



Committee Chair  
Ms Kate Thwaites MP  
Joint Standing Committee on Electoral Matters  
Submitted online via [www.aph.gov.au/Committee/Submissions](http://www.aph.gov.au/Committee/Submissions)

Tuesday October 11, 2022

Dear Ms. Thwaites,

The Digital Industry Group Inc. (DIGI) thanks you for the extended opportunity to provide our views on the 2022 federal election and related matters by way of this submission, and through our upcoming hearing appearance.

By way of background, DIGI is a non-profit industry association that advocates for the interests of the digital industry in Australia. DIGI's founding members are Apple, eBay, Google, Linktree, Meta, TikTok, Twitter, Snap and Yahoo, and its associate members are Change.org, GoFundMe, ProductReview.com.au and Redbubble. DIGI's vision is a thriving Australian digitally-enabled economy that fosters innovation, a growing selection of digital products and services, and where online safety and privacy are protected.

DIGI shares the Government's commitment to maintaining electoral integrity, as is evidenced by our work in developing and overseeing *The Australian Code of Practice on Disinformation and Misinformation* (ACPDM), our work with the AEC in developing the *Election Working Arrangements between: the Australian Electoral Commission and Online Platforms*, and our relevant members' extensive platform-level work in these areas.

In this submission, DIGI wishes to highlight two key points:

1. This was the first federal election that occurred after the introduction of the ACPDM in February 2021. DIGI believes the ACPDM positively contributed to the AEC's determination that the Australian federal election saw much lower levels of electoral mis and disinformation this election than in other like-minded democratic elections across the globe.
2. DIGI in principle supports the development of 'truth in political advertising laws' (TPAL) aimed at regulating electoral advertising that is false and misleading, considering that these can complement commitments made by online platforms that are signatories to the ACPDM. In offering DIGI's views on potential truth in advertising laws, we believe it is helpful to consider the issues raised in the context of the broader set of issues around the regulation of political speech in Australia that DIGI navigated in developing the code, including the need to ensure the laws apply consistently to advertising promoted through offline and online media channels.

We thank you for your consideration of the matters raised in this submission. Should you have any questions or wish to discuss this further, please do not hesitate to contact me. We look forward to our continued engagement in this inquiry.

Sincerely,

A solid black rectangular box used to redact the signature of Dr Jennifer Duxbury.

Dr Jennifer Duxbury  
Director Policy, Regulatory Affairs and Research  
Digital Industry Group Inc. (DIGI)



<b>DIGI's work on online dis and misinformation through the ACPDM</b>	<b>2</b>
<b>ACPDM approach to political advertising and political speech</b>	<b>3</b>
<b>DIGI work with the AEC on the 2022 Federal Election</b>	<b>5</b>
<b>Relevant considerations in developing truth in advertising laws</b>	<b>4</b>

## DIGI's work on online mis- and disinformation through the ACPDM

DIGI and its members share a strong commitment to ensuring the transparency and integrity of Australian democratic political processes, recognising that as important actors in the information ecosystem, they have a critical role and responsibility in reducing the spread of disinformation and misinformation online. To that end, DIGI worked with eight major digital platforms to develop the ACPDM. The ACPDM was launched in February 2021 in response to government policy as set out in *Regulating in the Digital Age: Government Response and Implementation Roadmap for the Digital Platforms Inquiry*<sup>1</sup>.

The ACPDM adopts an outcomes-based approach that aims to incentivise signatories to be more transparent and accountable for their response to harms caused by disinformation and misinformation. To date, the code has been adopted by Apple, Adobe, Google, Meta, Microsoft, Redbubble, TikTok and Twitter. These companies have all committed to implement safeguards to protect Australians against online disinformation and misinformation. Mandatory code commitments include publishing & implementing policies on misinformation and disinformation, providing users with a way to report content against those policies and implementing a range of scalable measures that reduce its spread & visibility (Mandatory commitment #1). Every signatory has agreed to annual transparency reports about those efforts to improve understanding of both the management and scale of mis- and disinformation in Australia (Mandatory commitment #7).

