JULY 2023

**EMBARGOED**

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# Contents

<b>Introduction</b>	<b>6</b>
The Australian Code of Practice on Disinformation and Misinformation	6
Objectives of report	8
<b>Assessment of the revised code</b>	<b>9</b>
Code review process	9
Code review outcomes	9
Specific drafting changes	13
Ongoing review and approach to emerging issues	15
<b>Assessment of the governance of the current self-regulatory framework</b>	<b>17</b>
Code governance and transparency	18
Code administration	21
<b>Assessment of platform reporting activities</b>	<b>25</b>
Work to-date on reporting and measurement under the code	25
Latest transparency reports and revised reporting guidelines	27
Views on changes to reporting under the code framework	28
<b>Next steps</b>	<b>31</b>
<b>Appendix A: Key code events</b>	<b>32</b>
<b>Appendix B: Summary of changes to the code</b>	<b>33</b>
<b>Appendix C: Signatory report cards, May 2023 reports</b>	<b>37</b>
<b>Appendix D: Results from complaints research</b>	<b>45</b>
<b>Appendix E: Summary of international developments</b>	<b>56</b>



# Executive summary

## Australians are increasingly concerned about disinformation and misinformation

The impacts of disinformation and misinformation on digital platforms continue to evolve. COVID-19, the Russian invasion of Ukraine, climate change issues and elections around the world have provided focal points for the dissemination of disinformation and misinformation. The upcoming referendum in Australia may be similarly targeted. In response, digital platforms in Australia continue to refine their policies and practices, seeking to protect individuals and society from related harms and to strengthen their systems to combat the evolving tactics of bad actors.

Given the scale and impact of disinformation and misinformation, it is unsurprising that Australians remain concerned about misinformation. Recent data indicates that 69% of Australians are 'concerned' about information (an increase of 5% from 2022).<sup>1</sup> Australians are now among the most concerned consumers globally about misinformation, with levels of concern similar to people in Brazil (69%), the UK (69%) and the US (64%), and second only to Portugal (71%).<sup>2</sup>

## Digital platforms are responsible for the content on their services and for minimising disinformation and misinformation

In Australia, minimising the risk of harm from misinformation and disinformation on digital platforms has been the subject of self-regulation since 2021 through the Australian Code of Practice on Disinformation and Misinformation (the code). This approach recognises that digital platforms must be responsible and accountable for the content they allow to appear and spread on their platforms, while balancing freedom of expression and other important rights.

The code – developed by the Digital Industry Group (DIGI) with eight current signatories – requires that signatories identify, assess and address misinformation and disinformation on their services. Signatories must have robust systems and processes in place, and actively use a range of measures to address such content and the inauthentic behaviours that may sit behind it.

The impact of the code is that the signatories have committed to measures, including:

- > partnering and/or providing funding for fact checkers to review content
- > demoting the ranking of content that may expose users to misinformation and disinformation
- > prioritising credible and trusted news sources that are subject to a published editorial code
- > suspending or disabling accounts of users that engage in inauthentic behaviours.

The code envisages that signatory platforms will implement and use measures that are proportionate to the risk of potential harm and the nature of their service model. The code also stresses the need for platforms to balance interventions with the need to

<sup>1</sup> University of Canberra, [Digital News report: Australia 2023](#), APO website, 2022, accessed 7 July 2023.

<sup>2</sup> University of Canberra, [Digital News report: Australia 2023](#).



protect users' freedom of expression, privacy, and other rights. As a self-regulatory code, there are no consequences for non-participation or non-compliance.

### **The ACMA continues to monitor digital platform's activities under current arrangements**

The ACMA provided a report to the government on the working of the industry's code in June 2021. This included a recommendation that the ACMA continue to oversee the operation of the code and provide a further report on its effectiveness at the end of 2022–23, as well as continuing relevant research. This 2023 report is consistent with that recommendation.

In summary, there have been improvements to the code and supporting frameworks since June 2021. However, a range of actions should be taken by industry to bolster the current self-regulatory arrangements, particularly in relation to the scope of the code, the need to keep it up to date with technology and service changes, transparency, accountability and complaints handling.

### **Revisions to the code have addressed some pressing issues including administration arrangements**

Since the ACMA's June 2021 report, there have been some improvements to the code through the 2022 review of the code by DIGI and the implementation of broader code governance and administration arrangements. The ACMA also supports the inclusion of a new outcome about the transparency of recommender systems (Outcome 1e) and new opt-in commitments to deter advertisers from repeatedly placing digital advertisements that consistently propagate mis- and disinformation.

### **Definition of harm**

One of the ACMA's earliest key criticisms of the code was that the definition of 'harm' it contained did not adequately encapsulate the full range of harms that can be caused by disinformation and misinformation.<sup>3</sup> The removal of 'imminent' from the definition of harm in the revised code is a positive step. This more closely aligns with the potential harms from disinformation and misinformation to be cumulative over time, and signatories' policies and procedures to combat disinformation and misinformation on their services.

### **Scaling of reporting requirements**

The code's reduced reporting requirements for smaller services creates incentives for new types of services and business models to sign up to the code. This is also a positive development.

During the first half of 2023, the ACMA contacted and held discussions with a range of digital platforms about signing up to the code. While it is disappointing that there have been no new signatories since the code's commencement in February 2021, we remain optimistic that changes to the code, together with the new regulatory powers, may encourage more signatories.

### **Industry needs to take further steps to review the scope of the code and its ability to adapt quickly to technology and service changes**

#### **Messaging services – large-scale group messaging**

The propagation of disinformation and misinformation on messaging services that facilitate large-scale group messaging is of ongoing concern. Several signatories already implement a range of measures to mitigate risks of harm on their messaging services in a way that does not undermine technical encryption or user privacy. If the

<sup>3</sup> See p. 53 of [Adequacy of digital platforms disinformation and news quality measures](#) and p. 11 of [ACMA's submission to 2022 DIGI Code review](#).

code is to operate to provide minimum standards across industry, these services should be covered within the scope of the code.

### ***Artificial intelligence and responsiveness to change***

Since the revised code commenced, the use of generative artificial intelligence (AI) technologies has grown exponentially. While having great potential to assist in combatting the spread of disinformation and misinformation, these technologies also have the potential to be misused, including to create and distribute disinformation and misinformation. Given the rapid growth and adoption of generative AI technologies across a range of digital platform services, consideration needs to be given to whether the current code adequately addresses the scope of the technology and its impacts. More broadly, consideration should also be given to the approach to emerging and fast-moving issues and whether additional processes need to be developed to address rapidly emerging issues outside the code's formal review process.

### **There also remains an urgent need to improve the level of transparency about what measures platforms are taking and their effectiveness**

The code framework is not operating effectively to provide an appropriate level of public transparency about the measures signatories are taking under the code and the effectiveness of those measures. A broad outcomes-based approach has the advantage of creating flexibility for signatories to implement different measures to combat disinformation and misinformation in a way that suits their individual services and business models. However, without robust code administration arrangements and adequate and timely transparency about signatories' commitments and measures, it is impossible to assess whether the actions are delivering the intended outcomes for users and the Australian community.

The code's 'opt-in' framework relies on a robust process for signatories to regularly review their commitments, providing timely and transparent advice on their position on any new outcomes and there being sufficient information publicly available about their commitments and measures. After more than 2 years in operation, there is still no accessible way for a user to determine what a signatory's commitment is to each outcome of the code and the measures they have committed to achieving against those outcomes. This raises significant questions about the extent to which signatories are engaged meaningfully with commitments they made by signing up to the code.

The implementation of the code's new outcome (1e) has also exposed deficiencies in the process for recording and publishing commitments. Six months since the new code commenced, it is not clear which signatories have opted-in to this new outcome. Furthermore, signatories have not uniformly outlined measures against this outcome in their transparency reports.

The transparency reports are not working to provide transparency about signatories current and proposed measures under the code. The calendar-year reporting timeline, specified in the March 2022 guidelines<sup>4</sup>, has created a lag between the end of the reporting period and when the reports are published. This is a suboptimal outcome and diminishes the effectiveness of the code.

At a minimum, there needs to be a single place where a user can go to view the outcomes each signatory has signed up to, and the measures they have committed to under each outcome. The information about measures needs to be timely and this process should be separated from historical reporting on platform performance. Now

<sup>4</sup> The guidelines written in March 22 and released in DIGI's annual report in June 22 moved the reporting period to calendar year.

the code has matured, we do not consider this would be a significant burden against the benefits it would provide to the overall operation of the code.

### **Better reporting by signatories is needed to enable an assessment of progress and impact**

In the ACMA's June 2021 report and our submission to the 2022 code review, we emphasised the importance of a robust reporting framework to the success of the code. The development of reporting guidelines and the implementation of an independent review process for transparency reports are positive developments. While the latest set of transparency reports demonstrate some incremental improvements in reporting, our major concerns with the reporting framework remain.

In particular, signatories have not identified any key performance indicators (KPIs) they are using to track their progress to achieve the code's objectives and outcomes. Instead, they continue to provide isolated data points with limited meaningful analysis. Although some signatories have included more Australian trended data over time, others have not included previous data points from earlier reports.

While acknowledging measurement can be challenging, it is disappointing that minimal progress has been made in this area. As a first step, signatories need to set their own KPIs about how they are going to measure their effectiveness in meeting the code's outcomes. Further work is then required to develop consistent, core KPIs across platforms to allow the broader effectiveness of the code to be tracked. Once developed, signatories should publish their KPIs and include them in their transparency reports, providing appropriate quantitative information and accompanying commentary against each. Without this framework, the impact of the outcomes-based, self-regulatory code will remain unknown and unknowable. Further consideration is also required as to whether elements of the reporting framework need to be moved from guidelines into the code.

### **Complaints and code administration arrangements still need further development**

There have been some welcome developments through the establishment of code governance arrangements. DIGI has also published annual reports containing information about its administration of the code.

However, the implementation of the code revisions has highlighted that code administration arrangements to support the operation of the code needs further development. This is an area DIGI and industry will need to focus on for the self-regulatory scheme to be successful.

The ability for users to make complaints is important, and a complaints facility has been established, as well as an independent committee to consider 'valid' code complaints. To date, there have been a limited number of complaints received via the code's complaints facility and none of those complaints have been valid. The ACMA considers that the operation of the complaints function is currently being hindered by the lack of awareness and some uncertainty about signatories' commitments under the code. The availability of transparent, public information in one place about platform commitments and measures may assist users in understanding what they can complain about under the code.

**The government is consulting on providing the ACMA with formal powers to act where efforts by digital platforms to combat disinformation and misinformation are inadequate**

On 25 June 2023, the government released its exposure draft legislation – the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 – for public feedback.<sup>5</sup> This follows ACMA recommendations made to the government in 2021.

The exposure draft retains the current arrangement whereby digital platforms are responsible for the content on their platforms and must have systems, processes and measures in place to minimise misinformation and disinformation on their services.

It proposes a regulatory backstop that would allow the ACMA the ability to register mandatory codes or make industry standards if the industry does not have in place adequate systems, processes and measures, it fails to comply with them, or significant platforms do not sign up to them.

The legislation also proposes that the ACMA be given information-gathering and record-keeping rule powers to provide greater transparency of the actions platforms are taking and their effectiveness. Improved transparency would provide greater certainty to the Australian public of the effectiveness of the current code and self-regulatory arrangements. It would also improve the ability for the community to assess whether digital platforms are striking the right balance between minimising misinformation and protecting users' rights to freedom of expression and privacy.

This 2023 report by the ACMA provides insights and data that may be useful during consideration of the exposure draft legislation. While that consideration takes place, the ACMA will continue to work with digital platforms to improve the current self-regulatory arrangements to prove strong protections for Australians from the harms of misinformation and disinformation on these services.

<sup>5</sup> [Consultation opens on new laws to tackle online misinformation and disinformation | Ministers for the Department of Infrastructure](#).

# Introduction

Disinformation and misinformation present a significant threat to Australia and Australians. Widespread belief in harmful disinformation and misinformation can have serious impacts on individuals and society, with the potential to cause a broad range of harms. These harms can be acute, such as posing an immediate and serious threat to an individual's health and safety, or chronic, such as the gradual undermining of trust in public institutions, democratic processes, and authoritative sources of information.

In 2023, concern about misinformation rose in Australia for the first time in 3 years, with 69% of Australians indicating that they were 'concerned' about misinformation (an increase of 5% from 2022). Globally, Australians are now among the most concerned consumers about misinformation, with levels of concern similar to consumers in the US, Brazil and the UK, and behind only Portugal.<sup>6</sup>

## The Australian Code of Practice on Disinformation and Misinformation

In its response to the Australian Consumer and Competition Commission (ACCC)'s Digital Platforms Inquiry, the Australian Government requested that major digital platforms in Australia develop a voluntary code (or codes) of conduct for disinformation and news quality. In June 2020, the Australian Communications and Media Authority (ACMA) produced a [position paper](#) to guide the digital industry with its code development.

Following public consultation and roundtable discussions with targeted academics and subject-matter experts, the Australian Code of Practice on Disinformation and Misinformation (the code) was launched by the Digital Industry Group Inc. (DIGI) in February 2021. The latest iteration of the code commenced in December 2022, following its first formal review. The code currently has 8 signatories: Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok and Twitter. The code requires signatories to develop and report annually on measures to address disinformation and misinformation in Australia. Appendix A summarises key events in the code to date.

### The ACMA's existing role in relation to the code

The ACMA was tasked with overseeing the development of the code and to conduct an ongoing oversight role over the code. As part of our oversight, we were required to report on the [adequacy of platforms' measures and the broader impacts on disinformation](#) by June 2021 (the June 2021 report).<sup>7</sup>

The ACMA has continued to play an active role overseeing the operation of the code. Over the past 2 years, we have engaged with digital platforms, undertaken research and monitored both industry and regulatory efforts to reduce harms from online disinformation and misinformation. This work was identified as one of the ACMA's compliance priorities for 2022–23.

<sup>6</sup> University of Canberra, *Digital News report: Australia 2023*.

<sup>7</sup> The June 2021 report was published on the ACMA website in March 2022.



## Compliance priority: Combating disinformation and misinformation on digital platforms

Concerns have grown about the spread of harmful disinformation and misinformation online. This type of content poses risks to the health and safety of individuals, and society, especially in the context of COVID-19, elections and geopolitical conflicts.

### Our focus

- > We said that we would continue to review digital platforms' data and performance measures under its voluntary industry code and advise government on the code's effectiveness.

### What we did

- > Examined ways to strengthen industry transparency reporting under the code.
- > Conducted research into digital platform reporting and complaints processes.
- > Engaged with a range of domestic and international government agencies.

Another key part of the ACMA's role in overseeing the code is to monitor international developments. As part of our monitoring, we engaged with a range of international agencies including the European Commission, the Organisation for Economic Co-operation and Development<sup>8</sup>, France's Regulatory Authority for Audiovisual and Digital Communication, the United Kingdom's regulator Ofcom and their Department for Digital, Culture, Media and Sport. These engagements have enabled the sharing of experiences on common approaches to hold platforms accountable to incentivise improvements in reporting activities and also to encourage collaboration with key external stakeholders such as academics and fact-checkers.

### Ongoing role for the ACMA in relation to disinformation and misinformation

In our June 2021 report, the ACMA recommended that a set of regulatory powers are required to provide a mechanism to request Australian specific data from platforms and allow further intervention if code administration arrangements prove inadequate, or the voluntary industry code fails.

On 25 June 2023, the Minister for Communications, the Hon Michelle Rowland MP commenced consultation on draft legislation, the draft Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 to provide the ACMA with new regulatory powers to act where efforts by digital platforms to combat disinformation and misinformation are inadequate. If passed, the ACMA would be given new information-gathering and record-keeping powers to enhance transparency about efforts by digital platforms to respond to disinformation and misinformation on their services, while balancing the right to freedom of expression that is fundamental to democracy. The ACMA would also be empowered to register enforceable industry codes and to make standards, if industry self-regulation measures prove insufficient to address the threat posed by disinformation and misinformation.

<sup>8</sup> The Expert Group was formed as part of the OECD's Action Plan on public governance for combatting disinformation and misinformation. More information about the group is available at [OECD Expert Group on Mis- and Disinformation - OECD](#).

## Objectives of report

The completion of the code's first review, the current consultation process on new ACMA powers and the recent release of the third set of annual transparency reports is a timely point to share our current views on:

- > the effectiveness of the current self-regulatory scheme
- > the signatories' reporting activities
- > next steps.

We intend that this report will inform government policy considerations on regulatory powers to enable the ACMA to better assess the effectiveness of platform moderation activities while incentivising greater participation and performance by industry under the existing code.



# Assessment of the revised code

This section provides an assessment of DIGI's code review process and the resulting changes to the code. A summary of the specific changes to the code can be found at Appendix B. Our analysis draws on ACMA and stakeholder feedback to the review and our views on the likely effectiveness of the code changes in reducing potential harm.

## Code review process

The code was required to be reviewed after it had been in operation for 12 months (February 2022).<sup>9</sup> Due to a range of considerations, including the May 2022 release of the second tranche of signatories' transparency reports and the 2022 federal election, DIGI delayed the commencement of the review to June 2022. DIGI also carved out governance and reporting arrangements (including the complaints mechanism) from the scope of the review, noting that they had been operating for less than 12 months. Instead, DIGI stated that it may examine governance arrangements as part of the next review scheduled to commence in 2024.

DIGI commenced the review with the publication of a discussion paper<sup>10</sup> seeking stakeholder views on several questions and proposals to amend the code. These proposals were informed by a number of findings on the existing code made in the ACMA's June 2021 oversight report and included a 6-week consultation period. A revised code was published by DIGI in December 2022.

Alongside the revised code, DIGI released a report<sup>11</sup> summarising how the code addressed stakeholder feedback and all public submissions. Some of the changes to the revised code reflect that DIGI meaningfully engaged with concerns raised by stakeholders during the consultation process, as well as proactively engaging with commitments in the European Union (the EU) related to recommender systems, and deterring advertisers from repeatedly placing digital advertisements containing misinformation.

Overall, DIGI conducted the 2022 code review with an appropriate level of transparency and consultation. However, the delayed commencement of the review should have provided an opportunity for DIGI to undertake a more holistic assessment of the code based on whether the code is meeting its original objectives, and the success of its associated governance and reporting frameworks. The decision to carve out the code's reporting and governance frameworks from the scope of review was a missed opportunity to assess whether the frameworks are functioning effectively, given their fundamental importance to the success of the code. This is discussed in further detail in later sections of this report.

## Code review outcomes

### Participation

The ACMA welcomes DIGI's expansion of the code's scope to include a broader range of potential signatories, including providers of advertising services or sponsored content, news aggregators and technology companies that offer solutions to combat misinformation.<sup>12</sup> The code's previous scope (which was limited to search engines and

<sup>9</sup> 7.6 of the code (Feb 21 version) required a review to occur within 12 months and then at 2-year intervals.

<sup>10</sup> Digital Industry Group Inc. (DIGI), [Australian Code of Practice on Misinformation and Disinformation 2022 Review Discussion Paper](#), DIGI website, 2022, accessed 7 July 2023.

<sup>11</sup> DIGI, [Review of The Australian Code of Practice on Disinformation and Misinformation: Response to submissions](#), DIGI website, 2022, accessed 7 July 2023.

<sup>12</sup> DIGI added definitions for sponsored content (Proposal 7) and digital advertising services (Proposal 6).



platforms that host user content) was too narrow and created inconsistencies within the code framework, given that products and services offered by existing signatories, which could be vectors for dissemination of disinformation and misinformation, were not covered. It was pleasing to see the final scope went further than DIGI's original proposal to add only news aggregators to the existing list of businesses in scope, and it also showed DIGI responded to stakeholder feedback.<sup>13</sup>

We also welcome DIGI's modification of the transparency requirements for signatories with services that have fewer than one million monthly active users in Australia, to provide transparency reports. Smaller platforms had previously indicated to the ACMA that the reporting arrangements were a barrier to signing up to the code. We hope the lowering of the threshold for participation will encourage more platforms to participate in the code.

While the changes, namely the inclusion of news aggregator services, bring *some* products within scope, they do not resolve the outstanding issue of the code not applying to the entire range of signatories' existing services, for example, WhatsApp and Messenger services, are not covered. We were particularly disappointed to see the continued exclusion of messaging services (that may be used in a public or semi-public way) from the scope despite feedback from the ACMA and most submitters that messaging services be brought into scope. Our rationale is two-fold: first, the exclusion maintains a complex framework of inclusions and exclusions related to a signatories' service. Second, 'semi-public'<sup>14</sup> group messaging services play a significant role in the dissemination of harmful material to a wide and disparate audience. A range of platforms have already taken steps to minimise the harms arising from these services, and we also emphasise that the current EU's [2022 Code of Practice on Disinformation](#) (the EU Code) has commitments for messaging services. Under the EU framework, Meta has committed to measures for its WhatsApp and Messenger services.

Increasing participation from more signatories is a crucial way to combat disinformation and misinformation, and for the broader digital platform industry to demonstrate the commitment to that goal. There is a clear role for a broader range of digital services and technology companies to play in combatting disinformation and misinformation, especially as new technologies emerge, and the scope and application of the code should focus on creating an environment that brings as many services as possible within scope.

We encourage DIGI to continue to consider ways to encourage and facilitate participation in the code for a greater diversity of products and services to be considered in-scope.<sup>15</sup> This would be particularly beneficial, given our ongoing monitoring has highlighted that the dissemination of harmful disinformation and misinformation is not limited to current code signatories. In our submission to the 2022 code review (July 2022 submission), we listed a range of large non-signatory platforms that have made policy changes in response to disinformation and misinformation issues. As these policies impact Australian users, DIGI should continue to consider ways to incentivise participation from these or similar platforms.

