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Senate Economics References Committee
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Canberra ACT 2600
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Dear Secretary,

Inquiry into influence of international digital platforms

The Australian Communications and Media Authority (ACMA) is the independent statutory authority responsible for the regulation of broadcasting, radiocommunications and telecommunications in Australia. The ACMA's remit also includes aspects of regulation of online content delivered by big tech companies. Our submission focuses on these matters: relevantly, the regulation of email spam, phone scams and the oversight the voluntary efforts of the Australian digital platform industry to address harmful mis- and disinformation.

The ACMA welcomes the opportunity to provide the Committee with a submission to this Inquiry. Please note, in addition to this submission, the heads of four independent regulators – the ACMA, the Australian Competition and Consumer Commission (ACCC), the Office of the eSafety Commissioner (OeSC), and the Office of the Australian Information Commissioner (OAIC) – have also provided a letter to this inquiry as part of the Digital Platform Regulators Forum (DP-REG).

Australians' use of digital platforms

The ACMA has a longstanding research program to track and monitor trends in the usage of media and communications services. For well over a decade, this work has included data on digital platforms, providing valuable longitudinal insights into the use and growth of these services in Australia.

More recently, in line with our increased regulatory focus on digital platforms, we have reviewed and expanded the scope of our annual consumer survey to capture more information on which specific services are being used, by whom, and for what purpose. This data is published as part of our annual ['Communications and media in Australia: How we communicate' interactive report](#). The latest report shows that almost all Australian adults (95%) used at least one communications or social media service in the 6 months ending 30 June 2022, with Facebook (71%), Facebook Messenger (68%), and YouTube (65%) being the most popular platforms in Australia.

Our June 2022 consumer survey also included new questions on the [consumption of news services across various platforms](#). These results show that more Australians access news from online sources (including social media services, news sites, and search engines) than on TV, radio or print. Further, nearly half of all Australians adults had sourced news from social media and

communications websites or apps in the previous 7 days. Given this, it is critical that digital platforms facilitate access to authoritative and reliable sources of news and information and take measures to reduce user exposure to false or deceptive content that can result in real-world harm to individual users or broader societal institutions.

Additionally, as part of our 2022-23 research work plan, the ACMA – in conjunction with members of the Digital Platform Regulators Forum (DP-REG) – is currently undertaking a standalone project examining Australians' experiences with the reporting and complaints processes of major digital platforms. Results from the first stage of this work – completed in January 2023 – indicate that 48% of Australians have seen or heard some form of harmful content while using these services over the previous 12 months, of which nearly half (48%) then made a report or a complaint with the platform about this content. The second stage of this project will be examining user satisfaction with these processes, and we expect to publish the results of this research in the coming months.

Misinformation and disinformation

The [Australian Code of Practice on Disinformation and Misinformation](#) (the code) is a voluntary initiative of the digital platform industry in Australia. This code requires signatories to develop and implement measures that reduce the propagation of, and potential exposure of Australian users to, harmful mis- and disinformation on their services. This code currently has 8 signatories, representing most of the major digital platforms operating in Australia: Adobe, Apple, Facebook, Google, Microsoft, Redbubble, TikTok and Twitter. The ACMA oversaw the development of the code and, as part of that process, published a [position paper](#) for industry which set out our expectations for the code and views on best practice approaches to self-regulation.

The code adopts an outcomes-based model rather than establish a series of prescriptive common rules. This provides individual platforms with flexibility on how they will achieve the code's objectives, while also improving levels of transparency and accountability across the digital industry without, for example, needing to regulate the operation of disparate, technically complex and dynamic platform algorithms. Under the code, all signatories are required to publish annual transparency reports that demonstrate how they have achieved the agreed outcomes and objectives of the code. [Two sets of transparency reports](#) have been published to date, with the next set due in May 2023.

The code administrator, Digital Industry Group Inc (DIGI), commenced a code review in mid-2022, and launched a revised version of the code in December 2022. Key changes include the broadening the definition of harm, new transparency commitments around the use of recommender systems, and the ability for greater participation by a wider range of industry participants – including companies offering digital advertising services or technology solutions to address mis- and disinformation.

In June 2021, the ACMA provided a [report to government](#) on our preliminary findings. This included an examination into the state and impact of online mis- and disinformation in Australia, with our research finding high levels of exposure to false and harmful narratives among users of digital platforms. As part of our targeted assessment into the development and likely effectiveness of the code, we noted concerns about the strength of the underlying governance arrangements and its general enforceability. As a result of these issues, we subsequently recommended that the ACMA should have a more formal role in

overseeing the operation of the industry code, supported by new information-gathering powers, and reserve code registration and standards-making powers should the voluntary code fail or provide inadequate.

On 20 January 2023, [Minister for Communications announced](#) the government's intent to consult on draft legislation in the first half of 2023 to provide the ACMA with these new regulatory powers. If passed, this legislation will enable the ACMA to better assess the effectiveness of platform moderation activities, while incentivising greater participation and performance by industry under the existing code.

Importantly, the government has stressed that the focus of these powers will not be on policing or determining the truth of individual pieces of online content, but rather on the ACMA holding digital platforms to account based on the individual rules and policies of each platform. Digital platforms will continue to be responsible for the content they host and promote to users. This approach is designed to balance the need for stronger regulatory oversight of industry against the right to freedom of expression that is considered fundamental to a democratic society.