Additionally, there are a series of opt-in commitments that platforms adopt if relevant to their business model: (Commitment #2) Addressing disinformation in paid content; (#3) addressing fake bots and accounts; (#4) transparency about source of content in news and factual information (e.g. promotion of media literacy, partnerships with fact-checkers) and (#5) political advertising; and (#6) partnering with universities/researchers to improve understanding of mis and disinformation.. Signatories' work in these areas is detailed in the first two sets of signatories' mandatory transparency reports, released in May 2021 and May 2022.

In October 2021, DIGI put in place governance arrangements to strengthen the ACPDM and its effectiveness. DIGI appointed an independent complaints committee to resolve complaints about possible breaches by signatories of their code commitments and created a portal on DIGI's website for the public to raise such complaints. We appointed an independent reviewer to fact check and attest all signatories' transparency reports prior to publication, who also developed best practice reporting guidelines to drive improvements and consistency in 2022 transparency reports.

---

<sup>1</sup> The Treasury (12/12/19), *Regulating in the digital age: Government Response and Implementation Roadmap for the Digital Platforms Inquiry*, <https://treasury.gov.au/sites/default/files/2019-12/Government-Response-p2019-41708.pdf>



In its June 2021 *Report to government on the adequacy of digital platforms disinformation and news quality measures*<sup>2</sup> (ACMA Report to Government), released in March 2022, the ACMA reviewed the Code, finding that 'the code objectives and principles meet the government objective of striking a balance between encouraging platform interventions and protecting freedom of expression, privacy and other rights'.<sup>3</sup> In the report, the ACMA advanced five key recommendations in that report to strengthen their oversight of the code and their work on misinformation and disinformation<sup>4</sup>; DIGI welcomed these five recommendations in principle and would contribute to any forthcoming consultation<sup>5</sup> on the legislative details.

DIGI commenced a review of the ACPDM in June 2022, which includes close consideration of recommendations made by the ACMA in its *Report to government*, as well as submissions received as part of a public consultation process. Submissions have been analysed and signatories are considering their response and potential amendments to the code at the time of making this submission. DIGI will report back publicly on the outcome of the review once complete.

## ACPDM approach to political advertising and political speech & remaining gaps

DIGI considers that political communication is fundamental to the proper functioning of Australia's democratic processes at every level of government. Consequently, the ACPDM takes a carefully calibrated approach to the regulation of political advertising, as well as content authorised by a state or federal government or political party, as part of the code's efforts to protect both freedom of expression and electoral integrity. This type of content does not fall within the definition of *misinformation* under the code *and* is only subject to measures under the ACPDM where it reaches the threshold for *disinformation* i.e., when it is being distributed online in a way that artificially amplifies or manipulates citizens discourse. This means that all signatories must, as part of mandatory commitment #1, implement a range of scalable measures that reduce the spread and visibility of any political communication being distributed as disinformation.

In addition to tackling electoral disinformation, signatories that carry political advertising have committed to the objective of improving public awareness of the source of those ads<sup>6</sup>. DIGI considers that this commitment to transparency about the source of political advertising, makes an important contribution to supporting the integrity of Australian electoral processes, including by providing more publicly accessible information about political advertising expenditure on digital platforms. For example, Google and Meta both provide searchable databases to track political ad spending on their platforms. Google's Transparency Report and Meta's Ad Library enable anyone to examine how much political parties, organisations, individuals or influencers have spent on political advertisements in a particular period.

<sup>2</sup> ACMA (21/03/2022), *Report to government on the adequacy of digital platforms' disinformation and news quality measures*, <https://www.acma.gov.au/report-government-adequacy-digital-platforms-disinformation-and-news-quality-measures> (ACMA Report to Government)

<sup>3</sup> ACMA Report to Government, see finding 21.