### Continuation of an 'opt-in' framework

The code currently allows signatories to opt-in to most of the code's objectives and outcomes. To strengthen this framework, the code has been amended to require signatories to annually re-assess the extent to which provisions of the code are

<sup>13</sup> The majority of stakeholder feedback supported the expansion of the code to news aggregator services as well as smaller platforms and a broader range of services.

<sup>14</sup> The ACMA agrees with DIGI that personal one-on-one communication or small-scale private group messages should remain out of the scope of the code.

<sup>15</sup> ACMA, ACMA submission to the 2022 review of the Australian Code of Practice on Misinformation and Disinformation.

relevant to their products and services, and to update and notify DIGI of any updates to the opt-in form.<sup>16</sup> Additionally, each signatory's transparency report is required to list the product and services covered by the code. These should also include additional products and services that have been assessed to be subject to the code during the period covered by the report. DIGI will also publish these updates on their website.

These are small but positive improvements to the code, which should help prompt signatories review whether the commitments they have made under the code remain appropriate. The ACMA notes that each signatory listed the products and services covered by the code and their commitments at the beginning of the transparency reports published in May 2023. However, we have outstanding concerns about how this aspect of the code is being administered, which is discussed in the next section of the advice.



### Case study: ACMA engagement with non-signatories

Since late 2019, the ACMA has engaged with a variety of stakeholders across the digital platform industry. Through this, we have sought to better understand the differing content moderation policies and practices adopted by platforms, and to encourage their voluntary participation in industry processes to address the threats arising from mis- and disinformation in Australia.

While initially limited to DIGI and the 8 code signatories, the ACMA has gradually expanded its industry engagement to include non-signatories. Over the past 2 years, we have corresponded and met with representatives from several larger platforms, including Spotify, Reddit, Yahoo and Snap. These discussions have helped highlight the diverse nature of the industry and the reported barriers to participation in the voluntary code.

As part of its 2022 code review, DIGI sought stakeholder views on whether additional online services should be encouraged to sign up to the code and whether the ACMA should be involved in this process. Some submitters, including the Australian Broadcasting Corporation (ABC) and the Journalism Education & Research Association of Australia (JERAA), argued that the ACMA should continue to play an active role in this space – both in advising industry on potential eligibility criteria to broaden participation, and in helping to identify eligible non-signatories. According to DIGI, signatories welcomed these suggestions, and are supportive of the ACMA's ongoing efforts in this space. However, we do not consider that issues of participation should be the sole responsibility of the ACMA. For a self-regulatory scheme to be effective, DIGI and code signatories need to take primary responsibility for scanning new and emerging harms and proactively reaching out and encouraging eligible non-signatories to participate in the code.

<sup>16</sup> DIGI, [The Australian Code of Practice on Disinformation and Misinformation](#), DIGI website, 2022, accessed 7 July 2023, see Outcome 7.1.

DIGI chose not to adopt the ACMA's recommendations in our submission to the 2022 code review and our June 2021 report of moving from an opt-in framework to an opt-out framework. We also note that the majority of submitters recommended that the code adopt an opt-out approach on the basis that it may set a higher standard for the code and ensure maximum protection for consumers and transparency for stakeholders. We reiterate our concerns from our submission that the current model of having both 'mandatory' and 'voluntary' outcomes unnecessarily complicates the code, while also creating an impression that some commitments are inherently more important than others.

In the absence of a binding arrangement requiring platforms to 'opt-in' to the current self-regulatory framework, it is key to the success of the code that signatories are transparent about their commitment-related decisions, and that information about their commitments is widely accessible to the public in a timely manner. This will improve accountability and enable users to complain if they consider signatories are not meeting their commitments under the code. We elaborate on the implications in relation to DIGI's complaints facility and the process for new outcomes further in the next section of this advice.

### **New objectives/commitments**

The ACMA supports the inclusion of a new outcome about the transparency of recommender systems (Outcome 1e) and new opt-in commitments to deter advertisers from repeatedly placing digital advertisements that consistently propagate disinformation and misinformation (5.15). Both appear to have originated from the EU Code and did not form part of the DIGI consultation stakeholder feedback.

For Measure 5.15 (deterrence of certain advertisers), the provision appears similar to what is provided under the EU Code. However, the EU Code's commitments are broader and have opt-in commitments for advertisers, agencies, ad tech companies as well as media platforms and publishers. Given the code has been expanded by DIGI to include digital advertising services, it would be useful to consider equivalent opt-in commitments for advertisers. While the commitment's inclusion is an improvement, the ACMA's view is that platforms should commit to not accepting advertising that it identifies as containing disinformation and misinformation, and there should be meaningful consequences for advertisers that repeatedly breach these rules.

Outcome 1e allows users to access general information about the use of recommender systems and have options related to content suggested by recommender systems, including transparency about how they prioritise information. This is comparable to Commitment 19 of the EU Code, which requires relevant signatories to provide transparency and options to users about recommender systems, including quantitative information to assess the effectiveness of these settings such as the number of times users have actively engaged with these settings. In general, greater transparency to users is a crucial tool to enhance protection from disinformation and misinformation and to provide the public with greater control over the content they see. In this spirit, the ACMA welcomes the inclusion of this commitment.

Overall, the ACMA supports the changes to the code, including the inclusion of 2 new commitments that reflect developments in the EU. It was positive to see that some of the changes clearly responded to stakeholder feedback received through its public consultation process. However, we are concerned that the evidence for a clear and transparent process for implementing a new outcome is lacking. We elaborate on these issues in the next section.

## Specific drafting changes

### Definition of harm

In our submission to the 2022 code review and our June 2021 report, we strongly encouraged DIGI to remove the 'imminent harm' threshold in the code. The requirement that 'harm' must be imminent introduced a temporal element to the harm threshold and had the potential to cause confusion by excluding from consideration the chronic harms<sup>17</sup>, such as decreasing trust in public institutions, which can arise from the cumulative effect of misinformation over time. The ACMA therefore recommended the removal of 'imminent' to avoid potential confusion and because the threshold excluded a significant amount of material of concern.

DIGI originally proposed to add a clarifying note to the definition of harm, stating that 'an imminent and serious threat includes a situation where an accumulation of harms create a persistent serious and imminent threat to A and B'. Most submitters also agreed that the harm threshold was too high and should be revised to acknowledge the full range of harms that can be caused by misinformation and disinformation. DIGI went further and added 'credible' to the definition of harm to clarify that the definition relates to harms that signatories can be confident will materialise based on evidence and previous experience.

The changes, particularly the removal of 'imminent,' now enable a greater range of potentially harmful content to be captured by the code. For example, decoupling the definition from 'imminence' allows for a recognition of the longer-term impacts or 'chronic' harms that may result from disinformation or misinformation, particularly widespread narratives. We consider this is a significant enhancement to the current code.

### Professional news

In our submission to the 2022 code review, we suggested removing a recommendation that professional news organisations be exempt from misinformation obligations. This was because the exemption also would have applied to international sources of news, particularly news from countries that do not have press freedoms, or countries with different regulatory approaches toward truth or accuracy in media where disinformation agents may choose to base themselves.

The Australian Broadcasting Corporation (ABC) and the Journalism Education & Research Association of Australia (JERAA) argued in their submissions to the 2022 code review that the code should continue to exempt credible news organisations and that the definition be clarified to ensure only those who adhere to a published editorial code are exempted. However, most submitters argued that professional news organisations should be brought within the remit of the code. While the ACMA agreed that news content should be treated distinctly under the code, we disagreed with DIGI's view that the existence of other industry codes necessarily absolves platforms of responsibility to address harmful news content posted on their services.

DIGI has ultimately retained the exemption for professional news from misinformation obligations, stating that the news media itself is best placed to address concerns about misinformation within the existing industry framework. DIGI has included new definitions of 'professional news' and a 'news source' to clarify that news sources must have editorial independence from the subjects of news coverage to qualify for the

<sup>17</sup> ACMA's June 2020 position paper outlines a range of chronic harms that may result from the cumulative impact of misinformation. These include impacts on community cohesion, decline in trust in professional sources of information and a decline in trust in public institutions.

exemption for professional news sources. While the changes are useful to clarify the exemption, they do not resolve some key issues.

We note that the news source definition does not require that internal editorial standards be analogous to existing Australian industry codes. This weakens the provision as it may result in platform users not being afforded the same protections as those enshrined in industry codes of practice. DIGI has also included a requirement for international outlets to be subject to a code of practice or other regulatory instruments that specify standards of editorial practice. However, this is complicated by instances of state-sponsored media disseminating disinformation and misinformation. Although DIGI did not accept our recommendation, it remains the ACMA's view that the current exemption is defensible if granted *only* to Australian news organisations and other Australian and overseas organisations that comply with analogous editorial standards.

### **Political and issues-based advertising**

DIGI proposed an amendment to the code to include a clarifying note that the definition of political advertising<sup>18</sup> in section 4.4 excludes advertising (including sponsored content) that is for the purpose of 'general advocacy on social issues'. They also noted that the original drafting around political advertising was to enable the treatment of issues-based advertising<sup>19</sup> as a source of political advertising and did not cover issues-based advertising that was for general advocacy purposes. Several stakeholders, including the ACMA, submitted that the approach to issues-based advertising should be clarified. The ACMA's primary rationale for clarification was that there is a difficult (and somewhat) arbitrary line between issues-based and political advertising, given most ads containing 'general' political advocacy usually relate back to a 'political campaign' of some description. Furthermore, signatories like Meta include 'issues-based' advertising within the scope of their existing ad libraries, which was at odds with the definition of political advertising under the code. Therefore, in our submission, we encouraged DIGI to include both political advertising and issues-based advertising within the scope of transparency obligations in Objective 5.

It is encouraging to see a new section (5.25) in the code that provides that platforms may deal with transparency of other forms of political advertising, such as issues-based advertising. Furthermore, the inclusion of issues-based advertising in the definition of political advertising has been removed. It has also been clarified that 'political advertising' in section 3.9 is meant to be read narrowly as that which is made by, or on behalf of a political party; or advocates for the outcome of an election, referendum or other political process supervised by an electoral management body of the Commonwealth or state and territory. We suggested that the scope of the exemption be aligned to the legislative definition of an 'electoral matter'<sup>20</sup> because this would make it easier for platforms to make a clearer assessment, at least in the context of federal elections. We encourage DIGI to reconsider adopting this amendment at the next available opportunity.

Overall, the above changes related to issues-based advertising and the harm threshold are improvements to the code as they signal an intention to provide signatories with the opportunity to more appropriately reflect the range of measures they have in place to combat disinformation and misinformation. We emphasise that work should be done to continue to simplify the scope of these relevant provisions in the code, which are currently quite complex to navigate given the many inclusions and

<sup>18</sup> In our submission to the review, the ACMA recommended that the provisions for 'political advertising' be aligned with the legislative definition of an 'electoral matter' as defined in section 4AA of the *Commonwealth Electoral Act 1918*.

<sup>19</sup> The ACMA supported DIGI's proposal clarifying that general advocacy on social issues, not associated with a clear proposal by a parliament for policy change via a democratic process, is not intended to be caught by the exemption for political advertising.

<sup>20</sup> Section 4AA, Commonwealth Electoral Act 1918.

exemptions. Ultimately, it is the ACMA's view that the code should require that platforms address disinformation and misinformation wherever it appears on services covered by the code, while acknowledging that a proportional and flexible response is appropriate depending on the nature of the material and the nature of the platform's service.

### **Advertising services and sponsored content**

To support the inclusion of providers of advertising services and sponsored content into the scope of the code, DIGI included definitions for both terms. Proposal 7 in DIGI's discussion paper defined sponsored content as a paid arrangement between a social media service and an account holder under which the social media service promotes content posted on the service beyond the account holder's list of followers. Most stakeholders agreed that sponsored content should be defined. While the ACMA welcomes the inclusion of providers of sponsored content, we also considered that the definition be expanded to include digital platforms other than social media services. Our view is that the inclusion should apply to any content where a platform receives a benefit for promoting or otherwise enhancing the visibility of that content.

## **Ongoing review and approach to emerging issues**

While the code's outcomes-based approach allows flexibility to deal with emerging services and technologies, it would be prudent for signatories to regularly assess whether significant developments require code amendments outside of the required 2-yearly review cycle.

An example of the type of development that might warrant reconsideration of the ongoing adequacy of code provisions are recent improvements in generative AI<sup>21</sup> technology and its widespread adoption by users and businesses, including those involved in the news and information environment.

As a result, there is an increased risk of generative AI being used to produce and disseminate disinformation and misinformation at scale. Large language models (LLMs), such as Chat GPT, can be used to mimic authoritative sources and have the potential to impact democratic and political processes due to their possible ability to spread large-scale false information or propaganda; Image generators, such as DALL-E, can create fake pictures that also assist narratives of disinformation and misinformation.

However, generative AI also offers the potential to combat misinformation through advanced detection mechanisms, improve media literacy skills and assist in the development of news, thereby saving time and resources for news organisations.

Given the rapid growth and adoption of generative AI technologies across a range of digital platform services, we strongly recommend DIGI and signatories consider whether the current code adequately addresses the scope of this technology and its impacts. More broadly, consideration should be given to the approach to emerging and fast-moving issues and whether additional processes need to be developed to address rapidly emerging issues outside the code's formal review process.

<sup>21</sup> Generative AI is a type of AI system capable of generating text, images, or other media in response to user prompts.



### Summary of the ACMA's views on the revised code

- > It was pleasing to see DIGI demonstrate responsiveness to stakeholder feedback, including the ACMA's views presented in our submission to the code and June 2021 report.
- > The lack of examination of any issues related to code governance and reporting significantly limits the code review as both aspects are fundamental to the success of any self-regulatory scheme.
- > The expansion of the code's scope to include a broader range of potential signatories, including advertising and technology companies, is a positive step toward a less prescriptive and more flexible model, under which a greater diversity of products and services could be considered in-scope.
- > The requirement for harm to be 'serious and credible' rather than 'serious and imminent' signals a welcome intention to provide signatories with the opportunity to more appropriately reflect the range of measures they have in place to combat mis- and disinformation. It also recognises the longer-term impacts or 'chronic' harms that may result from widespread misinformation narratives.
- > The inclusion of a mandatory commitment to transparency around the use of recommender systems and a new opt-in commitment to deter advertisers from repeatedly placing advertisements that consistently propagate misinformation and disinformation are welcomed and align with developments in the European Union.
- > The continued exclusion of private messaging services from the scope of the code limits the code's effectiveness, given the growing role such services play in the dissemination of misinformation and disinformation.
- > The increased clarity about the political advertising and professional news exemptions provides greater certainty about their scope. However, work should be done to continue to simplify the scope of the code, which remains complex to navigate, given the many inclusions and exemptions.
- > The code's current amendment framework should be re-examined to ensure it can effectively account for emerging and fast-moving issues, given, for example, the rapid emergence and adoption of generative AI.

Overall, it is the ACMA's view that the code review was too narrowly constructed and as a result, the changes to the code are mostly minor and clarify existing provisions, rather than make any substantive improvements.

# Assessment of the governance of the current self-regulatory framework

The ACMA's June 2021 report expressed concerns that the essential building blocks<sup>22</sup> of a code governance framework and an effective self-regulatory regime (such as complaints-handling processes) were still under development at that time. In October 2021, DIGI [announced](#) a code governance framework and complaints facility. A high-level overview of the governance and oversight arrangements, as provided by DIGI on its website, is at Figure 1.

**Figure 1: DIGI diagram: elements of code oversight<sup>23</sup>**



<sup>22</sup> In the ACMA's June 2021 report, we suggested that complaints-handling processes and code administration matters were elements that contributed to an effective self-regulatory scheme. In the ACMA's 2011 paper, *Optimal conditions for effective self- and co-regulatory arrangements*, we noted several optimal features of an effective self- and co-regulatory framework. These included: clearly defined objectives, the role of the regulator, the existence and operation of transparency and accountability mechanisms, stakeholder participation in the development of the scheme. While these are not intended as prescriptive, they signal some of the key considerations we recommend DIGI consider in the continued development of the self-regulatory framework for disinformation and misinformation.

<sup>23</sup> DIGI, [Governance of the code](#), DIGI website, n.d., accessed 23 June 2023.



In our July 2022 submission to DIGI's review of the code, the ACMA encouraged DIGI to:

- > further strengthen its code oversight and reporting processes, including providing greater transparency around the operation of its sub-committees and reporting on signatory non-compliance
- > develop and publish details of its processes for amending the code
- > seek views from stakeholders (including through the review) about the effectiveness and awareness of the code's complaints facility.

This section provides an update on our observations on the operation of the code's governance framework.

## Code governance and transparency

The current DIGI framework includes 3 core parts:

1. code oversight mechanisms
2. publication of annual transparency reports, including an independent process for reviewing transparency reports
3. a public complaints facility, including the independent assessment of complaints.

### Code oversight

DIGI's annual reports and website provide information about the operation of the code oversight arrangements and the mechanisms that underpin it. Oversight is provided via a complaints subcommittee, an administration subcommittee and a signatory 'steering group.' DIGI's published information explains the role of each individual sub-committee and the sub-committee's relationship to DIGI.

While a welcome first step, the information DIGI has provided to date focuses on the existence and role of governance mechanisms rather than offering broader insights into their operation. For example, in the DIGI 2023 Annual Report, the only detail we have about the different sub-committee's actions was that the administrative sub-committee (including the independent committee members) met twice and that the steering group met on 3 occasions during the period between 22 May 2022 and 29 May 2023.<sup>24</sup> Beyond this, information in the report focused on describing the role and membership of the committees. In particular, there continues to be a lack of information about the steps that the administration sub-committee takes to monitor the actions taken by signatories to meet their obligations under the code.

We recommend DIGI provide further detail about the operation of transparency arrangements, and in particular, the outcomes achieved (noting that it is appropriate that specific details about the precise workings of the subcommittees and the steering group, such as meeting minutes, remain confidential). Further detail could include the governance sub-committees' activities and goals over the year and the relevant triggers for meetings being held. A particular focus should be on the actions of the governance committee in monitoring signatories' obligations under the code.

We note DIGI has provided clarification on its ability to vote on the complaints sub-committee to address any potential conflicts of interests. However, the key tenets of DIGI's governance, funding and the process for membership remain unclear. Transparency in these areas should be increased.

### Independent review process for transparency reports

Under Outcome 7 of the code, signatories with more than one million monthly active Australian end-users must provide an annual report to DIGI setting out their progress towards achieving the outcomes in the code. Signatories with fewer Australian users can also elect to provide these reports. To date, all signatories have provided annual reports regardless of the size of their user bases.

Before publication, these reports are reviewed by an independent assessor who fact checks the information the signatories have provided and makes recommendations to signatories about best-practice reporting. The DIGI website provides the following information about the independent review process:

The independent reviewer will verify claims in each signatory's transparency report going forward, including whether they have published and implemented policies and processes that comply with their obligations, and verifying that those initiatives are accessible to Australian users. If the independent reviewer can't attest a claim, it advises the Administration Sub-committee comprised of independent representatives and signatories. The signatory must either amend and resubmit the reports to the reviewer for further assessment or provide written reasons as to why they dispute the reviewer's assessment, which would be published with their transparency reports on the DIGI website.

A short review of the signatory's annual transparency reports by the independent assessor is also included in DIGI's annual report.

It is clear that the role of the independent assessor is important in improving the quality of the signatory's transparency reports over time. However, it would be useful for more transparency about the independent assessor's review process, whether any metrics or other measures are used to assess and compare the signatories reports and the types of feedback that signatories are provided with (even if this was on a high-level and/or deidentified basis) as this could provide learnings for other platforms as well as insights into, and confidence in, the process.

### Complaints facility

The third key element of the code governance mechanisms announced by DIGI in October 2021 was establishing a complaints mechanism.

Through this facility, members of the public or organisations can lodge a complaint online about a breach of the code by a signatory. DIGI's website states that they only accept complaints from Australians where the complaint suggests a signatory has materially breached the code's commitments and that complaints about individual items of content should be directed to the signatory itself. DIGI also provides potential complainants with a range of information including responses to 'frequently asked questions' on its website.

In its 2023 annual report, DIGI noted that it has received 14 complaints since 2021, including 9 during the reporting period (1 January to 31 December 2022). This reflects similar trends for the previous calendar year. DIGI noted that, generally, the complaints it received have been incomplete and/or related to individual pieces of content. As a result, despite efforts from DIGI to contact complainants for additional information, none of the complaints have been within the scope of the code.

It appears that DIGI is making best efforts to respond to and otherwise appropriately deal with the complaints and enquiries it does receive. However, the low volume of complaints and enquiries over the reporting period, and the nature of those complaints raises questions about public awareness of the availability or scope of the complaints facility and the effectiveness of the code complaints mechanism.

Under the code, all signatories have committed to have publicly available and accessible tools for users to report content or behaviours that violate a platform's mis- and disinformation policies (Outcome 1C). In their latest annual transparency reports, all signatories noted the availability of these tools; however, the majority did not provide any data on the volume of user reports, or insights into whether these tools are effective in identifying and addressing mis- and disinformation threats.

### ***ACMA consumer research – Australian user complaints and reporting of content to digital platforms***

In late 2022, the ACMA commissioned new research into the experiences of adult Australians who had reported or complained about harmful content to digital platform operators. The research did not canvas users' experience of the DIGI complaints facility. While this research was funded by the ACMA, the survey was designed in conjunction with members of the [Digital Platform Regulators Forum](#) (DP-REG) and sought information on a broad range of online harms – not just disinformation and misinformation. Further information about the ACMA's consumer research is available [on the ACMA's website](#) and at Appendix D.