Relevant international developments

As part of its European Democracy Action Plan, the European Commission (EC) has developed an EU-wide [strategy to combat disinformation](#) and ensure the protection of European values and democratic systems. A key component of this work is the voluntary industry [Code of Practice on Disinformation](#), which was updated and strengthened in June 2022.

In addition to the voluntary EU code, online mis- and disinformation in Europe is also regulated through the recently approved [Digital Services Act](#) (DSA). The DSA updates and harmonises the legal framework for regulating illegal content on digital intermediaries across the EU. It requires all online platforms with more than 45 million European users (known as Very Large Online Platforms, or VLOPs) to have measures in place to mitigate risks from the spread of illegal content. As a way to fulfil these mandatory DSA obligations, VLOPs can choose to sign up to the voluntary code and use this as a mitigation measure. The DSA is being overseen by a new European Board of Digital Services and the European Commission, which will have direct enforcement powers and be able to impose fines of up to 6% of a service's global turnover for breaches.

Outside of Europe, the UK Parliament is currently debating the [Online Safety Bill](#) (OSB). The bill is designed to protect children and adults online by making social media companies more responsible for their users' safety on their platforms. The latest version of the bill has removed earlier draft provisions that sought to shield adult users from material that is considered 'legal but harmful' (including misinformation) but will require platforms to take action against all illegal content. The OSB will also require the UK communications regulator, Ofcom, to establish an advisory committee to examine issues relating to mis- and disinformation.

The UK Parliament is also debating the National Security Bill (NSB), which will overhaul the UK's previous espionage laws. The NSB includes a new range of 'foreign interference' offences and updated investigative powers and capabilities to enable law enforcement and intelligence agencies to deter, detect and disrupt state threats. The NSB also proposes to add 'foreign interference' to the list of priority offences under the *Online Safety Act 2023*. This means that all platforms will have a legal duty to undertake risk assessments and take proactive,

preventative action to identify and minimise people's exposure to state-sponsored or state-linked disinformation aimed at interfering with the UK.

Online scams and spam

Scams being perpetrated across digital platforms is a growing area of concern for the ACMA, and the broader community. Digital platforms are not captured by current regulations and evidence suggests scammers are pivoting from phone calls and texts to social media and applications. The ACCC's [Scamwatch data](#) shows that reported losses to scams in 2022 on social networks increased by approximately 42% and on mobile apps by approximately 98%. The ACCC's [2021 Targeting Scams Report](#) found financial loss to scams over social networking and online forums increased almost 107% in 2021 to \$56 million.

The ACMA has been taking steps to combat phone scams in Australia, including making rules requiring telecommunications providers to identify, trace and block scam calls and text messages.

Since the requirement to block scam calls came into effect in December 2020 until 31 December 2022, telecommunications providers have identified and blocked over 955 million scam calls. Consumer complaints about scam calls dropped dramatically in 2022 compared to 2021, with a 56% reduction in complaints to Scamwatch and a 62% reduction in complaints to the ACMA.

The new rules requiring telecommunications providers to identify, trace and block SMS scams came into effect in July 2022. Almost 90 million scam SMS were blocked in the first 6 months of operation.

However, these protections do not apply, and cannot be extended under current laws, to digital platforms. As it becomes harder for scammers to perpetrate fraud using calls and SMS, they are looking to exploit other channels. Digital platforms and messaging applications that are not required to prevent scams on their service will become an increasingly attractive target for scammers.

Consumers should be provided with appropriate safeguards to protect them from scammers across all channels. The ACMA would support the introduction of new laws that require digital platforms and messaging applications to identify and block scam activities, as is required for telecommunications providers.

Our regulatory collaboration efforts

The challenge of protecting Australians from online harms, particularly on global 'big tech' platforms, is complex and multi-faceted. The topic touches on a range of interconnecting issues and regulatory frameworks including user privacy, data protection, defamation, consumer protection, online safety, and the broader online information environment.

To facilitate better coordination across government on digital platform regulation, the ACMA – along with the ACCC, OeSC, and OAIC – formed the Digital Platform Regulators Forum (DP-REG) in early 2022.

DP-REG brings together considerable expertise on regulation of social media companies and provides a forum to help share information and work together jointly on cross-cutting regulatory issues. [DP-REG's strategic priorities for 2022/23](#) include a focus on the impact of algorithms, efforts to improve transparency of digital platforms' activities, and increased collaboration and capacity building. The heads of the DP-REG regulators have also jointly

provided a standalone submission to this inquiry, providing committee members with more information about this initiative.

The ACMA also engages internationally on emerging regulatory issues relating to digital platforms, social media services and scams. The Media and Online Regulation Forum (MORF) brings together content regulators from Australia, Canada, Ireland and the United Kingdom, and meets quarterly. We are also a core member of the Unsolicited Communications Enforcement Network of internal regulators, and have bilateral agreements in place to share strategic initiatives and collaborate with key international regulators such as the USA's Federal Communications Commission and the Canadian Radio-television and Telecommunications Commission.

I hope this information may be of assistance as the Committee's inquiry progresses.

Yours sincerely

Nerida O'Loughlin PSM
15 February 2023