<sup>4</sup> DIGI (21/03/2022), *DIGI welcomes release of ACMA report on Mis/Disinformation Code and supports its five key recommendations*, <https://digi.org.au/digi-welcomes-release-of-acma-report-on-misdisinformation-code-and-supports-its-five-key-recommendations/>

<sup>5</sup> Former Minister Paul Fletcher (21/03/2022), *New disinformation laws*, <https://webarchive.nla.gov.au/awa/20220405140842/https://minister.infrastructure.gov.au/fletcher/media-release/new-disinformation-laws>

<sup>6</sup> ACPDM, Objective 5



The combination of commitments in the ACPDM means that the online platforms subject to the code voluntarily commit to do more about misleading and deceptive political advertising and transparency of political advertising than is required of broadcast and print media.

The ACMA released a report in June 2022 titled *What audiences want – audience expectations for content safeguards* that identifies as best practice that news and journalistic content providers “should prevent the amplification or spread of misinformation and disinformation”. DIGI understands that not all self-regulatory and co-regulatory press codes of conduct contain provisions on mis- and disinformation.

In addition, there is a gap in the regulation of political advertising that could be filled by truth in political advertising laws. While section 329 of the Commonwealth Electoral Act 1919 currently prohibits a person from misleading voters on how to cast a valid vote, it does not have any provisions to prevent misleading advertising by political parties or candidates and other advertisers on electoral issues. There is also a disparity between the approach to the regulation of advertising by political entities and the approach of consumer laws that prohibit false and misleading conduct and false claims or statements by businesses (including false and misleading advertising).

There is evidence to suggest that Australians support the introduction of legislation that would address this gap. A 2021 Australia Institute study found that 87% of Australians support truth in political advertising laws<sup>7</sup>. Furthermore, in 2022, prior to the federal election, DIGI commissioned a nationally representative survey, undertaken by Resolve Strategic to identify Australians’ views on the meaning of the term ‘misinformation’, its prevalence and sources, and preferred policy approaches to the issue. Amongst the survey findings, there was strong agreement amongst participants (79%) that misinformation is just as likely to occur in traditional media, that it is impossible to identify and police, and that policy responses should concentrate on coordinated and/or political disinformation. There was also strong support from participants (74%) for truth in political advertising laws<sup>8</sup>.

## Relevant considerations in developing truth in advertising laws

DIGI offers these thoughts on the considerations that are relevant to the crafting of TPAL:

1. The scope of the advertising that is subject to TPAL should provide sufficient leeway for the ordinary cut and thrust of political discourse, and to ensure that electoral campaigners can freely communicate their electoral messages. The misleading electoral advertising laws of the Australian Capital Territory could provide a helpful model for consideration. Section 297A of the Electoral Act 1992, creates an offense of misleading electoral advertising where:
  - (a) the person disseminates, or authorises the dissemination of, an advertisement containing electoral matter; and
  - (b) the advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.
2. Conversely, an expanded scope of TPAL, for example that extended to any misleading or deceptive electoral related communication made by a person, may risk impinging on political communications that are fundamental to democratic government.
3. To ensure a level playing field in the market for political advertising the TPAL should apply equally to both online and offline electoral advertising.

---

<sup>7</sup> The Australia Institute, *Possible, Practical, and Popular Opportunities for Truth in Political Advertising Laws in Australia* 2021, available at <https://australiainstitute.org.au/wp-content/uploads/2021/10/211025-Truth-in-Political-Advertising-WEB.pdf>

<sup>8</sup> ‘Resolve Research on Australians Misinformation Perceptions’ published by DIGI in *Australian Code of Practice on Misinformation and Disinformation Annual Report* p 24



4. We think that TPAL laws should ensure that the truthfulness of a political advertisement is determined by an independent regulator or court, rather than by advertising service providers who will rarely have sufficient information to assess the accuracy of statements in question. While we do not have a view as to whether a body such as the Australian Electoral Commission, or a court should be the arbiter of TPALs, we also consider that there should be public transparency about the reasons for decisions to remove or require corrections of political advertising.
5. Lastly, we think that it is important that any TPAL are informed by clear and compelling evidence, to which the work of this Inquiry can contribute.