The research found that:

- > Among Australian digital platform users, 48% had seen harmful online content in the previous 12 months.
- > Of this group who had been exposed to harmful online content, a further 48% of Australian digital platform users had made a report or complaint about the content to the platform operator.
- > Australian users of the major platforms (Facebook, Instagram, TikTok, Twitter and YouTube) who have made a report or complaint are broadly comfortable with accessing platforms' reporting tools and more likely to be satisfied with the ease of the reporting process (64% total satisfied vs 13% total dissatisfied).
- > Australian users of the major platforms were more likely to be dissatisfied with the actions taken on their most recent user report than satisfied (30% total satisfied vs 44% total dissatisfied).
- > This group was also more likely to be dissatisfied than satisfied about the level of transparency in how the platform arrived at their content moderation decision (19% total satisfied vs 49% total dissatisfied).

These results reveal that while Australian users of digital platforms are willing to complain about the harmful content they are exposed to on digital platforms, they are generally dissatisfied with the responses they receive from platforms.

Complaints about individual pieces of content or even platform's handling of complaints about individual pieces of content would not fall within the scope of DIGI's complaints facility in many instances. However, given users' reported dissatisfaction with platform's systems and processes for handling reports of harmful content (including disinformation and misinformation), it may be useful for DIGI to reflect on the low numbers of complaints they have received (9 in 2022) and whether this suggests that lack of awareness about the code and the complaints facility is a factor.

A complaints mechanism that is focused on compliance with opt-in commitments can only be effective if members of the public:

- > are aware of the commitments that platforms have agreed to
- > have an understanding of what non-compliance looks like.

In this context, it would be beneficial for DIGI to consider whether the information it is providing is:

- > facilitating an adequate understanding of the role of the code and signatories' obligations under it
- > affecting the volume and nature of the complaints it receives.

For example, there is no information on DIGI's 'Complaints' page (including the FAQs)<sup>25</sup> that provides complainants with a copy of the code. There is also limited information (beyond the transparency reports) about what code commitments each signatory is currently committed to or the types of complaints that would be covered by the code (which could be via a case study or other examples). This is discussed in more detail in the 'New outcome process' below.

DIGI notes in its 2023 annual report that it has developed a social media advertising plan, which will focus on promoted posts across relevant signatory platforms to improve awareness of the code and DIGI's complaints function. DIGI has also indicated that the roll-out of the campaign will be staged to enable evaluation.

In our July 2022 submission, we suggested that DIGI should seek views from stakeholders (including through the review) about the effectiveness and awareness of its complaints facility. While DIGI's proposed social media campaign may go some way toward this, it is unclear if the campaign will provide information to the Australian public about the types of complaints that DIGI can resolve. As noted above, DIGI should also consider the extent to which the campaign will address the specifics of individual signatory's and explain what each platform has committed to do and what a failure to meet their commitments might look like from a user perspective. It would also be useful for DIGI to identify and track key indicators, other than complaint numbers, to allow an evaluation of the success of their campaign.

While the ACMA appreciates DIGI's reasoning for not reviewing the code governance arrangements in 2022, we would again suggest that DIGI should reflect on its preliminary learnings and assess whether any further amendments to the governance framework are required before the 2024 review. As we noted in our June 2021 report to government, establishing a referral pathway, or a clearer referral pathway, between signatories and DIGI's complaints facility, (where escalation is appropriate), would seem an important step in improving the efficacy of the complaints facility. For example, signatories could make it clear that where a platform's decision on a piece of content (or the process the platform follows in making that decision), does not comply with the platform's published policies, then a complaint could be made to DIGI. It would also be useful for DIGI to consider the potential relationship between the complaints facility and any future mandatory external dispute resolution or ombudsman's scheme, as recommended by the ACCC in its [Digital platform services inquiry Interim report No. 5 – Regulatory reform](#).<sup>26</sup>

## Code administration

### Oversight processes

DIGI has published signatories' commitments to the code's objectives on their website however, they do not show the specific outcomes signatories have opted-in to.<sup>27</sup> In some cases, services covered under the code are also included. DIGI has also made changes to the website to make it clearer when amendments to the code were made

<sup>25</sup> A copy of the code and limited information about the objectives that signatories have committed to is available on [DIGI's 'About' page](#) but this does not detail the specific outcomes signatories have committed to meeting.

<sup>26</sup> See Recommendation 2: Digital platform specific consumer measures.

<sup>27</sup> DIGI, The Australian Code of Practice on Disinformation and Misinformation.

in their 2022 code review. These are all welcome developments as they enable improved transparency about signatories' commitments to the code. However, the ACMA remains concerned about the process for adding a new outcome, the apparent static nature of the commitments and the lack of a clear, proactive process to publicise meaningful changes to a signatory's measures or commitments under the code. We elaborate on these concerns below.

### **New outcome process**

As noted in this report, a crucial element to the success of the code is the transparency of signatory commitments. Transparency about these commitments is important because it facilitates the effective functioning of the complaints scheme and acts as an accountability mechanism for signatories. Currently, DIGI's website displays a table that shows signatories' current commitment to the code's objectives. However, this table does not display the specific outcomes under these objectives that signatories have opted-in to.

To account for the information gap above, DIGI's website notes that each signatory's 2021 opt-in disclosure provides a more detailed breakdown of the outcomes under each objective that they have adopted. The website also states that the most recent information about signatories' activities relating to each of their commitments, and any changes to those commitments, can be found in the most recent transparency reports.

The revised code, published in December 2022, was the first time DIGI made changes to the code's outcomes framework. Specifically, the revised code includes a new Outcome 1e, which requires platforms to provide transparency to users.. It also includes a new commitment aimed at deterring disinformation and misinformation in advertising.

Currently, it is unclear which platforms have formally opted-in to the new outcome and what measures they have committed to against this outcome. However, the ACMA's assessment of the May 2023 reports show that signatories chose to report, in varying degrees, on their commitment to Outcome 1e. Although the revised reporting guidelines require signatories to report against the new outcome in their 2024 transparency reports, the ACMA consider this is a sub-optimal solution for a range of reasons:

- > the new outcome has been operational for 6 months without a clear view on which signatories have opted-in and the measures they have committed to undertaking to achieve this outcome
- > without information about signatories' commitment to this outcome and the associated measures, users are unable to complain against this outcome
- > given the existing variance of information provided in the May 2023 reports, it will be difficult to track the progress of this outcome without a clear set of baseline measures.

Based on our observations of the reporting guidelines and the inconsistent information about Outcome 1e in the May 2023 transparency reports, there is limited evidence to support the presence of a clear process related to the implementation of a new outcome. We recommend that DIGI consider the learnings from Outcome 1e and the importance of establishing a robust and timely process for new outcomes. This includes publishing information as soon as practicable about signatories that have opted into new outcomes.

This example also reinforces the broader issues with the transparency and reporting framework, namely about the importance of certainty around signatory commitments at any point in time. Having this certainty supports the functioning of the complaints facility and is essential to the successful functioning of the opt-in approach to the code.

## Changes in platform measures

As part of enhancing transparency, DIGI should improve the process for documenting and publicising when a signatory makes a major policy change that would (or may be perceived to) change its commitments under code. Without this, it may create the impression that a signatory has measures or policies in place that no longer exist.

An example of this is several major policy changes that have occurred since Twitter's change of ownership in October 2022. As part of our oversight obligations, the ACMA has monitored Twitter's and other digital platform activities. Since late 2022, we have made several direct enquires to Twitter about the nature of their policy changes. We understand that DIGI has also had similar conversations in its role as code administrator. In both instances, Twitter has reassured the ACMA and DIGI that it believes it is meeting commitments under the code.

We note that Twitter has made several changes to measures previously identified to meet their code outcomes. These include:

- > Twitter's COVID-19 misinformation policy has not been enforced since November 2022, with Twitter citing changes in the pandemic and public debate as driving this change.
- > Twitter Blue became available in December 2022 and replaced the previous verification program outlined in previous transparency reports. The revised system now has blue (active subscriber), gold (official business that has been verified through Twitter verified organisations) and grey checkmarks (government/multilateral organisation or a government/multilateral officials). Grey check marks commenced in March 2023.
- > Twitter's synthetic and manipulated media policy was updated in April 2023 to include out-of-context media, known as misleading media.
- > Twitter changed its free access to its API and, as of May 2023, the new Free, Basic, Pro and Enterprise tiers of access to the Twitter API are available. While their May 2023 transparency report notes a pause on existing projects in December 2022, no information is provided about changes to previous arrangements.

The ACMA considers that the changes listed above are notable and should have been made transparent under the code framework. Significant changes in policy without transparency creates uncertainty for signatories, DIGI and platform users about the nature of commitments subject to the complaints function. As a consequence, confusion about which commitments or measures are current and whether a signatory is fulfilling their commitments will undermine the success of the code. Although Twitter is not the only signatory to change commitments, it is a clear example of the need to be transparent about major policy changes that affect a signatory's commitments.

## Summary of ACMA's views on code governance and administration

- > The ACMA welcomes the announcement of code governance arrangements but more transparency about the operation of these arrangements is required.
- > The introduction of a complaints facility is an important step. However, the minimal number of complaints received to date does not align with community concern about misinformation (including that expressed through recent ACMA research). Further work needs to be taken to improve public visibility and understanding about making complaints under the code.
- > Robust code administration processes still need to be developed and refined. The implementation of the new Outcome 1e reveals the need for clear processes to support the operation of an outcomes-based code. DIGI should review this and develop a more robust process for adding new outcomes.

- > There are continuing issues about the transparency of changes in commitments and material changes in measures under the code. Major policy changes at Twitter demonstrate the need for more timely reporting of significant changes to measures identified by signatories under the code.



# Assessment of platform reporting activities

The code adopts an outcomes-based regulatory model, where each signatory agrees to enact measures to achieve a set of high-level outcomes or results. Compared to more traditional ‘rules-based’ regulatory models that prescribe specific processes or activities, an outcomes approach is unique in allowing industry participants to determine what measures they will adopt to meet the stated aims of the regulation. This provides signatories with greater flexibility, allowing them to nominate measures that best align to their unique business models, individually assess risk on their services, and adapt to changes in their operating environment.

However, as the ACMA has previously stressed in its reports and advice to industry, this flexibility comes with associated reporting obligations. To be both effective and enforceable, outcomes-based regulatory models must be supported by robust measurement and performance reporting frameworks that provide sufficient levels of accountability and public transparency. It is therefore essential that – should the digital platform industry wish to affirm the success of its self-regulatory regime – signatories to the code commit to ongoing improvements to their annual reporting. This requires not just to describing *what* they are doing to mitigate the risk of harm from mis- and disinformation on their services, but also demonstrating *how* the steps they are taking are working to meet the various outcomes and objectives they have signed up to.

This section focuses on our ongoing concerns regarding voluntary industry reporting under the code. It updates our advice to industry from our June 2021 report, provides our views on the latest round of transparency reports from signatories (May 2023), and provides commentary on changes to the code’s reporting framework. We recommend DIGI consider these frameworks to help inform future reporting considerations. A summary of these developments can be found at Appendix D.

## Work to-date on reporting and measurement under the code

When the code was first launched in February 2021, it contained an initial report template that signatories were required to complete within 3 months of the code’s commencement. Under section 7.3 of the code, signatories also committed to develop and implement, within 6 months of code’s commencement, an agreed format for future annual reports and a guideline to inform the data and other information to be included in subsequent reports.

Signatories only had a short period to complete their interim reports, and this was factored into the ACMA’s original assessment. In our June 2021 report, we found that all signatories had met their initial reporting requirements under the code and acknowledged the DIGI reporting template as a workable foundation on which industry could build.

However, we also expressed early concerns about the quality and comparability of the inaugural reports, and flagged several areas for improvement, including:

- > a clear format with existing measures, proposed measures, and performance reporting separately under each outcome
- > a requirement for performance reporting to provide adequate data to measure platform performance against each outcome and not just describe the actions platforms have taken



- > a more detailed discussion about future actions against each outcome in the report, which would provide greater visibility about changes over time
- > a clearer distinction between the identification of relevant measures or actions (that is, what steps are individual signatories committing to under the code) and ongoing reporting on the effectiveness of these measures in addressing the code outcomes (for example, how individual signatories intend to demonstrate their measures or actions have been successful).

In Appendix F of the ACMA's June 2021 report, we provided more detail about performance reporting, and the necessity for signatories to identify and track key performance indicators (KPIs) against each of their code commitments. This advice was influenced by a growing body of European research on best-practice platform measurement approaches and, building on a KPI framework developed by independent consultancy Valdani, Vicari and Associates in the context of the EU Code<sup>28</sup>, it outlined a 2-tier model of signatory-specific KPIs and industry-wide KPIs. It was hoped that DIGI and signatories would consider the ACMA's advice as part of its work towards improving their reporting obligations under the code and would seek to incorporate both individual and industry KPIs as part of the required reporting guidelines and updated template.

Although signatories missed the original 6-month target for new reporting guidelines as stipulated in the code, DIGI did undertake work to strengthen the reporting regime shortly after this deadline. In October 2021, DIGI appointed an independent reviewer to audit all signatories' future annual transparency reports. While this was intended to incentivise compliance and best-practice reporting, DIGI has noted the scope of independent reviewer's annual assessment is limited to fact-checking of publicly verifiable claims made by the signatories in their respective reports:

... this process does not involve an evaluation of the quality of the reports or the compliance with the code but provides independent confirmation that certain publicly verifiable information is provided in accordance with agreed reporting guidelines.<sup>29</sup>

DIGI later commissioned the independent reviewer to also develop a new template and best-practice reporting guidelines for the code. These were finalised in March 2022 and were published by DIGI as part of its June 2022 annual report on the administration of the code. The ACMA met with DIGI and the independent reviewer about the guidelines in early 2022, but was not involved in the drafting or finalisation of this work.

The reporting guidelines noted several areas of weakness in the initial May 2021 signatory reports, including a lack of trend data and supporting commentary about provided data points, a tendency towards a promotional tone in the writing, and the inclusion of lengthy explanations of process and policy that are unnecessary for year-on-year reporting. The guidelines advocated for defined reporting periods tied to calendar years, more consistency in language and terminology between signatories, and greater reliance on Australia-specific data (or the inclusion of an explanation if this is not possible).

While these recommendations were well-informed and sensible, the ACMA was disappointed that the development of a KPI reporting framework was considered outside the scope of the work – despite clearly and repeatedly outlining our expectation – since our original June 2020 position paper – that signatories develop

<sup>28</sup> European Commission, [Study for the assessment of the implementation of the Code of Practice on Disinformation](#), European Commission website, 2020, accessed 7 July 2023, p. 89–95.

<sup>29</sup> DIGI, [Australian Code of Practice on Disinformation and Misinformation – Annual Report](#) [PDF], DIGI website, 2022, accessed 7 July 2023, p. 16.

KPIs to track their performance under the code.<sup>30</sup> The code reviewer noted the importance of having a KPI reporting regime, and recommended signatories work towards this goal, as well as other measures to assess the effectiveness of the code across industry:

We acknowledge that the development of an agreed KPI reporting regime is a significant undertaking beyond the scope of these guidelines. Signatories are encouraged to identify and commit to appropriate internal KPIs in the next round of annual reporting. From these may emerge the outlines of a more formal mis/disinformation KPI reporting regime that includes Signatory as well as market-wide data.

We encourage DIGI to investigate setting up a statistically representative user survey of the type envisioned by the European Commission, and to agree with Signatories on the data such a survey would gather in order to best gauge the society-wide impact of their work against mis/disinformation.<sup>31</sup>

DIGI published signatories' second round transparency reports in May 2022, which were informed by these new reporting guidelines. As we discussed in our submission to the DIGI code review, although we noted general improvements in signatory reporting, we remained concerned about the lack of information about how each signatory's activities were progressing and what internal metrics were used to track and assess the effectiveness of these measures. We also noted an absence of meaningful qualitative analysis, with data continuing to be presented without comment or context, and a high level of repetition between the 2021 and 2022 reports. This was disappointing to see, especially given the clear guidance from the code reviewer and DIGI about making improvements in these areas.

## Latest transparency reports and revised reporting guidelines

In May 2023, DIGI released the third round of transparency reports, alongside updated reporting guidelines for the next round of reporting in their annual report. There have been improvements in some signatory's reporting, namely the inclusion of some new data points and consistent information across reports, which enhances the potential for time-based comparisons. Signatories have also improved reporting about their services covered by the code and their rationale for opting out from certain outcomes.

It is evident that some signatories are accepting feedback and making incremental improvements year-on-year. However, we have also seen an increased variation in the quality of reports across the 8 signatories. Given the variation in reporting, we have provided a more detailed assessment of each signatory's transparency report at Appendix C. Each 'report card' identifies recommendations for improvements next year.

Overall, our key concerns with the reporting framework remain:

- > Signatories have not identified the KPIs they are using to track their progress to achieve the code's objectives and outcomes. Instead, they continue to provide isolated data points. Although some signatories have included more Australian trend data, others have not included data points from previous reports.
- > Data continues to be provided in isolation, with limited meaningful analysis.
- > Signatories need to increase the amount of Australian data contained in their reports.

<sup>30</sup> ACMA, [Misinformation and news quality on digital platforms in Australia – A position paper to guide code development](#), ACMA website, 2020, accessed 7 July 2023, p. 23–24.

<sup>31</sup> DIGI, Australian Code of Practice on Disinformation and Misinformation – Annual Report [PDF], p. 33

- > As the code matures, the current approach to reports is not an effective vehicle to communicate signatory's measures under the code and report on their performance against the code's outcomes.

As discussed earlier, reporting was not considered in the DIGI's 2022 code review. Nevertheless, in response to stakeholder feedback on this issue, DIGI committed to make further amendments to the best-practice reporting guidelines ahead of the release of annual transparency reports in May 2023. In its annual report, published in May 2023, DIGI published a revised set of reporting guidelines for the 2024 transparency reports.

Despite the reporting guidelines being updated to align with recent code changes, disappointingly, the guidelines do not contain any substantive changes or any progress towards developing internal KPIs as per the recommendations of the code reviewer. This is an area of continued interest and focus for the ACMA as we consider what ongoing reporting could look like as part of a regulated information-gathering regime.

## Views on changes to reporting under the code framework

### Timing of reporting

In the reporting guidelines published in March 2022, the reporting period for signatories' transparency reports was specified to be over a calendar year (that is, the May 2023 reports relate to the 12 months from 1 January to 31 December 2022).

The intention of specifying a consistent reporting period was to simplify the process for signatories and facilitate easier comparisons between years and platforms. Although this change should make it easier for signatories to compile their reports, it has had consequences on the relevance and timeliness of some information signatories provide about their activities under the code.

In their report, the independent assessor noted that a lag between the end of a reporting period and the filing of reports is common to reporting regimes. This lag negates the timeliness of information about platforms' measures to meet code outcomes. As a result, platform users may not be able to access information about measures to combat disinformation and misinformation for events of significant public interest until many months after the event has passed. An example of this is there is no information about signatories' measures regarding the upcoming Aboriginal and Torres Strait Islander Voice referendum in the latest transparency reports.

We recommend that DIGI should better examine the purpose of the transparency reports. Currently, the transparency reports are not achieving their dual objectives of:

- > documenting signatories' current and future commitments and measures
- > adequately presenting historical performance reporting and the provision of data to adequately assess the effectiveness of signatory measures.

As the code has matured, the ACMA has observed fewer changes in measures to address outcomes under the code. Therefore, given the relatively static nature of these measures, the ACMA considers that separating the transparency and performance reporting functions should not be a significant burden against the benefits it would provide to the overall operation of the code.

### Graduated reporting framework based on the size of a platform

In addition to expanding the scope of the code, one of the other more notable changes in the December 2022 revision was the introduction of a graduated reporting framework based on the size of a platform.

The revised code now seeks to incentivise greater participation among platforms with less than one million monthly active Australian users by allowing them to avoid the burden of the annual code reporting process. Instead, these smaller signatories only need to provide an initial one-off report to DIGI (within 12 months of joining the code), unless there are changes to their product or service offerings that change their initial report. There are no changes to reporting processes for signatories with more than one million monthly active Australian users; they are still required to update their opt-in nomination forms annually.

The new graduated reporting approach raises some practical considerations. Currently, it is unclear whether any of the existing signatories fall within the new category of a smaller signatory, and DIGI has not detailed how it will determine the monthly active users for signatories. This exercise may be more challenging than it first appears. As part of the Digital Services Act (DSA), the European Commission recently designated very large online platforms and very large online search engines (VLOPs/VLOSEs).<sup>32</sup> These designations were based on monthly EU active user numbers published by all online platforms and search engines in the EU.<sup>33</sup> Despite publishing guidance on how these figures should be calculated<sup>34</sup>, there was significant variation in the quality of information to date. For example, Spotify did not provide any information except for noting that they fell under the threshold of 45 million monthly active European users. We recommend that DIGI consider how this process will work in the Australian context, including clarifying the process for a signatory that grows quickly and crosses the one million active user threshold within a reporting period.

Overall, while the ACMA considers the 2-tier system is a positive change to the reporting framework, it is too early to tell whether this change will have the desired impact of increasing participation. More work is needed to ensure the process for distinguishing between smaller and larger platforms is practical and transparent.

### Summary of ACMA's views on reporting activities

- > There have been incremental improvements in the third set of transparency reports but ACMA's key concerns with the reports and the code's reporting framework remain unaddressed.
- > While DIGI's reporting guidelines were updated to align with code changes, it was disappointing to see that they did not contain any substantive changes or progress toward developing internal KPIs. Both the ACMA and the independent reviewer have consistently emphasised the importance of these KPIs to the success of the code.
- > Signatories should prioritise the development of internal KPIs to track their performance under the code. The development of KPIs is crucial to assessing the overall effectiveness of the code at a signatory and industry-wide level. DIGI should consider how best to work with signatories to encourage work in this area.
- > Signatories should also enhance the quality of their transparency reports by providing data to measure performance against each outcome, qualitative analysis to explain changes in data over time, and more Australian-specific data.
- > The ACMA welcomes the introduction of a graduated approach to reporting and encourage DIGI to continue to consider how to incentivise greater participation among a wide range of digital platforms.

<sup>32</sup> The designated VLOPs/VLOSEs are Alibaba, Amazon Store, Apple AppStore, Booking.com, Meta (Facebook, Instagram), Google (Maps, Play, Shopping, Search, YouTube), Microsoft (LinkedIn, Bing), Pinterest, Snapchat, TikTok, Twitter, Wikipedia and Zalando.

<sup>33</sup> Under the DSA, platforms are required to update their user numbers every 6 months. If they fail to be published, Member States can impose a maximum fine of 1% of annual turnover.

<sup>34</sup> European Commission, [DSA: Guidance on the requirement to publish user numbers](#), European Commission website, 2023, accessed 10 July 2023.

- > DIGI should consider the process for determining active user numbers, and the process if a signatory crosses the one million active users' threshold within a reporting period.
- > The ACMA recommends the separation of signatory's measures under the code from historical performance reporting. The historical nature of the reporting process limits the transparency of signatories' measures under the code, including of important upcoming events such as the referendum.

# Next steps

In the 2023–24 federal Budget, the ACMA was provided \$7.9 million over the next 4 years to administer new powers combat online disinformation and misinformation. The funding will be used to support the development of the new powers, as well as increase the ACMA's capacity and capability to monitor the effectiveness of measures to reduce misinformation and disinformation.

Exposure draft legislation to provide the ACMA with new regulatory powers in this area is currently out for consultation. The powers are intended to provide the ACMA with a formal regulatory role to combat misinformation and disinformation, as well as a set of reserve regulatory powers to incentivise industry behaviour, and act if these efforts are inadequate.

This 2023 report by the ACMA provides insights and data that may be useful during consideration of the exposure draft legislation. While that consideration takes place, the ACMA will continue to work with digital platforms to improve the current self-regulatory arrangements to provide strong protections for Australians from the harms of misinformation and disinformation on these services.

We would also encourage more platforms, including platforms with large Australian active user bases such as Reddit, Snap and Spotify to sign up to the code. Each new signatory contributes to the objective of the code to provide a minimum level of protection for Australian users of digital platforms.

A continued focus for the ACMA will be on the development of robust performance reporting arrangements for the outcome-based industry code. The ACMA considers that, as a priority, additional work needs to be undertaken to further embed an effective reporting framework in the code. This should be informed by the independent reviewer observations and the ACMA's feedback on the current reporting processes.

## Appendix A: Key code events

Date	Event
February 2021	DIGI publishes and announces the commencement of the code.
May 2021	DIGI publishes the first set of annual transparency reports from code signatories.
June 2021	ACMA provides its first oversight report to the government on the adequacy of platforms' measures and their broader impacts on disinformation and misinformation.
October 2021	DIGI announces a new public complaints portal and broader governance arrangement for the code, including a complaints sub-committee, an administration sub-committee, a signatory steering group, and an independent code reviewer to assess the annual transparency reports of signatories.
February 2022	DIGI undertakes public outreach to promote use of its complaints portal, including engagement with the Australian Communications Consumer Action Network (ACCAN).
March 2022	ACMA publishes its June 2021 report, and DIGI releases a statement expressing in-principal support for its 5 key recommendations.
May 2022	DIGI publishes the second set of annual transparency reports from code signatories, covering the 2021 calendar year. These are based on new best-practice reporting guidelines developed by the independent code reviewer.
June 2022	DIGI announces the commencement of its initial scheduled review of the code and seeks public submissions on a discussion paper outlining potential changes to the code.  DIGI publishes an annual code administration report, providing new consumer research and a summary of concerns brought before the complaints facility.
December 2022	DIGI concludes its code review and releases a revised version of the code and a report detailing how it has addressed stakeholder feedback.
January 2023	The Australian Government announces its intent to legislate to provide the ACMA with new mis- and disinformation powers, and to undertake public consultation on draft legislation during the first half of 2023.
May 2023	DIGI publishes the third set of annual transparency reports from code signatories, covering the 2022 calendar year.  DIGI publishes an annual report on activities in the previous calendar year, including updated best-practice reporting guidelines for 2024 transparency reports.
June 2023	The Australian Government releases exposure draft legislation for public feedback. The legislation, if passed, will provide the ACMA with a suite of reserve regulatory powers to combat misinformation and disinformation.



# Appendix B: Summary of changes to the code

Issue	Summary of change	Text of the code (red text indicates changes)
<b>Participation</b>		
Opt-in framework	New text added to opt-in provision requiring signatories provide greater transparency about the specific products and services that are within scope of the signatories' code commitments.	<p><i>Section 7.1</i></p> <p>...</p> <p>Each Signatory will annually re-assess the extent the provisions of the code are relevant to their products and services (including whether any new products and services should be subject to the code) and update and notify DIGI of any updates to the opt-in form. DIGI will publish updates to the Opt-in Nominations Form on the DIGI website.</p>
Threshold for signatory participation	<p>Amends existing reporting provisions to establish less onerous reporting requirements for platforms that provide a service with less than one million active monthly users in Australia.</p> <p>This change aims to encourage smaller platforms to sign up to the code.</p>	<p><i>Section 7.3 (abridged)</i> In addition to the Opt-in Nomination Form under section 7.1, each Signatory that has a service subject to the code with a user base in excess of one million monthly active Australian end-users will provide an annual report to DIGI setting out its progress towards achieving the outcomes contained in the code which will be published on the DIGI website. The first report will be in the form of the report Appendix 2 and submitted within three months of the commencement of the code. Signatories commit to develop and implement, within six months of the commencement of this Code, an agreed format for future annual reports and a guideline that will inform the data and other information to be included in subsequent reports. Each Signatory's annual report will list its products and services that are subject to the code including any additional products and services that have been assessed to be subject to the code during this period covered by the report.</p>
Scope of the code	<p>Expands the coverage of the code to include a broader range of digital platform services that could choose to sign-up, including those that provide technological solutions that aim to assist digital platforms and/or end-users to combat misinformation, news aggregators and companies that offer sponsored content or digital advertising services.</p> <p>This change aims to encourage a broader range of platforms sign up to the code.</p>	<p><i>Section 4.1 (abridged)</i> [...] The Code may therefore be signed by a broad range of Signatories and a range of products and services, and is not limited to specific types of Digital Content. For example, products services in scope may include those that:</p> <ul style="list-style-type: none"> <li>a) disseminate user-generated (shared content) content; and/or</li> <li>b) disseminate content that is returned and ranked by Search Engines in response to user queries;</li> <li>c) provide technological solutions that aim to assist digital platforms and /or end-users combat Disinformation and Misinformation; and</li> <li>d) offer sponsored content or digital advertising services; and</li> <li>e) aggregate and disseminate news and other types of journalistic content from a variety of different sources.</li> </ul>



Issue	Summary of change	Text of the code (red text indicates changes)
		<p>Note for D Political advertising is excluded from the scope of Misinformation but may fall within the definition of Disinformation if propagated by Inauthentic Behaviours.</p> <p>Note for E Professional news content disseminated by a news aggregation service is excluded from the definition of Misinformation but may fall within the definition of Disinformation if propagated by Inauthentic Behaviours.</p>
<b>Drafting changes</b>		
Professional news	<p>New section to define professional news exemption from the definition of misinformation. New definitions and categories for defining professional news (3.7, 3.10), to inform news content exemption.</p> <p>This section reflects DIGI's view that the news media is best placed to address misinformation within existing self-regulatory frameworks.</p>	<p><i>Section 3.10</i> Professional news is online material produced by a news source that reports, investigates or provides critical analysis of:</p> <ul style="list-style-type: none"> <li>a) issues or events that are relevant in engaging end-users in public debate and in informing democratic decision-making; or</li> <li>b) current issues or events of public significance to end-users at a local, regional or national level.</li> </ul>
News sources	<p>New section to define the criteria for news sources to accompany professional news exemption.</p> <p>This section clarifies that news sources must have editorial independence from the subjects of its news coverage and be subject to codes or rules that specify editorial practices.</p>	<p><i>Section 3.7</i> A news source is a journalistic producer of news that has editorial independence from the subjects of its news coverage and is:</p> <ul style="list-style-type: none"> <li>a) subject to the rules of the Australian Press Council Standards of Practice or the Independent Media Council Code of Conduct; or</li> <li>b) subject to the rules of the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice or the Subscription Broadcast Television Codes of Practice; or</li> <li>c) subject to the rules of a code of practice other regulatory instrument that specifies standard of editorial practice in another country; or is subject to internal editorial standards that relate to the provision of quality journalism; or</li> <li>d) provides a publicly accessible mechanism for making requests for corrections or complaints about the quality of its news coverage.</li> </ul>
Political advertising	<p>The definition of political advertising has been updated to remove issues-based advertising from the definition.</p> <p>This carve out reflects stakeholder feedback that the approach to issues-based advertising be clarified.</p>	<p><i>Section 3.9</i> Political Advertising means paid for advertisements:</p> <ul style="list-style-type: none"> <li>a) made by, on behalf of a political party; or</li> <li>b) that advocate for the outcome of an election, referendum or other <del>Federal, State or Territory wide political campaign concerning a social issue of public concern in Australia;</del> process (such as a postal vote) supervised by an electoral management body of the Commonwealth or State and Territory.</li> <li>c) are regulated as political advertising under Australian law.</li> </ul>
Issues-based advertising	<p>New section to provide that platforms may deal with transparency of other forms of</p>	<p><i>Section 5.25</i> Signatories may also, as a matter of policy, choose not to target advertisements based on the inferred political affiliations of a user or choose to define and implement commitments concerning a broader scope of political advertising</p>

Issue	Summary of change	Text of the code (red text indicates changes)
	<p>political advertising, such as issues-based advertising.</p> <p>This change seeks to account for the difficulty distinguishing between issues-based advertising as it pertains to advocating for a political campaign, and issues-based advertising for general advocacy purposes. The inclusion provides the opportunity for platforms to provide transparency on other forms of political advertising, such as issues-based advertising.</p>	<p>including advertising that advocates for a political outcome on social issues of public concern.</p>
Harm threshold	<p>The definition of harm has been changed from 'serious and imminent' to 'serious and credible'.</p> <p>This amendment of the definition of harm broadens out the threshold to include the chronic harms that can result from the cumulative effect of misinformation over time.</p>	<p><b>Section 3.4</b> Harm means harms which pose <del>an imminent</del> <b>a credible</b> and serious threat to:</p> <ul style="list-style-type: none"> <li>a) democratic political and policymaking processes such as voter fraud, voter interference, voting misinformation; or</li> <li>b) public goods such as the protection of citizens' health, protection of marginalised or vulnerable groups, public safety and security or the environment.</li> </ul> <p><b>Note:</b> Harm which poses a credible and serious threat excludes harm that cannot be reasonably foreseen.</p>
Sponsored content	<p>New definition of sponsored content.</p> <p>The change is to support the expansion of the scope of the code and to clarify both sponsored content and paid for advertising are in scope of the code.</p>	<p><b>Section 3.13</b> Sponsored content is a paid arrangement between a social media service and an account-holder under which the social media service promotes content posted on the service beyond the account holder's list of followers in exchange for payment but excludes paid for advertising, for example, paid advertising on search engines.</p>
Digital advertising services	<p>New definition of digital advertising services.</p> <p>The change is to support expansion of the scope of the code.</p>	<p><b>Section 3.8</b> Digital advertising services means paid for digital advertising services where the placement of the advertisement is sold directly by Signatories to advertisers.</p>
Recommender systems	<p>New definition of recommender systems to support inclusion of Outcome 1e.</p>	<p><b>Section 3.11</b> Recommender system means a fully or partially automated system used by an</p> <p>online platform to suggest or prioritise in its online interface specific items of Digital Content to recipients of the service, including as a result of a search initiated by the recipient of the service or otherwise determining the relative order or prominence of the items of Digital Content displayed.</p>

Issue	Summary of change	Text of the code (red text indicates changes)
<b>Objectives/commitments</b>		
Recommender systems	<p>New outcome requiring signatories to provide greater transparency and user empowerment related to recommender systems.</p> <p>This is based on the EU Strengthened Code of Practice on Disinformation.</p>	<p><i>Outcome 1e</i> Users will be able to access general information about Signatories' use of recommender systems and have options relating to content suggested by recommender systems. Signatories that provide services (other than search engines) whose primary purpose is to disseminate information to the public and which use recommender systems, commit to:</p> <ul style="list-style-type: none"> <li>a) make information available to end-users about how they work to prioritise information that end-users may access on these service; and</li> <li>b) provide end-users with options that relate to content suggested by recommender systems that are appropriate to the service</li> </ul> <p>Note: for example, the comments provided under news stories published by an online newspaper would be ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher and therefore not subject to this commitment.</p>
Advertisements that propagate mis- and disinformation	<p>New commitment to deter advertisers from repeatedly placing digital advertisements that propagate disinformation and misinformation.</p> <p>This is based on the EU Strengthened Code of Practice on Disinformation.</p>	<p><i>Section 5.15</i> Signatories that offer digital advertising services will use commercially reasonable efforts to deter advertisers from repeatedly placing digital advertisements that consistently propagate Disinformation or Misinformation.</p>

# Appendix C: Signatory report cards, May 2023 reports

Meta	
<b>Australian user base:</b>	Facebook: 21 million monthly active users (2022) Instagram: 10 million monthly active users (2022) Source: <a href="#">DPSI Report 6</a>
<b>Services covered:</b>	Facebook, Instagram
<b>Code commitments:</b>	All code outcomes
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Meta has undertaken work on many of its previously identified initiatives and improvements are being made so they continue to be fit-for-purpose over time. For example, July 2022 updates to the Meta Ad Library include new information about the targeting selections for advertising, and measures to promote authoritative information and provide users with tools to help them assess the quality of sources and factual content.</li> <li>&gt; As with previous reports, Meta has included Australia-specific data and information. This includes data about Meta's actions in Australia to: <ul style="list-style-type: none"> <li>&gt; display content warnings on content based on articles written by third-party fact checking partners</li> <li>&gt; act on content that violates its Harmful Health Misinformation policies, including removing accounts, pages, and groups for repeated violations</li> <li>&gt; reject ads for not complying with its political and social issue advertising enforcement policies.</li> </ul> </li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; Meta does not identify whether the data it has provided represent metrics that could be used to track the effectiveness of its measures, particularly in the Australian context.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Meta should identify KPIs to assess the effectiveness of its measures to meet the outcomes of the code, and provide robust data against these KPIs.</li> </ul>	

Google	
<b>Australian user base:</b>	Across all platforms: unknown number of users YouTube: 20.4 million monthly active users (2022) Source: <a href="#">DPSI Report 6</a>
<b>Services covered:</b>	Google Search, Google News, Google Ads, Google AdSense, YouTube
<b>Code commitments:</b>	All code outcomes
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Overall, Google provided similar information to its May 2022 report. It was positive to see the continued inclusion of Australian-specific data compared to global data, and some consistent data points with previous iterations of transparency reports.</li> <li>&gt; There was evidence of new data points and updates to policy including in response to the Russian invasion of Ukraine and political advertising.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; It was disappointing not to see the data provided in the EU transparency report around appeals in the Australian transparency reports.</li> <li>&gt; Additional analysis and commentary to contextualise data was lacking.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Google should continue to explore ways to provide additional commentary to contextualise aggregated data.</li> <li>&gt; Google should continue to develop KPIs to show the effectiveness of their measures over time and to ensure that these KPIs continue to include Australian-specific data.</li> </ul>	

Twitter	
<b>Australian user base:</b>	2.9 million monthly active users (2022) Source: <a href="#">DPSI Report 6</a>
<b>Services covered:</b>	Twitter
<b>Code commitments:</b>	All code outcomes, except Outcome 5
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Twitter provided information about how they are progressing to address meet the new Outcome 1e.</li> <li>&gt; Twitter provided examples about how their pilot 'Birdwatch' project has evolved and expanded into 'Community Notes' over time.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; Twitter's report contains no Australian-specific data, even where data has been provided in previous years. Twitter changed its transparency reporting processes in Q4 2022, but it is unclear how it can demonstrate its progress against its outcomes without any Australian-specific data. The limited data provided relates to global H1 2022 numbers, which are generic and not specifically related to misinformation. The lack of data provides a 'blind spot' in the report.</li> <li>&gt; Less data has been provided than in the previous 2 transparency reports. This limits our ability to assess Twitter's progress in meeting the code's outcomes over time.</li> <li>&gt; Several material changes to previously identified code measures are not included in the report. These include the dissolution of Twitter's Trust and Safety Council and the introduction of government and state-based account labels.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Twitter should implement processes to enable Australian-specific data to be reported in future reports. This data should be reported with appropriate contextual analysis against identified KPIs to allow tracking over time.</li> <li>&gt; Given the changing nature of its business model, Twitter should work with DIGI to ensure material changes that impact its code commitments are transparent.</li> </ul>	

Microsoft	
<b>Australian user base:</b>	Across all platforms: unknown number of users LinkedIn: 5.1 million monthly active users (2022) Source: <a href="#">DPSI Report 6</a>
<b>Services covered:</b>	Microsoft Advertising, Bing Search, Microsoft Start, LinkedIn
<b>Code commitments:</b>	All code outcomes (some are only relevant to certain services)
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Microsoft provided similar information to their May 2022 report. It was positive to see the continued inclusion of Australian-specific data compared to global data.</li> <li>&gt; Microsoft included new data points, introduced new policies and initiatives, and updated existing ones, including in response to the Russian invasion of Ukraine.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; Microsoft included data about fact-checking measures in its report under the 2022 EU Code of Practice on Disinformation, which included information about the source of news and factual content users accessed on LinkedIn. It was disappointing that this level of detail was not provided for Australian transparency reporting.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Microsoft should continue to explore ways to provide data and metrics to show the effectiveness of its measures in Australia.</li> </ul>	

TikTok	
<b>Australian user base:</b>	10 million monthly active users (2022) Source: <a href="#">DPSI Report 6</a>
<b>Services covered:</b>	TikTok
<b>Code commitments:</b>	All code outcomes
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; TikTok had some improvements in their report from previous years, namely the inclusion of some consistent data points from previous reports and additional detail to explain possible reasons for changes in data from the May 2022 report.</li> <li>&gt; TikTok provided some consistent data in their May 2022 report on actions taken on videos that violated integrity and authenticity policies. This enables tracking these actions over time.</li> <li>&gt; Overall, the May 2023 report contained updated iterations of most of the information provided in TikTok's previous report.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; While there is some scope for year-on-year comparison of consistent data points, the report doesn't detail many new initiatives and also provides inconsistent timeframes for data points, which makes comparisons challenging.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; TikTok should identify which data, metrics or other metric-based KPIs can be used to identify the effectiveness of its measures in achieving the outcomes of the code and ensure its report contains appropriate commentary/contextualisation to understand the impact of TikTok's measures.</li> <li>&gt; TikTok should ensure that new data is provided for comparable timeframes.</li> </ul>	



Apple	
<b>Australian user base:</b>	Unknown
<b>Services covered:</b>	Apple News
<b>Code commitments:</b>	1a, 1c, 1d, 2, 4, 6, 7
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Apple continues to provide case studies, supported by data, about the reach of authoritative news stories of public interest to Australians. Examples in the current report include cyber security incident, the 2022 federal election and COVID-19 developments.</li> <li>&gt; Apple has provided clear explanations about why it has not opted-in to certain commitments.</li> <li>&gt; A misinformation or disinformation reporting category was added to Apple's reporting process in 2022.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; The report does not contain identified metrics that allow progress towards meeting the code's outcomes over time.</li> <li>&gt; Data points could be better contextualised (such as providing more data about potential reach of authoritative information on topics of major public debate) to allow assessment of effectiveness of measures over time.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Data points should be better contextualised to allow assessment of effectiveness of measures over time.</li> <li>&gt; Apple should look to establishing metrics to allow performance to be better tracked over time.</li> </ul>	

Adobe	
<b>Australian user base:</b>	Unknown
<b>Services covered:</b>	All Adobe services able to take advantage of the Content Authenticity Initiative (CAI), including the new 'Firefly' generative AI engine.
<b>Code commitments:</b>	1a, 3, 4, 6 & 7
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Adobe has provided detailed information about initiatives it is undertaking to combat the risks of mis- and disinformation. Primarily this occurs through its Content Authenticity Initiative (CAI) and associated Coalition for Content Provenance and Authenticity (C2PA) standards to improve attribution of digital content. Adobe is also supporting consumer research into perceptions of provenance and media literacy initiatives for children.</li> <li>&gt; Adobe has provided data, including Australian-specific data, about the implementation of its initiatives. For example, at the end of 2022, 900 partners had joined the CAI and this includes 20 members from Australia.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; Data points were not provided for all the outcomes that Adobe has committed to.</li> <li>&gt; It is still unclear whether data points will be tracked over time. Where data has been provided, it will be important that Adobe continues to provide data against these same metrics in future years.</li> <li>&gt; It remains unclear why Adobe has continued not to opt-in to some of the code outcomes that appear relevant to the CAI such as enabling users to be better informed about the source of political advertising if that advertising features content created with Adobe products (Outcome 5).</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Adobe should identify data-points that can be used to assess the effectiveness of its measures to meet the outcomes of the code and provide robust data against these. For example, Adobe could identify that the number of Australian-based members of the CAI and the number of assets created with Content Credentials as a metric for assessing success against relevant outcomes.</li> <li>&gt; Adobe should consider whether it should opt-in to other code outcomes as its initiatives develop.</li> </ul>	

Redbubble	
<b>Australian user base:</b>	Unknown ( <a href="#">FY2022 annual report</a> showed 14.4 million active members globally (with 7% of revenue coming from AUS/NZ))
<b>Services covered:</b>	Redbubble
<b>Code commitments:</b>	All outcomes except Outcome 5
<b>Strengths</b> <ul style="list-style-type: none"> <li>&gt; Redbubble signed up to 3 additional code outcomes in 2022 (including Outcome 1d, which was originally recommended by the ACMA in our June 2021 report card) and has provided quantitative data for the first time.</li> <li>&gt; Redbubble expanded its range of detection technologies in 2022, including the use of AI to detect users' keyword tagging patterns associated with mis- and disinformation.</li> <li>&gt; Redbubble updated the types of content targeted in proactive screening to include medical misinformation around vaccines, including new guidelines and reference content.</li> <li>&gt; Redbubble provided a good overview of its content moderation processes, including topical mis- and disinformation examples for 2022, such as COVID-19, and new data points.</li> </ul>	
<b>Weaknesses</b> <ul style="list-style-type: none"> <li>&gt; Redbubble's transparency report is less detailed than previous years, and the new data points lack relevance to the code.</li> <li>&gt; Some of the content duplicated previous reports.</li> <li>&gt; Redbubble did not sufficiently discuss the propagation of mis- or disinformation targeting Australians on its service.</li> </ul>	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>&gt; Redbubble should consider including a more specific discussion of the propagation of mis- or disinformation targeting Australians on its service.</li> <li>&gt; Reporting could also be improved through baselining data on volumes of identified mis- and disinformation content, how it compares to other types of violative content, and links to Australia.</li> </ul>	

# Appendix D: Results from complaints research

In November 2022 and January 2023, the ACMA undertook research seeking to understand the experiences of adult Australians who had reported or complained about harmful content to digital platform operators. The ACMA research was commissioned to better understand the experience of Australians who have made a report or complaint to a digital platform (both websites and apps) following exposure to potentially harmful content (including misinformation). The research focused on digital platforms that have a predominantly social media, content and/or communications purpose rather than all digital platforms (for example, there wasn't a focus on online marketplaces, app stores, rideshare apps, food delivery or financial apps). While the ACMA does not have a role in handling individual user complaints regarding content on digital platforms, the research is intended to help inform us about whether users know how to report or complain about harmful content to digital platforms, what type of content is being reported and whether platforms are responsive to user concerns. Further information about this research is available [on the ACMA's website](#), noting that additional analysis of the data was conducted for the purposes of the advice presented in this Appendix.