## DIGI work with the AEC on the 2022 Federal Election

In preparation for the 2022 federal election, DIGI facilitated the development of a *Statement of Intent for the Federal Election 2022*, between major digital platforms and the Australian Electoral Commission<sup>9</sup> (AEC). This Statement of Intent, which is publicly available<sup>10</sup>, complemented the ACPDM by setting out the working arrangements between Online Platforms and the AEC, including how the parties would work together during the 2022 electoral period to address breaches of electoral laws, tackle online mis- and disinformation and support civic engagement in the election through education and awareness initiatives.

Some examples of how platform and AEC cooperation supported the integrity of the electoral process are as follows:

- To raise awareness about the election, Meta prompted Australian Facebook users with an 'Election Day Reminder' and a 'Pre Polling Reminder' that linked users to the AEC website for more information. In conjunction with the AEC, Meta created Instagram stickers to encourage people to vote that directed users to the AEC website to find key information.
- TikTok developed an in-app 'Australian Election Guide' and public service announcements that were attached to election-related content. The guide promoted the importance of Australians being enrolled to vote and provided authoritative information on the election process. Through a combination of 70,712 in-app banners that were placed on election-related content, as well as search re-directs, the Australian Election Guide was visited 91,905 times by TikTok users.
- In partnership with the AEC, Snap launched a range of creative tools and features on Snapchat encouraging young Australians to enrol to vote, and to inspire positive discourse around the election and voting for young people. The campaign included an augmented reality (AR) lens, filter and in-app video series.
- Google worked with the AEC to surface official information across multiple Google platforms about enrolment and voting to help ensure all Australians could have their say. This included an 'enrol to vote' prompt and a prompt to go and vote on election day. Furthermore, Google worked with candidates, parties, journalists, the AEC, and civil society to ensure that everyone was able to make the most out of digital tools to communicate, report on, and engage with voters throughout the campaign. This included briefings and training sessions, and a weekly Google Trends newsletter on key election topics. Google also created a dedicated [election microsite](#) that provided real-time insights on Search interest relating to political parties, leaders, and key issues through the campaign.
- Together with the AEC, Twitter launched a voter education quiz to educate voters on the electoral system and media literacy. The quiz also helped to connect people in Australia on Twitter to credible sources and trusted information about the election process from the AEC. Twitter also launched a multi-phase emoji campaign to drive and unite conversation around the election,

---

<sup>9</sup> The *Statement of Intent between Online Platforms and the Australian Electoral Commission* was signed by Google, Meta, Twitter, Microsoft and Tik Tok.

<sup>10</sup> The *Statement of Intent* is available at [https://www.aec.gov.au/About\\_AEC/files/aec-and-platforms-statement-of-intent.pdf](https://www.aec.gov.au/About_AEC/files/aec-and-platforms-statement-of-intent.pdf)



which saw 4.2 million election related Tweets from the day the election was called on 11 April through 22 May 2022.

At the end of the 2022 election, the AEC acknowledged the success of its work with digital platforms to protect and promote the election's integrity in a public media release. The media release noted the low levels of mis- and disinformation experienced online, comparative to other like-minded democracies across the world.<sup>11</sup> It also noted the hard work of online platforms in developing detailed operational arrangements for the AEC to refer harmful electoral content to online platforms for consideration and removal. The media release publicly acknowledged the many election engagements and education initiatives established by online platforms, which included interactive election hubs, key election date reminders, and the promotion of informative AEC content such as the AEC website, AECTV YouTube channel and AEC Twitter.

---

<sup>11</sup> Australian Electoral Commission, Press Release [03/08/2022], *AEC celebrates successful disinformation partnerships*, <https://www.aec.gov.au/media/2022/08-03.htm#:~:text=With%20the%202022%20federal%20election,promote%20electoral%20integrity%20in%20Australia>.