The research was also developed in collaboration with the Digital Platforms Regulator's Forum (DP-REG) to inform broader considerations about reporting and complaining about harmful content. DP-REG is an initiative of Australian independent regulators to share information about, and collaborate on, cross-cutting issues and activities on the regulation of digital platforms. This includes consideration of how competition, consumer protection, privacy, online safety and data issues intersect.

The research was conducted using a large-scale nationally representative survey panel (Life in Australia™) managed by The Social Research Centre. Stage 1 of the research was in November 2022 with 4,412 Australian respondents aged 18 years and over. This was used to identify platform usage, incidence of exposure to harmful content, and determine necessary sample sizes for more detailed research into user reporting and complaints. Stage 2 of the research was conducted in January 2023, with 4,729 respondents aged 18 years and over. Of these, 830 had made a report or complaint to a platform operator and 619 were directed to the full survey of which 560 completed. This Appendix includes results from both stages of the research.

## Reporting incidence

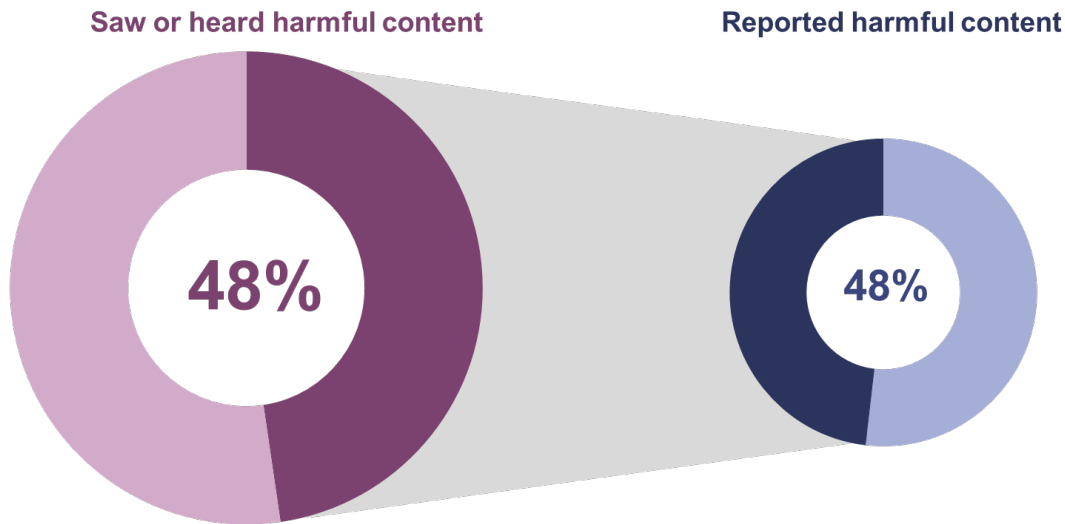
In January 2023, we asked respondents who had used a digital platform website or app in the previous 12 months whether they had seen or heard any 'harmful content' while using these services, and, if so, had they made a report or complaint about the content to the platform operator. Harmful content was described to participants as:

content that may be abusive, offensive, inappropriate, false or misleading, or otherwise harmful to you or others.

Around half (48%) of adult Australian digital platform users reported seeing or hearing some form of harmful content in the previous 12 months, with around half of the exposed group (48%) choosing to report the harmful content to the platform operator. This mean that half (52%) of Australian digital platform users who were exposed to some form of harmful content online in the previous 12 months chose not to report the content. Where relevant, misinformation and disinformation were identified as a sub-

category of harmful content, and, when asked about their most recent experience, misinformation. Misinformation and disinformation was the second most prevalent form of harmful content that users reported to the platforms at 38%, (following scams at 44%) (see Figure 9).

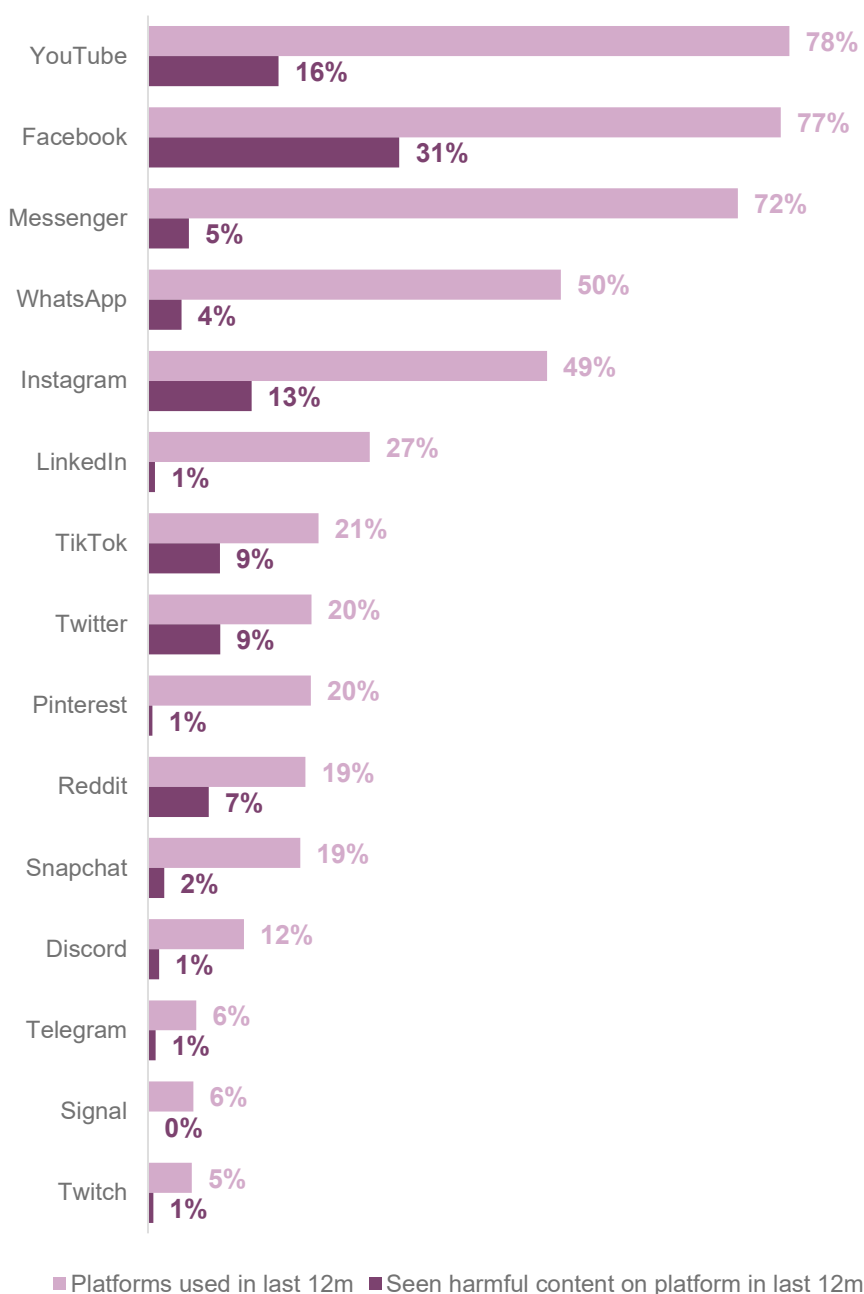
**Figure 1: Experience with harmful content on platforms: past 12 months to January 2023 (%)**



Note: Results for 'Don't know' and 'Refused' excluded from base. Base: Chart 1: Saw or hear harmful content: Australians aged 18 years and over who used a digital platform in the past 12 months (n=4,528); Chart 2: Reported harmful content: Australians aged 18 years and over who used a digital platform in the past 12 months and were exposed to harmful content (n=1,896). Source: ACMA Digital platforms research, January 2023. Q2. For each of the following websites or apps you have used in the past 12 months, have you seen or heard any harmful content? Q3. For each of the following websites and apps on which you saw or heard harmful content in the past 12 months, did you report or make a complaint about this harmful content to the digital platform operator.

Overall, adult Australians most frequently used YouTube (78%), Facebook (77%) and Facebook Messenger (72%) in the past 12 months, with the highest proportion of exposure to harmful content reported by Facebook users (31%), followed by YouTube (16%) and Instagram (13%). These results are unsurprising, given the popularity of these platforms in Australia and the large volumes of content being posted and shared daily by users of these platforms.

**Figure 2: Platform usage and experience with harmful content in the past 12 months to January 2023, by platform (%)**

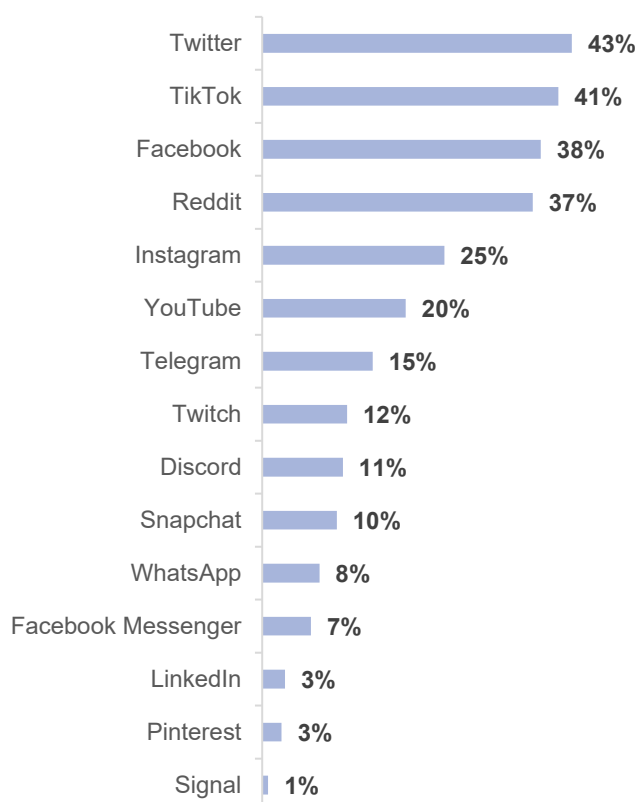


Note: Results for 'Don't know' and 'Refused' not shown in chart. Base: Australians aged 18 years and over (n=4,729); Australians aged 18 years and over who used a digital platform in the past 12 months and were exposed to harmful content (n=4,551). Source: ACMA Digital platforms research, January 2023. Q1. Which of the following websites or apps have you used in the past 12 months? That is the period January to December 2022? Q2. For each of the following websites or apps you have used in the past 12 months, have you seen or heard any harmful content?

To get a better sense of how each platform compares, Figure 3 shows the proportion of platform-specific users who were exposed to harmful content. That is, the proportion of those who use a particular platform and saw harmful content on that platform.

Approximately 2 in 5 users of Twitter (43%), TikTok (41%) and Facebook (38%) had seen or heard harmful content on those respective platforms in the past 12 months. In contrast, very few users of LinkedIn (3%), Pinterest (3%) and Signal (1%) reported being exposed to harmful content on those platforms.

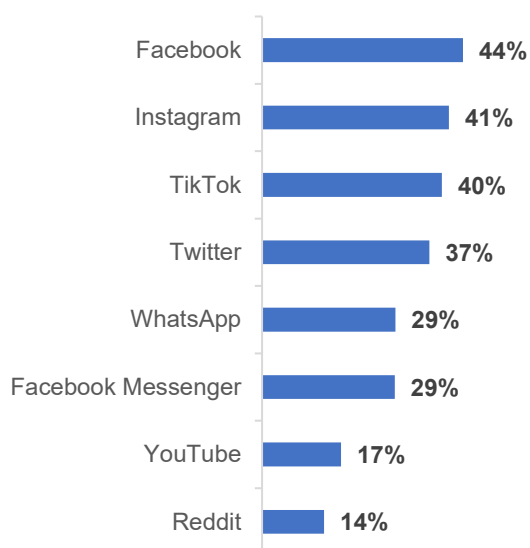
**Figure 3: Proportion of platform users exposed to harmful content in the past 12 months to January 2023 (%)**



Note: Results for 'Don't know' and 'Refused' not shown in chart and platforms with a base <100 are not shown. Base: Australians aged 18 years and over who used a digital platform amongst users of each specific platform (n=107–3,596). Source: ACMA Digital platforms research, January 2023. Q1. Which of the following websites or apps have you used in the past 12 months? That is the period January to December 2022? Q2. For each of the following websites or apps you have used in the past 12 months, have you seen or heard any harmful content?

In terms of reporting any harmful content they had seen in the previous 12 months, (Figure 4), more than 2 in 5 (44%) users of Facebook who were exposed to harmful content used Facebook's content reporting tools. A similar proportion of exposed Instagram (41%) and TikTok (40%) users also reported harmful content to their digital platform operator.

**Figure 4: Proportion of users of each platform who were exposed to harmful content who made a report or complaint in the past 12 months to January 2023 (%)**

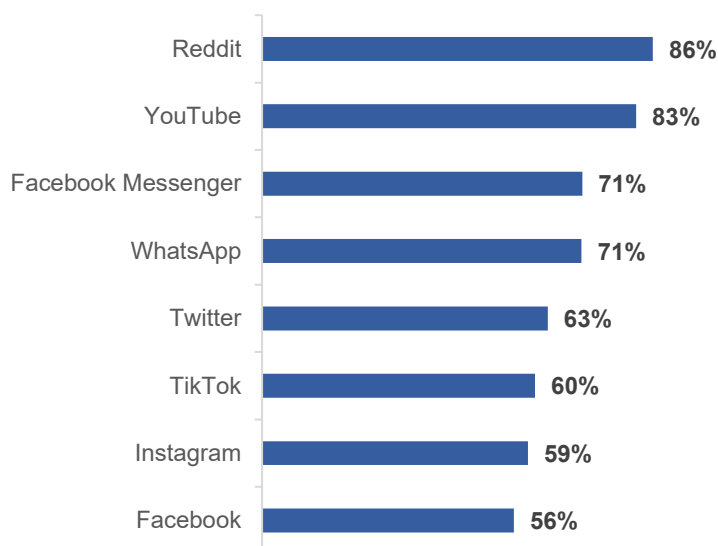


Note: Results for 'Don't know' and 'Refused' not shown in chart and platforms with a base <100 are not shown. Base: Australians aged 18 years and over who used a digital platform and were exposed to harmful content amongst users of each specific platform (n=160–1,279). Source: ACMA Digital platforms research, January 2023. Q2. For each of the following websites or apps you have used in the past 12 months, have you seen or heard any harmful content? Q3. For each of the following websites and apps on which you saw or heard harmful content in the past 12 months, did you report or make a complaint about this harmful content to the digital platform operator?

Interestingly, the majority of Reddit users (86%) chose not to make a report following exposure to harmful content on that platform (Figure 5). This 'reporting gap' may be because Reddit generally has an emphasis on 'community moderation' i.e. a focus on moderation led by other users rather than employees of the platform. YouTube also had a relatively high 'reporting gap' with 83% of users indicating they had been exposed to harmful content on the platform but had chosen to not report the content.



**Figure 5: Proportion of users of each platform who were exposed to harmful content who did not make a report or complaint in the past 12 months to January 2023 (%)**

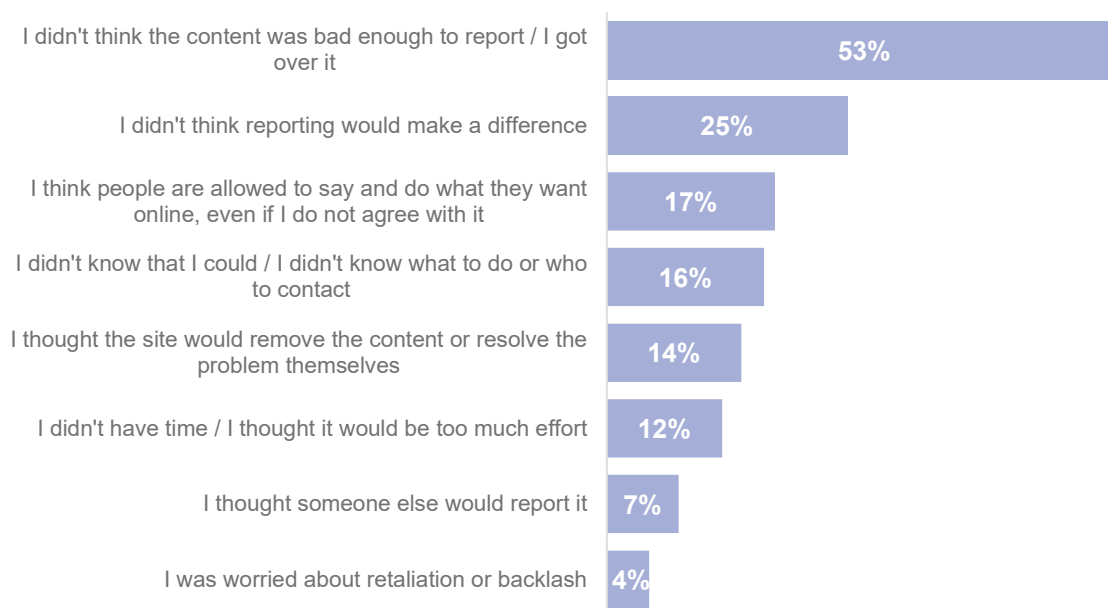


Note: Results for 'Don't know' and 'Refused' not shown in chart and platforms with a base <100 are not shown. Base: Australians aged 18 years and over who used a digital platform and were exposed to harmful content amongst users of each specific platform (n=160–1,279). Source: ACMA Digital platforms research, January 2023. Q2. For each of the following websites or apps you have used in the past 12 months, have you seen or heard any harmful content? Q3. For each of the following websites and apps on which you saw or heard harmful content in the past 12 months, did you report or make a complaint about this harmful content to the digital platform operator?

In the November 2022 research, to better understand the potential barriers to reporting we asked a follow-up question to respondents who had not made a report or complaint after exposure to harmful content (Figure 6). By far the most common reason given by platform users in this group was that they did not think the content they had seen or heard reached a level of harm that required action (53%). This suggests that users are exposed to harmful content, but they do not think it's bad enough to report.

Of note, only 16% of these users cited being unsure of the process for reporting content as the reason they had not reported content, and only 12% cited time or effort as being a barrier. This suggests that most users are aware of on-platform reporting tools and are reasonably comfortable in navigating the process if they need to.

Of broader concern, however, a quarter of users (25%) expressed scepticism that there would be any beneficial outcome from them reporting harmful content. Platforms should consider exploring why these negative perceptions exist among users who have been exposed to harmful content on their platforms but have chosen not to engage with the platforms' internal reporting process because they did not believe their report would make a difference. These platforms may need to take steps to create or restore greater trust in their on-platform reporting systems.

**Figure 6: Reasons for not reporting harmful content (%)**

Note: Results for 'Don't know' and 'Refused' are not shown in the chart. Multiple responses accepted. Base: Australians aged 18 years and over who used a digital platform and were exposed to harmful content but did not make a report or complaint (n=1,171). Source: ACMA Digital platforms research, November 2022. Q4. For what reason(s) did you not report or complain about this harmful content to the service or platform provider.

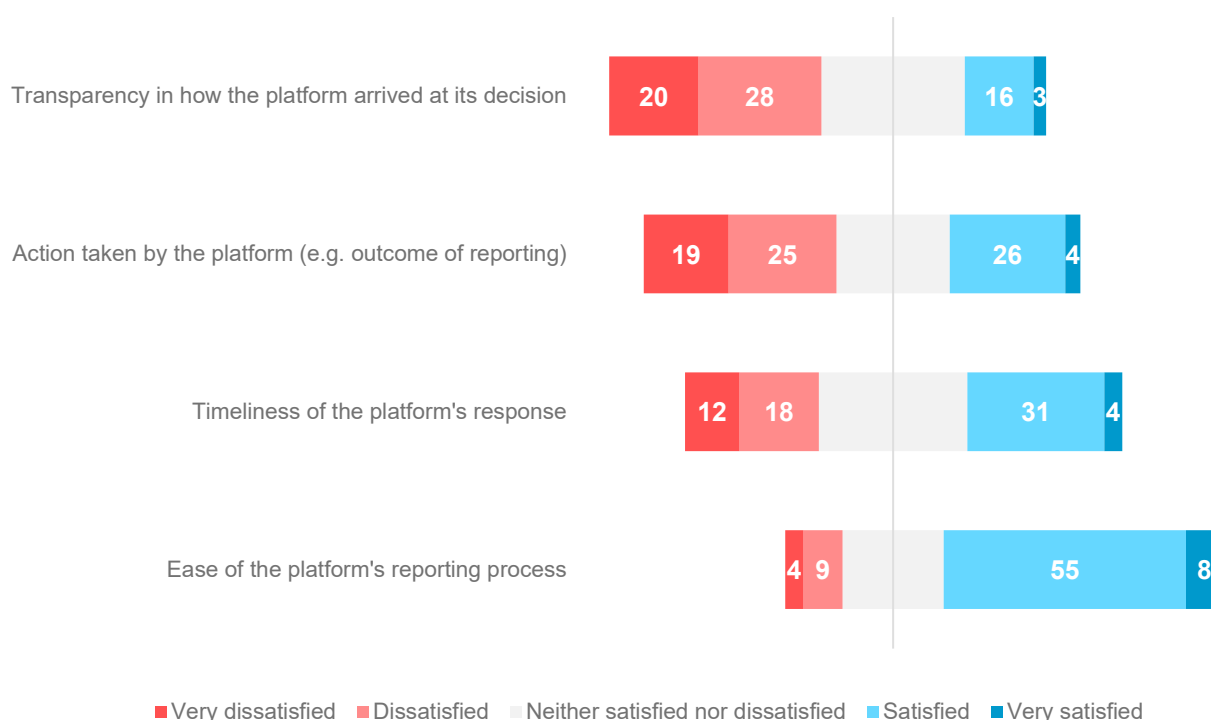
## Satisfaction with reporting process, by platform

Users of the 5 'major' platforms (the 'major' platforms are Facebook, Instagram, TikTok, Twitter and YouTube – based on extent of usage identified in Stage 1 of the research) who reported seeing or hearing harmful content were asked about their satisfaction with different aspects of the reporting process.

When it came to assessing platform responses or actions, users were significantly more dissatisfied than satisfied with the actions taken by the platform in response to their most recent user report (30% satisfied or very satisfied as compared to 44% dissatisfied or very dissatisfied). Users were also twice as likely to be dissatisfied than satisfied about the level of transparency provided by the major platforms when making content moderation decisions (19% satisfied or very satisfied as compared to 49% dissatisfied or very dissatisfied). These results suggest platforms may not be satisfactorily resolving user reports about harmful content or providing their users with an appropriate level of transparency about their internal decision-making processes when reviewing reported content.

Most users were satisfied with the ease of the reporting processes (64% satisfied or very satisfied as compared to 13% dissatisfied or very dissatisfied). Alongside results from the November 2022 research (Figure 6), this provides further evidence that Australian users are broadly comfortable with accessing platforms' reporting tools and generally find the reporting process straightforward.

**Figure 7: Satisfaction with the reporting processes of major platforms (Facebook, Instagram, TikTok, Twitter and YouTube) (%)**



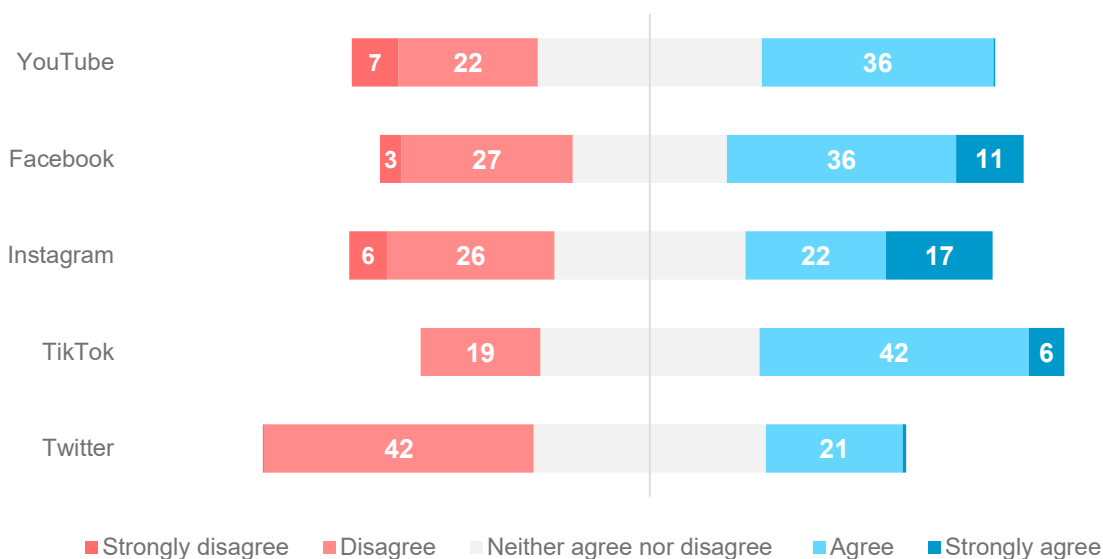
Note: Results for 'Don't know' and 'Refused' are excluded from the base. Results may not add to 100% due to rounding. Base: Australians aged 18 years and over who used a digital platform and made a report or complaint of harmful content on one of: Facebook, Instagram, TikTok, Twitter and YouTube (n=501). Source: ACMA Digital platforms research, January 2023. QB8. To what extent were you satisfied or dissatisfied with each of the following aspects after reporting harmful content to the platform?

Despite general dissatisfaction about reporting outcomes, only a very small number of respondents indicated that they had escalated their concerns.

While the sample size of those who made escalations or complaints is too low for meaningful quantitative analysis, the most common escalation action was users re-reporting the content, followed by users seeking out alternative avenues to make direct contact with the platform (such as via email), and accessing formal appeals processes.

When asked to respond to the statement 'I would have taken more action but didn't know who or where to turn to', 47% of TikTok users agreed ('agreed' or 'strongly agreed') with this statement, while 38% of Instagram and 46% of Facebook users agreed or strongly agreed. Conversely, only 22% of Twitter users agreed or strongly agreed with this statement. These results suggest that generally users of these platforms who reported harmful content did not know how they could escalate their issues or complaints further. Due to the sample sizes (less than n=100 except for Facebook), caution should be taken in comparing results across the different platforms less than 100 (except for Facebook) so care should be taken in interpreting these differences.

**Figure 8: Response to statement ‘I would have taken more action but didn’t know where to turn to’ (%)**



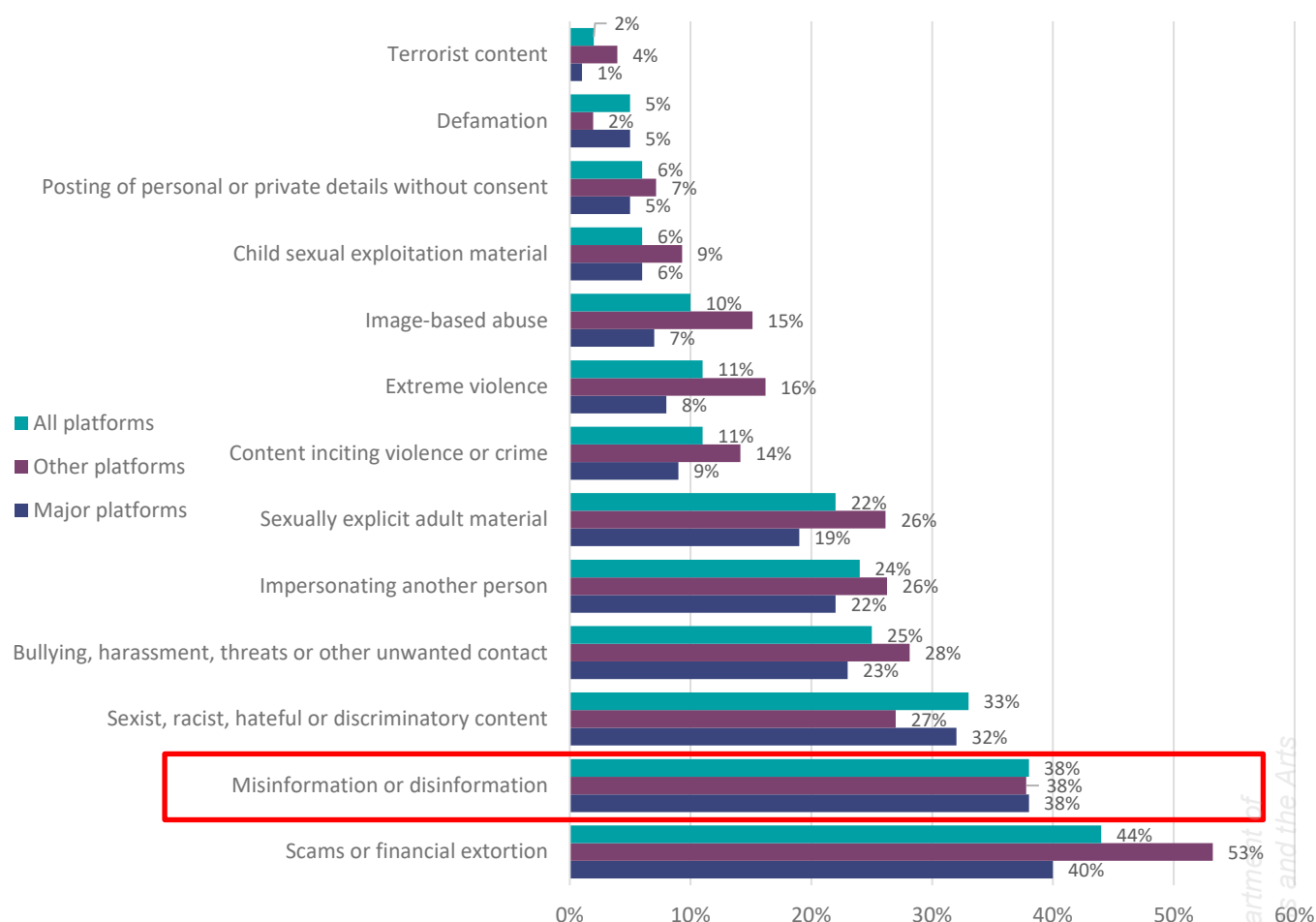
Note: Results for 'Don't know' and 'Refused' are excluded from the base. Results may not add to 100% due to rounding. Base: Australians aged 18 years and over who used a digital platform and made a report or complaint of harmful content on one of: Facebook, Instagram, TikTok, Twitter and YouTube (n=53–365). Source: ACMA Digital platforms research, January 2023. QB9. To what extent do you agree or disagree with each of the following statements based on your experience with the following digital platform.

## Nature of harmful content reported

On major (Facebook, Instagram, TikTok, Twitter and YouTube) and other (minor) platforms, scams were the most common type of harmful content reported, followed by mis- or disinformation.

Overall, 44% of Australian digital platform users reported scams or financial extortion to a platform operator in the previous 12 months. Minor platforms had higher incidences of reporting scams or financial extortion, with 53% of minor platform users reporting scams while using a platform in the previous 12 months, compared to 40% of major platform users.

**Figure 9: Nature of harmful content reported, by major (Facebook, Instagram, TikTok, Twitter and YouTube) and other (minor) platforms (%)**



Note: Results for 'Don't know' and 'Refused' are excluded from the base. Base: Made a report or complaint of harmful content on one of: Facebook, Instagram, TikTok, Twitter and YouTube (n=53–365). QB2. What was the nature of the harmful content that led you to notify the digital platform operator. Australians aged 18 years and over who used a digital platform and made a report or complaint to a minor platform (n=104). Source: ACMA Digital platforms research, January 2023. Q7. Thinking about your most recent experience, for each of the following websites or apps, what was the nature of the harmful content that concerned you?

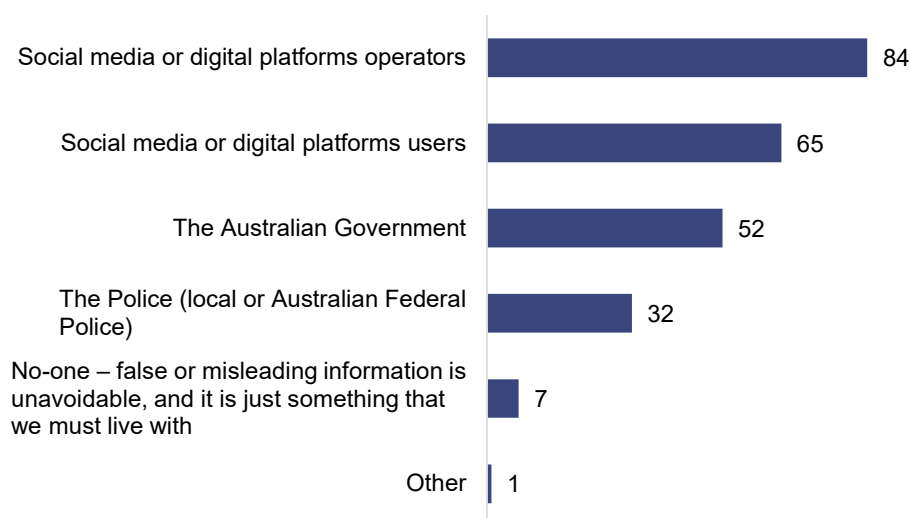
Among those who reported some form of harmful content to the platform operator in the previous 12 months, 88% agreed/strongly agreed that misinformation is 'generally harmful' and 79% considered misinformation to be prevalent in Australia (Figure 10). Equally, 84% platform users who had reported harmful content in past 12 months indicated that they believed that social media or digital platform operators should be responsible for reducing exposure to harmful content (Figure 11).

**Figure 10: Views on misinformation, among platform users who have reported harmful content in past 12 months to January 2023 (%)**



Note: Results for 'Don't know' and 'Refused' are excluded from the base. Base: Made a report or complaint to a platform operator in the last 12 months (n=560). Source: ACMA Digital platforms research, January 2023. QC2. To what extent do you agree or disagree with each of the following statements?

**Figure 11: Views on who is responsible for reducing exposure to harmful content, among platform users who have reported harmful content in past 12 months to January 2023 (%)**



Note: Results for 'Don't know' and 'Refused' are excluded from the base. Base: Made a report or complaint to a platform operator in the last 12 months (n=560). Source: ACMA Digital platforms research, January 2023. QC2. To what extent do you agree or disagree with each of the following statements?

# Appendix E: Summary of international developments

Since our June 2021 report to government, there have been several key developments internationally related to reporting and transparency obligations of digital platforms and their response to online mis- and disinformation. This section provides a brief overview, noting several jurisdictions are facing the same or similar challenges.

## European Union

Work out of the European Commission has been world-leading in terms of grappling with issues of voluntary platform reporting, and instrumental in shaping the ACMA's views on how to measurement performance under the code.

The revised EU Code of Practice on Disinformation, which launched June 2022, features a range of new qualitative reporting elements (QREs) and service-level indicators (SLIs). Building on detailed assessments by European regulators into the strengths of existing platform reporting, and guidance from a broad range of subject-matter experts, the new reporting regime provides a harmonised reporting template that requires signatories to provide more detailed systemic data and facilitates greater comparability between signatories and across reporting periods.

As in the Australian code, the QREs require platforms and other signatories to describe how they will implement measures to reduce harm. However, the SLIs in the EU Code go further, by specifying the types of data being sought to demonstrate compliance. The strengthened EU Code also requires signatories to report on these measures at a country- and language-specific level rather than through global or aggregated European data, which had been a common critique of reporting under the previous 2018 iteration of the code.

The first set of baseline industry reports under the strengthened EU code were released in February 2023, as part of a new online transparency centre required under the code. The second set of reports are due by July 2023. The European Commission noted general satisfaction with the first reports, stating that most major online platforms including Google, Meta, Microsoft and TikTok had 'demonstrated strong commitment to reporting' under the new regime<sup>35</sup>, but singling out Twitter as 'lagging behind the others'.<sup>36</sup> Twitter has subsequently withdrawn from participation in the code. In response to this finding, and the recent changes to content moderation policies and practices at Twitter, the ACMA paid particularly close attention to the quality and level of detail in the annual report provided by Twitter under the Australian code. Our assessment of Twitter's 2023 transparency report is in Appendix C.

Despite the apparent improvements in individual platform reporting under the strengthened EU Code, there are also some early suggestions that signatories may be struggling to work together on agreed metrics to assess its overall effectiveness. Under Commitment 41 of the EU Code, signatories committed to publish a first set of structural indicators by March 2023, which would allow for an industry-wide assessment of the effectiveness of the code in reducing the spread of online disinformation for the entire online ecosystem in the EU and at a Member-State level.

<sup>35</sup> European Commission, [Signatories of the code of Practice on Disinformation deliver their first baseline reports in the Transparency Centre](#) [news article], 9 February 2023, accessed 6 July 2023.

<sup>36</sup> European Commission, [Code of Practice on Disinformation: New Transparency Centre provides insights and data on online disinformation for the first time](#) [media release], 9 February 2023, accessed 6 July 2023.

While signatories have established a working group and have until mid-year to report against the structural indicators, the lack of public information to date highlights some of the challenges of relying on self-regulatory outcomes for complex measurement issues.

Industry reporting is also being strengthened across the EU due to the passage of the Digital Services Act (DSA). By August 25 2023, all very large online platforms (VLOPs) will be required to report on their systemic risk assessment and mitigation strategies, including to address mis- and disinformation. Participation in the voluntary EU Code initiative, which will become a code of conduct recognised under the co-regulatory framework of the DSA, will be considered a valid mitigation strategy and looked upon favourably by the European Commission when assessing compliance with the DSA. Non-VLOPs can continue to sign up with the 2022 Strengthened EU Code as a way to provide transparency on their efforts to address the mis- and disinformation on their platforms.

## France

France has specific domestic laws designed to protect French citizens against the 'manipulation of information'. Commencing in 2018, these laws require large online platform operators to report annually to the French audio-visual and digital communication regulator, Arcom, on the processes they have put in place to address misinformation. The reports require platforms to report on algorithmic transparency, the promotion of content from verified sources, efforts to combat accounts actively participating in the manipulation of information, transparency on certain advertisements, and actions to enhance media and information literacy.

Separately, these laws allow Arcom to suspend, interrupt, or refuse broadcasting of a television channel that is proven to be propagating false information that could influence an election while under the influence of a foreign state. In 2021, France also created a national agency, Viginum, to combat information manipulation in elections.

France recently concluded its assessment of the third year of large digital platform reporting. The platforms that reported were Dailymotion, Google, LinkedIn, Meta, Microsoft, Pinterest, Snap, TikTok, Twitter, Webedia, Wikimedia Foundation and Yahoo. Arcom noted some progress in terms of the quantity and the quality of declared information compared to the previous year. However, they emphasised that the provision of numerical data was essential to better understand the effectiveness of means deployed to combat the manipulation of information. They also observed great variation in the level of transparency shown in the reports and criticised the lack of metrics, especially for user reports and the criteria used for recommending content.

Overall, Arcom observed that the lack of quantitative and qualitative information exposes the limitations of a framework that does not have the legislative force to hold platforms accountable. They noted that the success of the laws passed in 2018 relied upon the willingness of platforms to participate and that, so far, their transparency efforts have been inadequate. However, they suggest that the tougher obligations, powers to enforce sanctions, and the requirement for domestic information prescribed in the DSA will assist Arcom's efforts in monitoring and analysing the platforms' efforts to combat the manipulation of information.

## United Kingdom

The UK Parliament is currently debating the Online Safety Bill (OSB). The OSB is designed to protect children and adults online by making social media companies more responsible for their users' safety on their platforms. In its current form, the OSB proposes a 'triple shield' of protection for users, which requires Category 1 services platforms to remove illegal content, enforce their terms of service and provide adults with tools to exercise greater choice over the content they engage with.



Furthermore, upon passage of the National Security Bill, state-sponsored disinformation campaigns will also be categorised as illegal content. The OSB also requires the UK communications regulator, Ofcom, to establish an advisory committee to examine issues relating to mis- and disinformation.

The proposed ‘triple shield’ of protection under the currently tabled OSB has no clear requirement to address harmful misinformation. Instead, the OSB requires platforms to enforce their terms of service, which may include measures to address harmful misinformation. We note that defining disinformation and misinformation is complex, and platforms define them differently. This has the potential to cause asymmetries in the protections afforded to UK users from harmful misinformation and is also likely to cause difficulties assessing the impact and the outcome of activities related to mitigating the impact of misinformation.

If the OSB is passed, Ofcom will have powers to require transparency from platforms for a range of measures. These include on platforms’ actions to remove illegal content such as disinformation. Ofcom can also seek transparency reports on how platforms are applying their terms of service. Ofcom will need to take into account the size and scale of a platform’s service to ensure reporting requirements are proportionate, and will also be required to prepare and publish guidance on how they will exercise their powers relating to transparency reports.<sup>37</sup> The ACMA has been in contact with the UK Government to share experiences about our respective approaches to disinformation and misinformation, and we will continue to monitor developments as debate on the OSB continues.

We also note that Australia has agreed to a Cyber and Critical Technology Partnership with the UK that will help shape a positive technology environment and maintain an internet that is open, free, peaceful and secure.

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<sup>37</sup> United Kingdom Government, [Online Safety Bill Explanatory Notes](#) [PDF], UK Parliament website, 2021, accessed 7 July 2023.

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**From:** [Sullivan, Pauline](#)  
**To:** s22(1)(a)(ii)  
**Cc:** [Irwin, Andrew](#); s22(1)(a)(ii); [Cathy Rainsford](#); [Rochelle Zurnamer](#); s22(1)(a)(ii)  
**Subject:** Re: Correspondence from the Chair ACMA to Minister Rowland [SEC=OFFICIAL]  
**Date:** Tuesday, 18 July 2023 5:27:01 PM  
**Attachments:** [image001.gif](#)

---

Thanks s22(1)(a)(ii) - greatly appreciated.

P

Sent from my iPhone

On 18 Jul 2023, at 5:37 pm, s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@acma.gov.au](mailto:s22(1)(a)(ii)@acma.gov.au)> wrote:

Dear Pauline, Andrew s22(1)(a)(ii)

For your information, please find attached correspondence from our Chair to the Minister, providing a copy of an ACMA report outlining our current views on adequacy of measures adopted by digital platforms under the voluntary code.

The report also contains a link to the power BI report of the consumer research. You should be able to access an [embargoed version of the report](#). Let me know if you have any issues with accessing the report.

Kind regards

s22(1)(a)(ii)

s22(1)(a)(ii)  
 Manager, Disinformation and Platforms

**Australian Communications and Media Authority**

T +61 s22(1)(a)(ii) M +s22(1)(a)(ii)

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[www.acma.gov.au](http://www.acma.gov.au)

<[image001.gif](#)>

---

**From:** Office of the Chair

**Sent:** Tuesday, 18 July 2023 5:26 PM

**To:** s22(1)(a)(ii) [communications.gov.au](mailto:s22(1)(a)(ii)@communications.gov.au)

**Cc:** DLO Rowland s22(1)(a)(ii) [@mo.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au); Windeyer, Richard

<[Richard.Windeyer@communications.gov.au](mailto:Richard.Windeyer@communications.gov.au)>; Cathy Rainsford

<[Cathy.Rainsford@acma.gov.au](mailto:Cathy.Rainsford@acma.gov.au)>; s22(1)(a)(ii)

[@acma.gov.au](mailto:s22(1)(a)(ii)@acma.gov.au)>

**Subject:** Correspondence from the Chair ACMA to Minister Rowland

[SEC=OFFICIAL]

Good afternoon

Please find attached correspondence from the Chair providing an ACMA Report:  
Dis- and misinformation – voluntary code – status update.

Kind regards

s22(1)(a)  
/iii

s22(1)(a)(ii)

Executive Assistant to Nerida O'Loughlin PSM  
Chair & Agency Head

---

**Australian Communications and Media Authority**

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<image001.gif>

<Correspondence from the Chair ACMA to Minister Rowland - 18 July  
2023.pdf>

<Digital platform's efforts under Code of Practice on Disinformation and  
Misinformation.pdf>

<mg\_info.txt>

**From:** s22(1)(a)(ii)  
**To:** [Irwin, Andrew](#)  
**Cc:** [Sullivan, Pauline](#); s22(1)(a)(ii) [Rafizadeh, Shervin](#); s22(1)(a)(ii) [DLO Rowland](#)  
**Subject:** File note: Sen Antic query - ED Mis and Dis Bill [SEC=OFFICIAL]  
**Date:** Tuesday, 18 July 2023 2:18:44 PM

## OFFICIAL

Hi Andrew

FYI - Senator Antic's office just rang the MO about the Exposure Draft Misinformation and Disinformation Bill. The DLO provided s22(1)(a)(ii) in Senator Antic's office, with my mobile number, and s22(1)(a)(ii) put two issues to me:

1. Querying whether submissions from overseas would be accepted and asking why the submission upload form asks for an Australian phone number; and
2. Stating that the "Contact us" link on the Department's website for the ED takes people to general enquiry phone number/s, and that the person on enquiry line had no idea about the ED or who to put her call through to, hence her MO contact.

Further to checking with the line area, I rang s22(1)(a)(ii) in Senator Antic's office back to advise that submissions from overseas would be accepted, that there is nothing on the Department's website that precludes overseas submissions, that the bill may impact overseas-based tech companies who may wish to make a submission along with others, that the submission upload form is a standard form template, that the phone field is not a requisite field, and that an overseas number could be entered in the field. I also said that if Senator Antic would like to request a briefing on the ED that we would be happy to facilitate that.

s22(1)(a)(ii) did not otherwise follow up on the general enquiry line issue, or request a briefing.

Regards

s22(1)(a)(ii)

s22(1)(a)(ii)

Senior Adviser • Minister for Communications

Office of the Hon Michelle Rowland MP • Member for Greenway

s22(1)(a)(ii) [@MO.communications.gov.au](mailto:MO.communications.gov.au) • (02) s22(1)(a)(ii)

Commonwealth Parliament Offices, Level 21, 1 Bligh Street Sydney NSW 2000

Suite M1.41, Parliament House, Canberra ACT 2600

## OFFICIAL

**From:** [Irwin, Andrew](#)  
**To:** s22(1)(a)(ii)  
**Cc:** [Sullivan, Pauline](#); s22(1)(a)(ii) [Rafizadeh, Shervin](#); s22(1)(a)(ii) [DLO Rowland](#)  
**Subject:** RE: File note: Sen Antic query - ED Mis and Dis Bill [SEC=OFFICIAL]  
**Date:** Tuesday, 18 July 2023 2:20:00 PM

---

OFFICIAL

Thanks for letting us know s22(1)(a)(ii)

OFFICIAL

---

OFFICIAL

**From:** s22(1)(a)(ii)  
**To:** s22(1)(a)  
**Cc:** s22(1)(a)  
**Subject:** RE: Annotated agenda [SEC=OFFICIAL]  
**Date:** Tuesday, 18 July 2023 10:28:13 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

Thanks s22(1)(a) – see you tomorrow!

**From:** s22(1)(a)(ii)@INFRASTRUCTURE.gov.au>  
**Sent:** Tuesday, 18 July 2023 12:18 PM  
**To:** s22(1)(a)(ii)@acma.gov.au>  
**Cc:** s22(1)(a)(ii)@infrastructure.gov.au>  
**Subject:** Annotated agenda [SEC=OFFICIAL]

OFFICIAL

Hi s22(1)(a)(ii)

Hope you're well!

I've attached the annotated agendas for both sessions on Wednesday and Thursday with attendees listed.

Cheers,

s22(1)(a)(ii)  
Policy Officer • Information Integrity Section • Platforms and News Branch  
Online Safety, Media and Platforms Division  
E: s22(1)(a)(ii)@infrastructure.gov.au  
P: +61 s22(1)(a)(ii)  
GPO Box 594 Canberra, ACT 2601  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

[infrastructure.gov.au](#) 

☐ I recognise the First Peoples of this nation and their ongoing connection to culture, land, sea and community. I acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.

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**From:** [Rafizadeh, Shervin](#)  
**To:** s22(1)(a) ; [Sullivan, Pauline](#); s22(1)(a)(ii)  
**Cc:** [Irwin, Andrew](#); s22(1)(a)(ii)  
**Subject:** RE: mis/dis [SEC=PROTECTED, CAVEAT=SH:CABINET]  
**Date:** Friday, 21 July 2023 3:44:51 PM  
**Attachments:** [image001.png](#)

PROTECTED, SH:CABINET

Thanks s22(1)(a)

PROTECTED, SH:CABINET

**From:** s22(1)(a)(ii) <s22(1)(a)(ii)@infrastructure.gov.au>  
**Sent:** Friday, 21 July 2023 5:29 PM  
**To:** Rafizadeh, Shervin <s22(1)(a)(ii)@MO.communications.gov.au>; Sullivan, Pauline <Pauline.Sullivan@communications.gov.au>; s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>; s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>  
**Cc:** Irwin, Andrew <Andrew.Irwin@INFRASTRUCTURE.gov.au>; s22(1)(a)(ii) <s22(1)(a)(ii)@MO.communications.gov.au>  
**Subject:** RE: mis/dis [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED, SH:CABINET

Thanks – I'll let PM&C and OPC know. We will update the **Have your say** page for the new end date (Sunday, 20 August)

Regards,

s22(1)(a)

s22(1)(a)(ii)

Director • Information Integrity Section • Platforms and News Branch • Online Safety, Media and Platforms Division

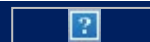
s22(1)(a) <s22(1)(a)@infrastructure.gov.au>

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 I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*



PROTECTED, SH:CABINET

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**From:** Rafizadeh, Shervin <[REDACTED]@MO.communications.gov.au>  
**Sent:** Friday, 21 July 2023 3:55 PM  
**To:** Sullivan, Pauline <Pauline.Sullivan@communications.gov.au>; [REDACTED]  
 [REDACTED]@MO.communications.gov.au>; [REDACTED]  
 [REDACTED]@MO.communications.gov.au>  
**Cc:** Irwin, Andrew <Andrew.Irwin@INFRASTRUCTURE.gov.au>; [REDACTED]  
 [REDACTED]@infrastructure.gov.au>; [REDACTED]  
 [REDACTED]@MO.communications.gov.au>  
**Subject:** RE: mis/dis [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED, SH:CABINET

Pauline,

Yes that's correct re timing.

And we are OK for two week extension to consultation

Cheers

s2  
or

PROTECTED, SH:CABINET

---

**From:** Sullivan, Pauline <Pauline.Sullivan@communications.gov.au>  
**Sent:** Thursday, 20 July 2023 8:37 AM  
**To:** Rafizadeh, Shervin <[REDACTED]@MO.communications.gov.au>; [REDACTED]  
 [REDACTED]@MO.communications.gov.au>; [REDACTED]  
 [REDACTED]@MO.communications.gov.au>  
**Cc:** Irwin, Andrew <Andrew.Irwin@INFRASTRUCTURE.gov.au>; [REDACTED]  
 [REDACTED]@infrastructure.gov.au>  
**Subject:** mis/dis [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED, SH:CABINET

Hi there

I understand that my folks have been talking to you ([REDACTED]) about deferral of intro of the mis/dis bill to 27 November – which given the number of submissions and the commentary is wise. In light of this can I please confirm:

1. That this is correct? Given how much we have on I am keen to lock in as much “certainty” in work planning as possible.
2. In light of this, are you comfortable with us giving an extension of time for submissions? My suggestion is a further two weeks (which is a consultation period of 8 weeks). I would prefer that we have an agreed position on this so that everyone is receiving the same information and we can communicate it broadly.

Happy to discuss.

Pauline

### Pauline Sullivan

First Assistant Secretary • Online Safety, Media and Platforms Division

[pauline.sullivan@communications.gov.au](mailto:pauline.sullivan@communications.gov.au)

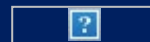
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**PROTECTED, SH:CABINET**

**From:** s22(1)(a)(ii)  
**To:** Irwin, Andrew; s22(1)(a)  
**Cc:** s22(1)(a)(ii)  
**Subject:** FOR INFO: Embargoed media article - ACMA misinfo report [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 9:30:16 AM  
**Attachments:** [image001.gif](#)  
[Misinfo advice - news article.docx](#)

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Hi Andrew and s22(1)(a)(ii)

For your information, attached is an embargoed copy of our media article, which we will be publishing on our website with our latest misinfo report.

At this stage, I expect it will be around 10am tomorrow but will confirm if that timeframe changes.

As always, happy to discuss

s22(1)(a)(ii)

s22(1)(a)(ii)  
Manager, Disinformation and Platforms

---

**Australian Communications and Media Authority**  
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E s22(1)(a)(ii) [@acma.gov.au](mailto:s22(1)(a)(ii)@acma.gov.au)  
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Embargoed until release 25/7

**Australian  
Communications  
and Media Authority**

## News article

# ACMA releases disinformation report

The ACMA has today released a report outlining its views on digital platforms' efforts under the [voluntary Australian Code of Practice on Disinformation and Misinformation](#) (the code).

The report builds on the ACMA's continued oversight over the voluntary code, including our position paper guiding code development, the June 2021 report to government, and the submission to DIGI's 2022 code review. The June 2021 report to government included a recommendation that the ACMA continue to oversee the operation of the code and provide a further report on its effectiveness at the end of 2022-23, as well as continuing relevant research. This 2023 report delivers on that recommendation.

The ACMA's report outlines its views on the current code as well as the operation of code governance and reporting arrangements.

The key findings include:

- > the revised version of the code has addressed some pressing issues. This includes a revised definition of harm that better captures cumulative effects over time, modified reporting requirements that facilitate smaller platforms to become signatories of the code, and a new outcome for platforms to provide transparency about recommender systems
- > industry needs to take further steps to review the scope of the code and its ability to adapt quickly to technology and services changes such as generative AI
- > how signatories report their actions under the code must improve to enable an assessment of signatory's progress to achieve the code's objectives and outcomes
- > there remains an urgent need to improve the level of transparency about what measures platforms are taking and the effectiveness of those measures.

Alongside the report, we have released findings from our research into reporting and complaints about harmful content on digital platforms. Overall, it is clear from the research that Australian users of digital platforms are willing to complain about the harmful content they are exposed to on digital platforms but are then generally dissatisfied with the responses they receive from platforms.

The ACMA has released the report to share our insights and data. We consider this may be useful to inform contributions to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' [public consultation on exposure draft legislation](#).

While consideration of the legislation takes place, the ACMA will continue to oversee the code and work with digital platforms to improve the current self-regulatory arrangements.

**From:** [Irwin, Andrew](#)  
**To:** s22(1)(a)(ii)  
**Cc:** s22(1)(a)(ii) & Assistant  
**Subject:** RE: FOR INFO: Embargoed media article - ACMA misinfo report [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 9:33:00 AM  
**Attachments:** [image001.gif](#)  
[image002.png](#)  
[image003.png](#)

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## OFFICIAL

Thanks s22(1)(a)(ii) – appreciate the early visibility.

Cheers,  
Andrew

### Andrew Irwin (he/him)

a/g Assistant Secretary • Platforms and News Branch  
• Online Safety, Media and Platforms Division

[Andrew.Irwin@infrastructure.gov.au](mailto:Andrew.Irwin@infrastructure.gov.au)

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*I am part time – working 9.30-4.30 Monday and Tuesday, regular hours on Wednesday and Thursday, and working from home 9-2.30 Friday.*

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**Ngunnawal Country**



## OFFICIAL

**From:** s22(1)(a)  
**To:** s22(1)(a)(ii)  
**Cc:** [Sullivan, Pauline](#)  
**Subject:** extension of ACMA powers consultation - updated website [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 12:36:00 PM  
**Attachments:** [image001.png](#)

OFFICIAL

Hi s22(1)(a)(ii) – the Have Your Say link to the Draft Bill has been updated for the 20 August deadline:  
[New ACMA powers to combat misinformation and disinformation | Department of Infrastructure, Transport, Regional Development, Communications and the Arts](#)

We will reach out to key stakeholders (that attended our roundtables) to advise about the extension.

Regards

s22(1)(a)(ii)

s22(1)(a)(ii)

Director • Information Integrity Section • Platforms and News Branch • Online Safety, Media and Platforms Division

s22(1)(a)(ii) [@infrastructure.gov.au](#)

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OFFICIAL

Released under the freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

**From:** s22(1)(a)(ii)  
**To:** [Media](#)  
**Subject:** RE: ACMA appointments [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 2:02:58 PM  
**Attachments:** [image001.png](#)

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OFFICIAL

Thank you!

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OFFICIAL

**From:** Media  
**Sent:** Monday, 24 July 2023 3:48 PM  
**To:** s22(1)(a)(ii) ; Media  
**Subject:** RE: ACMA appointments [SEC=OFFICIAL]

OFFICIAL

Hi s22(1)(a)(ii)  
 Proposed response below:

- Recruitment of full-time Members to the Australian Communications and Media Authority (ACMA) follows the merit-based selection and recruitment process set out in the Australian Government's *Merit and Transparency policy: Merit-based selection of APS agency head and APS statutory office holders*.
- This process includes publicly advertising the roles and assessment by a panel including the relevant Departmental Secretary and the Public Service Commissioner (or their representatives).
- This process takes into account any potential or perceived conflicts of interest.
- Candidates found successful under the Merit and Transparency policy who come from industry or regulated entities bring deep industry experience and practical real-world expertise to their appointments.

Cheers

s22(1)(a)(ii)

s22(1)(a)(ii)

Media Manager (Arts) • Media Services • Communication, Ministerial and Parliamentary Services

P +61 2 6271 s22(1)(a)(ii)

---

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**From:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)>  
**Sent:** Monday, 24 July 2023 1:30 PM  
**To:** Media <[media@communications.gov.au](mailto:media@communications.gov.au)>  
**Subject:** FW: ACMA appointments [SEC=OFFICIAL]

OFFICIAL

Hey team – grateful for a few suggested lines on this please?

s22(1)(a)(ii)

---

OFFICIAL

**From:** s47F >  
**Sent:** Monday, 24 July 2023 1:28 PM  
**To:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@MO.communications.gov.au](mailto:s22(1)(a)(ii)@MO.communications.gov.au)>  
**Subject:** ACMA appointments

Hi s22(1) ,  
(a)(ii)

I'm a reporter at s47F .

We are covering the ACMA appointments and seeking a comment on the addition of Samantha Yorke in particular, given she is moving directly from Google to the regulator.

Is the minister/a spokesperson able to comment on whether she is concerned about a person from a regulated entity moving directly to the regulator, particularly given the upcoming powers for ACMA on platforms/misinformation, and how confident she is that any conflicts of interest or confidentiality issues can be managed?

We are publishing at COB so after a response by 4pm if possible.

Please let me know when you receive this and if a comment can be provided.

I've gone to ACMA with questions on the appointment/how it will manage any conflicts of interest.

Kind regards

s47F

s47F

s47F

signature\_3167547372



s47F

s47F

s47F

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**From:** [Media \(DEPT\)](#)  
**To:** s22(1)(a) ; [Media](#)  
**Cc:** s22(1)(a)(ii) ; [CHARLES, Susan](#)  
**Subject:** RE: Upcoming ACMA public announcements [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 7:51:22 AM

---

**OFFICIAL**

Hi,

Some points to assist depending on the nature of any enquiries you receive (also includes some points on the mis- dis consultation/ACMA powers):

- I welcome the release of the Australian Communications and Media Authority's second report to government on *Digital platform's efforts under the Australian Code of Practice on Disinformation and Misinformation*.
- The report finds that there have been improvements to the voluntary code framework administered by the Digital Industry Group Inc (DIGI) since its first report to the former government on the industry's code in June 2021. These include improvements to governance arrangements, changes reporting requirements for small digital platforms and a broader definition of harm.
- Overall, the ACMA's second report finds that the changes in DIGI's updated voluntary code in December 2022 are mostly minor and clarify existing provisions. The ACMA also suggests that the industry needs to take further steps to review the scope of the code to include large-scale group messaging and its ability to adapt quickly to technology and service changes such as AI.
- The report highlights the urgent need to improve the level of transparency about what measures platforms are taking to tackle misinformation and disinformation and their effectiveness. The ACMA also suggests the need for better reporting by code signatories to enable an assessment of progress and impact, including the use of key performance indicators.
- The ACMA findings highlights the need for the draft legislation to provide the ACMA with information gathering, record keeping, and reserve code and standard making powers.
- The ACMA will be provided with the power to make rules to require digital platform providers to make and retain records relating to misinformation or disinformation as defined in the Bill.
  - This would enable comparison of metrics and key indicators across the digital platforms industry, leading to increased transparency and comparability. The ACMA would consult with industry in developing the record keeping rules and measurement framework.
  - The powers would also apply to digital platform providers who chose not to sign up to a voluntary code.
- The proposed powers are designed to strengthen the voluntary code which requires signatories to commit to a range of measures to tackle misinformation and disinformation on their services. The ACMA would work with industry to ensure continuous improvement to the voluntary code which is overseen by the industry.
- However, should those efforts prove inadequate, the ACMA would have the option to use the graduated set of reserve powers to ask industry to make new, registrable codes, or if necessary, the ACMA could make standards. This could include greater use of fact checkers, stronger tools to identify and report misinformation and disinformation and better complaints handling processes.
- The ACMA would have no role in determining truthfulness, nor will it have any role in taking down or requesting action regarding individual pieces of content. If the ACMA uses its reserve code registration or standard making powers, it will be required to consider whether there are any potential burdens on freedom of political communication, and if so, to consider whether they are reasonable and not excessive.
- The Exposure Draft of the Bill is open for consultation now. The Government welcomes feedback from the public and all stakeholders on the Bill, including the digital platform industry on the design of the legislation, which is to be introduced in Parliament later this year.

Thanks,

s22(1)

## OFFICIAL

**From:** s22(1)(a)(ii)

**Sent:** Friday, 21 July 2023 4:54 PM

**To:** Media

**Cc:** s22(1)(a)(ii)

**Subject:** FW: Upcoming ACMA public announcements [SEC=OFFICIAL]

## OFFICIAL

Hi all – grateful for some reactive lines on this announcement, please.

Cheers

s22(1)

## OFFICIAL

**From:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@acma.gov.au](mailto:s22(1)(a)(ii)@acma.gov.au)>

**Sent:** Friday, 21 July 2023 2:17 PM

**To:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@mo.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au)>; s22(1)(a)(ii)

<[s22\(1\)\(a\)\(ii\)@communications.gov.au](mailto:s22(1)(a)(ii)@communications.gov.au)>

**Cc:** Media ACMA <[Media@acma.gov.au](mailto:Media@acma.gov.au)>

**Subject:** RE: Upcoming ACMA public announcements [SEC=OFFICIAL]

Hi both,

Just to advise that one we didn't have on our list earlier this week is the publication of a report setting out the ACMA's views on the adequacy of the measures that digital platforms have adopted under the voluntary Code of Practice on Disinformation and Misinformation. The report and the research that underpins it will provide insights and data that may be useful to the current public consultation on the exposure draft legislation.

Yet to be confirmed, but the report, research and an accompanying news article may be published next Tuesday, 25 July. I don't think there will be anything particularly newsworthy or of interest to the media about the report, but obviously there's a lot of interest in the draft bill at the moment.

I will confirm as soon as possible if the material will be published on Tuesday and provide that it to you once it's finalised. In the meantime, please let me know if you need any additional information.

Thanks,

s22(1)

**From:** s22(1)(a)(ii)

**Sent:** Monday, 17 July 2023 3:00 PM

**To:** s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@mo.communications.gov.au](mailto:s22(1)(a)(ii)@mo.communications.gov.au)>; s22(1)(a)(ii)

<[s22\(1\)\(a\)\(ii\)@communications.gov.au](mailto:s22(1)(a)(ii)@communications.gov.au)>

**Cc:** Media ACMA <[Media@acma.gov.au](mailto:Media@acma.gov.au)>

**Subject:** Upcoming ACMA public announcements [SEC=OFFICIAL]

Hi both,

Just one upcoming announcement to note. No financial penalties so I expect it may have limited media interest. However, we will use this as an opportunity to reinforce the importance of the Minister's decision to have an enforceable standard to bolster protections for telco customers experiencing financial hardship.

Regards,

s22(1)

Media releases + News Articles	Description	Date
<b>Media release:</b> 8 telcos found to have breached the TCP Code by failing	ACMA investigations into 8 telcos found various breaches of the Telecommunications Consumer	26 July

<p>to provide appropriate notification to customers to help them avoid restriction, suspension and/or disconnection of services.</p>	<p>Protections Code (TCP Code).</p> <p>All but one of the telcos was found to have failed to provide some customers with the required five working days' notice prior to restricting, suspending or disconnecting their services.</p> <p>Three of the telcos failed to provide customers with information about their financial hardship policy in bill reminder notices.</p> <p>Six of the telcos failed to provide required information in restriction, suspension or disconnection notices that would help customers better understand their situation and take action to avoid being restricted, suspended, or disconnected.</p>	
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## MISINFORMATION AND DISINFORMATION - ACMA POWERS

QUESTION: Why has the Government released an exposure draft Bill to provide the ACMA with new powers to combat online misinformation and disinformation? s47C

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The Government has released an eExposure dDraft Bill of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 for public consultation.

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s47C

The Bill would establish a new framework to empower the Australian Communications and Media Authority (ACMA) to hold digital platforms to account for harmful misinformation and disinformation online.

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The s47C -ACMA willwould have new information s47C powers which will to increase transparency. If platforms fail to combat misinformation and disinformation over time, the ACMA would be able to to use its reserve powers to register enforceable industry codes, or create a standard requiring platforms to lift the bar on their efforts.

The ACMA could place obligations on the platforms to do more to protect Australians though measures such as stronger tools to empower users to identify and report misinformation and disinformation, ensure more robust complaints handling, and enable more extensive use of fact checkers.

s47C

The draft framework focuses on systemic issues which pose a risk of harm on digital platforms. The ACMA will not have the power to request specific content be removed from the internet. It will exclude certain types of content such s47C as authorised r

electoral content, s47C professional news and satire s47C

s47C

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s47C



s47C



[The framework in the Bill implements the recommendations made by the ACMA in 2021 and build upon and are intended to strengthen and support the voluntary code developed by the Digital Industry Group Inc. \(DIGI\).](#)

s47C



s47C

The release of [the s47C](#) -draft legislation gives industry and the community the opportunity to provide feedback on the proposed Bill [to ensure we get the balance right.](#)

s47C

[I encourage all stakeholders to make a submission by 20 August 2023 and look forward to introducing the Bill into Parliament later this year, following](#) s47C

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s47C

s47C



s47C



QUESTION: Meta claims the draft Bill has the potential to be “abused” and to “chill free and legitimate political expression. Is this true?

The draft Bill has been carefully designed to protect freedom of expression.

The definition of misinformation and disinformation includes a high threshold of serious harm to balance the public interest in combatting misinformation and disinformation with freedom of expression and public debate on a range of social and political issues.

The proposed powers will focus on ensuring digital platform providers have systems and measures in place to combat misinformation and disinformation on their services which pose a risk of serious harm.

The ACMA would have no role in determining truthfulness, nor will it have a role in taking down or requesting action regarding individual pieces of content.

If the ACMA uses its reserve code registration or standard making powers, it will be required to consider whether a code creates <sup>s47C</sup> any potential burdens on freedom of political communication, and if so, to consider whether they are reasonable and not excessive.

The code and standard making powers will not apply to electoral and referendum communications that are required to be authorised.

The Government welcomes any feedback from the industry and the wider community on the draft Bill to ensure that we get the balance right.

**QUESTION: Why is the Government's own content exempt from the Combatting Misinformation and Disinformation Bill?**

The proposed Australian Communication and Media Authority (ACMA) powers will be focused on protecting Australians from serious harm that could arise from misinformation and disinformation.

To ensure the Bill strikes an appropriate balance, s47C it has s47C a number of safeguards and exemptions to protect privacy or freedom of expression. These exemptions s47C include s47C the content of private messages, authorised electoral content, s47C satire, educational s47C and professional news content. s47C

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The draft Bill also exempts [content from](#) s47C

[Governments in Australia. For instance, this exemption would extend to social media posts](#) s47C

[-by a state emergency service providing](#) s47C  
[evacuation advice during a bushfire period.](#) s47C

[The Government welcomes any feedback from the industry and the wider community on these exemptions to ensure that we get the balance right.](#)

s47C

s47C



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**QUESTION: What are the budget measures to combat misinformation?**

The 2023-24 Budget included a commitment to provide the Australian Communications and Media Authority (ACMA) with \$7.9 million over four years from 2023-24 to combat online mis[information](#)- and disinformation. In 2023-24, the costs of this measure will be met from within the Communications portfolio.



Additionally, the Budget provides \$2.5 million over the two years from 2023-24, to support media literacy in culturally and linguistically diverse (CALD) communities. My Department will partner with the Federation of Ethnic Communities' Councils of Australia (FECCA) to develop and deliver media literacy resources focused on combatting misinformation and disinformation <sup>s47C</sup> affecting CALD communities.

The Government continues to support quality journalism, with \$5 million over two years in funding for AAP from 2022-23 supporting independent, fact-based newswire services throughout Australia. The five-year funding terms for the ABC and SBS have now been confirmed in the Budget and <sup>s47C</sup> commenced from 1 July 2023, ensuring <sup>s47C</sup> they can continue providing trusted news to Australians.

The <sup>s47C</sup> measures complement the \$6 million over 3 years delivered in the 2022-23 October Budget to make digital and media literacy tools developed by the Alannah and Madeline Foundation (AMF) freely available to all schools.

This will include:

- the eSmart Digital Licence+ for students aged 10-14, to learn how to meet the demands and challenges of the digital world,

- the eSmart Media Literacy Lab for secondary school students aged 12-16, to help support the development of critical thinking skills and online civic engagement, and
- the new eSmart Junior Digital Licence+ for primary students aged 5-9 years, to support the increasing number of young children who are active online.

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**Question: What is the eSafety Commissioner doing to keep Australians safe online in the lead up to the Voice Referendum?**

The Government is committed to keeping Australians safe online, particularly ahead of the Voice Referendum where misinformation, disinformation, racist content and hate speech are likely to increase for Indigenous Australians.

On 28 March 2023, the eSafety Commissioner released research s47C

-showings Indigenous Australians are three times more likely to experience hate speech online than the national average.

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The *Online Safety Act* provides eSafety with powers to address seriously harmful abuse of adults, cyberbullying of children and the non-consensual sharing of intimate images. The Act also allows eSafety to respond to offensive and illegal content.

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eSafety's work complements other efforts across Government on the Referendum including the work of the Australian Electoral Commission in combatting disinformation relating to Referendum processes and voting and the Electoral Integrity Assurance Taskforce which protects the integrity of [off](#) Australia's democratic processes.

The Government is also considering what more can be done to address group hate speech online.

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**QUESTION: Does the Government plan to regulate news online?**

In balancing freedom of expression with the need to address online harm, the code and standard-making powers will not apply to s47C



 [a range of content such as professional news.](#)

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Under the draft Bill, Content will be deemed professional news if it satisfies the same test used in the News Media Bargaining Code. That is, it must be subject to a set of rules or professional standards, s47C -there must be s47C editorial independence between the subject of the news and the source of the news.

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[The Government welcomes any feedback from the industry and the wider community on the professional news content exemption to ensure that we get the balance right](#)

More broadly, the Government is pleased that the ~~Australian Communications and Media Authority (ACMA)~~ released its position paper to assist content providers – including broadcasters, news providers and streaming services – to develop and review industry codes, terms of service and content policies.

The regulator has called on ~~these~~ providers to address the expectations of today's audiences, no matter how they read, watch ~~and or~~ listen to content.

With respect to news, the position paper confirms that audiences expect accuracy, impartiality, commercial transparency, appropriate content warnings and timely access to emergency information.

This paper is consistent with the Government's commitment to modernise the regulation of audio and audio-visual services so there is consistent regulation of 'like' services. The Government is committed to fulfilling the legitimate expectations of consumers and industry for consistency, transparency and equity in our regulatory environment.

## Background – Misinformation

Exposure Public consultation on the draft Combatting Misinformation and Disinformation Bill

- On 25 June 2023, the Government commenced public consultation on the draft Combatting Misinformation and Disinformation Bill.

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- The Department of Infrastructure, Transport, Regional Development, Communications and the Arts will run has held targeted consultation sessions since the Bill was released with key stakeholders such as:
  - DIGI and digital platforms who are DIGI code signatories;
  - digital platforms who are not DIGI code signatories;
  - public broadcasters, fact checkers and media;
  - advocacy groups; and
  - federal government agencies.

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- There has been significant interest in the definitions of harm, scope of the platforms, size of the penalties, questions about censorship and the role of the government and platforms under the framework.
- As of 21 July 2023, the Department has received around over 11-12,000 public responses to the draft Bill.
- The consultation period was initially scheduled to end on 6 August 2023. This has been extended by a further two weeks (20 August) to allow extra time for the industry and the community to provide feedback.

Media reporting since the Bill's release

- There has been media attention on potential censorship and role of the government and platforms under the framework.
  - Meta has criticised controversial legislation, saying that it has the potential to be “abused” and to “chill free and legitimate political expression” and that it went further than enforcing an industry code on misinformation and would instead “develop a binding standard”.
  - The Australian Human Rights Commission has warned against giving any body the power to be “the sole arbiter of truth”.
  - Shadow communications minister David Coleman said the proposal to combat misinformation on social media could lead to censorship of “legitimate content” that “absolutely should be allowed” in a “free and democratic society”.

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Protections for freedom of speech and privacy in the ~~Combating Misinformation and Disinformation~~ draft Bill

- There are some claims that the Bill will have a chilling effect on public discourse or result in censorship.

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- The ACMA can only register codes or make standards about misinformation and disinformation. For the purposes of the Bill, content that is considered false, misleading or deceptive information that would cause or contribute to **serious harm** to Australians. Some examples of harm include:
  - Misinformation about a group of Australians inciting other persons to commit hate crimes against that group.
  - Misinformation that caused people to ingest or inject bleach products to treat a viral infection.
  - Misinformation undermining the impartiality of an Australian electoral management body ahead of an election or a referendum.
- The proposed powers will focus on ensuring digital platform providers have systems and processes in place to combat misinformation and disinformation on their services which pose a risk of serious harm.

The ACMA will have no role in determining what is truthful, nor will it be able to request digital platform services remove particular pieces of content.

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- When registering a code or making a standard, the ACMA is required to consider if the code or standard would unduly burden freedom of speech. Any limitations on freedom of speech would need to be justified.
- The code and standard making powers will not apply to electoral and referendum communications that are required to be authorised.
- The ACMA will not be able to view the contents of private messages, nor will it be able to register a code or make a standard that requires platforms to read private messages or compromise encryption.
- 

Size of the penalties

- The draft legislation provides the ACMA with a graduated set of tools to enforce platform compliance.
  - This includes formal warnings, infringement notices, remedial directions, injunctions and civil penalties.
  - The ACMA will be able to seek penalty orders in court for providers who routinely contravene provisions in a registered code or a standard, or fail to comply with remedial directions.

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- Criminal penalties would only apply to digital platforms or individuals in instances where they knowingly make or retain false or misleading information or records, or knowingly give false or misleading evidence in response to an information gathering request.
- Penalties for breaches of codes or standards are graduated and take into consideration the level of harm caused and/or the actions that a non-complying party did or did not take to mitigate risks and harms.

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#### DIGI Code 2022 Transparency Reports

- On 29 May 2023, the Digital Industry Group Inc (DIGI) released the 2022 transparency reports for the eight signatories to the *Australian Code of Practice on Disinformation and Misinformation*.
- The ACMA is reviewing the reports which are important for ensuring accountability and transparency of digital platform efforts under the voluntary code arrangements.
- The independent attestation by Hal Crawford found that the reporting could be improved ~~with~~ consistent metrics and trended Australia data.
- The ACMA has consistently encouraged industry to establish a framework of key performance metrics aimed at measuring the effectiveness of digital platform services to combat misinformation on their services.
- The proposed information gathering and record keeping powers will enable the ACMA to establish a framework for collecting and reporting key performance metrics over time to measure the effectiveness of platforms' efforts and to hold platforms to account.

#### ACMA powers to combat ~~misinformation~~ and ~~dis~~misinformation

- The \$2.3 million cost for ACMA to administer the new dis- and misinformation powers in 2023-24 will be offset from administered program savings within the Communications portfolio. This includes redirecting funding from the Regional Connectivity Program and the Strengthening Telecommunications Against Natural Disasters Program.
- The Department will work closely with the ACMA to develop cost recovery options for ongoing costs from 2024-25 onwards.

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#### Existing ~~dis~~voluntary ~~and~~ misinformation regulatory framework

- In responding to the Digital Platforms Inquiry, in December 2019 the Australian Government requested that digital platforms develop a voluntary code of practice to address online dis- and misinformation and news quality concerns.
- On 22 February 2021, industry group DIGI released the voluntary *Australian Code of Practice on Disinformation and Misinformation*.
- The Code has been adopted by 8 signatories including Adobe, Apple, Facebook, Google, Microsoft, Redbubble, TikTok and Twitter. The Code commits signatories to implement safeguards to limit the spread of dis- and misinformation on their platforms and to report annually on this commitment.
- The voluntary framework has been an important initial step although had a number of shortcomings which were identified in the ACMA's June 2021 *Report to government on the adequacy of platforms' disinformation and news quality measures*.
- The shortcomings the ACMA identified included:

- Not all major platforms are signatories to the Code;
- The narrow definition of dis- and misinformation, limited to a threshold of ‘serious and imminent’ harm, did not cover chronic or longer-term harms which pose a serious harm to democratic institutions.
- Initial reporting by Code signatories was inconsistent and lacked the detail necessary to benchmark performance and assess the effectiveness of individual platform measures.
- A number of services, such as messaging, were ~~were~~ excluded. As a result, there is ~~was~~ no coverage of apps whose public and semi-public messaging services have been responsible for the spread of dis- and misinformation.

- In March 2022, the former Communications Minister, Paul Fletcher, announced that the former Government would provide the ACMA with these powers, which was just before the 2022 federal election. DIGI gave in-principle support to ACMA’s recommendations to establish these powers

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- In June 2022, DIGI began a review of the Code, to which the ACMA made a submission in July 2022. The revised code was released in December 2022.

- On 25 July 2023, s47C

The ACMA released its review of the updated code on 25 July 2023. It found:

- The R revision of the harm threshold from ‘serious and imminent’ to ‘serious and credible’. This i ~~is~~ was positive as it recognises the chronic and cumulative harms caused by dis- and misinformation.
- The A new 2-tier reporting framework was a positive development. – m ~~Maintaining the existing annual reporting regime for large digital platforms (defined as over 1m monthly active Australian end users), while reducing the reporting burden on smaller platforms to incentivise take-up.~~
- Future revisions to the Code should include consideration of AI.
- The level of transparency needed improving.

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- The ACMA was concerned that M ~~m~~ essaging services are ~~however~~ still not within scope.

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- On 22 March 2023, the Human Rights Law Centre (HRLC) called upon the ACMA to register mandatory codes and standards, written by legislators or regulators. HRLC stated that self-regulation has failed and called for government action.

Meta Covid-19 m ~~M~~ isinformation rules

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- On 16 June 2023, Meta announced that it is rolling back its policies against Covid-19 misinformation globally, ending the rules in countries where the pandemic is no longer considered a national emergency.
- Meta will retain the rules in countries where officials say the threat remains high, which includes 'removing content for violating Covid-19 misinformation policies given the risk of imminent physical harm.'
- In November 2022, Twitter also stopped taking action against tweets breaching its Covid-19 misinformation rules.
- However, signatories of the voluntary Australian Code of Practice on Disinformation and Misinformation (the code), which includes Twitter and Meta, are still required to take steps address combat dis- and misinformation on their services.

#### eSafety Commissioner initiatives ahead of the Referendum

- The eSafety Commissioner announced that her agency would work with the Government's referendum working group of Indigenous leaders on "social media self-defence training" around the Voice, in a bid to lessen harms experienced by Aboriginal and Torres Strait Islander people in the Referendum.

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#### Background – ACMA content safeguards paper

- The Australian Communications and Media Authority (ACMA) released the position paper *What audiences want – Audience expectations for content safeguards* on 28 June 2022.
- The paper articulates the ACMA's views on contemporary audiences' expectations including in relation to accuracy and impartiality, distressing content, emergency information, classification and content guidance, and advertising restrictions.
- The paper notes there are currently 9 industry codes of practice registered by the ACMA, developed by associations representing different segments of the broadcasting sector. Many of these codes have not been updated for some years. For example, the commercial television code of practice was last reviewed and updated in 2015, and the subscription broadcasting television code in 2013.

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- In the paper, the ACMA raises the option of industry standards being made to address concerns that industry associations representing some segments of the industry are no longer fully operational or may not be adequately resourced to undertake code development processes.
- The paper also highlights that most current codes of practice do not apply to online content, even when that content appears on a broadcaster's live-streamed, catch-up, or on-demand platforms. Online content provided by streaming platforms, such as Netflix and Stan, is currently not subject to regulation applied to broadcasters in Australia.
- The ACMA will engage with regulated television and radio broadcasters and their representative bodies on updating broadcasting codes for contemporary audience expectations.
- Stakeholders have welcomed the release of the paper and generally indicated a willingness to engage with the regulator in future processes.

**Contact:** Andrew Irwin (Platforms and News Branch) 02 6271 5220

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**From:** s22(1)(a)(ii)  
**To:** s22(1)(a)  
**Subject:** RE: MO request - reactive lines - ACMA report on digital platforms for mis and dis [SEC=OFFICIAL]  
**Date:** Monday, 24 July 2023 3:29:32 PM

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Thanks

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**From:** s22(1)(a)(ii)@infrastructure.gov.au>  
**Sent:** Monday, 24 July 2023 5:26 PM  
**To:** s22(1)(a)(ii)@acma.gov.au>  
**Subject:** FW: MO request - reactive lines - ACMA report on digital platforms for mis and dis [SEC=OFFICIAL]

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FYI

Hi media team – as requested – reactive lines below for the MO following ACMA’s second report to government on the DIGI code.

- I welcome the release of the Australian Communications and Media Authority’s second report to government on *Digital platform’s efforts under the Australian Code of Practice on Disinformation and Misinformation*.
- The report finds that there have been improvements to the voluntary code framework administered by the Digital Industry Group Inc (DIGI) since its first report to the former government on the industry’s code in June 2021. These include improvements to governance arrangements, changes reporting requirements for small digital platforms and a broader definition of harm.
- Overall, the ACMA’s second report finds that the changes in DIGI’s updated voluntary code in December 2022 are mostly minor and clarify existing provisions. The ACMA also suggests that the industry needs to take further steps to review the scope of the code to include large-scale group messaging and its ability to adapt quickly to technology and service changes such as AI.
- The report highlights the urgent need to improve the level of transparency about what measures platforms are taking to tackle misinformation and disinformation and their effectiveness. The ACMA also suggests the need for better reporting by code signatories to enable an assessment of progress and impact, including the use of key performance indicators.
- The ACMA findings highlights the need for the draft legislation to provide the ACMA with information gathering, record keeping, and reserve code and standard making powers.
- The ACMA will be provided with the power to make rules to require digital platform providers to make and retain records relating to misinformation or disinformation as defined in the Bill.
  - This would enable comparison of metrics and key indicators across the digital



platforms industry, leading to increased transparency and comparability. The ACMA would consult with industry in developing the record keeping rules and measurement framework.

- The powers would also apply to digital platform providers who chose not to sign up to a voluntary code.
- The proposed powers are designed to strengthen the voluntary code which requires signatories to commit to a range of measures to tackle misinformation and disinformation on their services. The ACMA would work with industry to ensure continuous improvement to the voluntary code which is overseen by the industry.
- However, should those efforts prove inadequate, the ACMA would have the option to use the graduated set of reserve powers to ask industry to make new, registrable codes, or if necessary, the ACMA could make standards. This could include greater use of fact checkers, stronger tools to identify and report misinformation and disinformation and better complaints handling processes.
- The ACMA would have no role in determining truthfulness, nor will it have any role in taking down or requesting action regarding individual pieces of content. If the ACMA uses its reserve code registration or standard making powers, it will be required to consider whether there are any potential burdens on freedom of political communication, and if so, to consider whether they are reasonable and not excessive.
- The Exposure Draft of the Bill is open for consultation now. The Government welcomes feedback from the public and all stakeholders on the Bill, including the digital platform industry on the design of the legislation, which is to be introduced in Parliament later this year.

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