

Chair and Agency Head

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ec.sen@aph.gov.au

Dear Secretary

RE: Inquiry into provisions of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024

The Australian Communications and Media Authority (the ACMA) welcomes the opportunity to contribute to the Committees' inquiry into provisions of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 (the bill).

In December 2019, the ACMA was tasked by the Australian Government with overseeing the voluntary [Australian Code of Practice on Disinformation and Misinformation](#) (the code). It was developed by and is administered by the Digital Industry Group Inc. (DIGI) and, currently, has 9 signatories: Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok, Twitch and Legitimate (an AI-tool for journalists). The code provides signatories with flexibility to adopt measures that are relevant and proportionate to the risk of harm from mis/disinformation on their platforms. Signatories must have systems and processes in place and are responsible for determining whether individual pieces of content contravene their policies to manage mis/disinformation.

As a voluntary arrangement, there is no regulatory backstop to either compel digital platforms to become signatories or hold them accountable if they breach their obligations. X Corp (an original code signatory) lost its signatory status in November 2023 after the code's Independent Complaints Subcommittee found that it had committed a serious breach of the code for failing to provide a mechanism to the public to make reports of breaches of its misinformation policies for an extended period. This was the strongest enforcement option available to the Subcommittee. While this decision demonstrates that the code's governance arrangements are functional, it also highlights the limitations of voluntary arrangements.

To date, the ACMA's oversight activities have included three reports to government on the code's operation and effectiveness.

Our [first report](#), which was provided to government in June 2021, was accompanied by ACMA [commissioned research](#) that examined Australian attitudes and experiences of misinformation about COVID-19, social media analysis that examined the scale and drivers of online misinformation narratives in Australia, and a cost impact case study. This study found that the Australian mobile industry spent an estimated \$3.1m in 2019 and \$7.9m in 2020 as a direct result of misinformation about 5G or the harms of electromagnetic energy.

This report also made 5 recommendations to government, including that the ACMA be provided:

- formal information-gathering powers (including powers to make record-keeping rules) to incentivise greater transparency by digital platforms
- powers to register industry codes, enforce industry code compliance and make standards relating to the activities of digital platforms' corporations.

We have subsequently provided two further reports to government. In our [second report](#) (July 2023), we provided commentary on revisions to the code following DIGI's 2022 code review, as well as releasing ACMA commissioned consumer research results about Australian adults' experiences in making complaints to digital platforms.

This report also made observations on the effectiveness of voluntary arrangements, including that:

- there remains an urgent need to improve the level of transparency about the measures platforms are taking to address misinformation and their effectiveness
- better reporting by signatories is needed to enable an assessment of progress and impact
- industry needs to take further steps to review the scope of the code and its ability to adapt quickly to technology and service changes.

Our third report was provided to government earlier this month and has been published on the [ACMA's website](#). In addition to providing an overview of the ACMA's and digital platforms' activities over the last year, this report focuses on the quality of data reported by signatories in their annual transparency reports over the life of the code. The report finds that:

- signatories continue to provide some qualitative insights into their responses to mis/disinformation, particularly via case studies
- transparency reports lack sufficient levels of consistent Australian trended data either by individual signatories or across signatories
- data integrity issues limit insights into the effectiveness of some signatories' measures and undermine the ability of Australians to be confident that platforms are delivering on their commitments
- there is no discernible progress towards developing key performance indicators (KPIs) by both individual signatories and across the code.

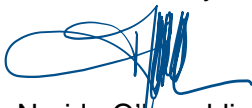
Our third report emphasises the need for signatories to proactively adopt and implement a more comprehensive reporting regime. To be both effective and enforceable, the code must be supported by KPIs linked to code commitments and measurable through high-quality sets of Australian-relevant data. This is essential to hold signatories accountable to their commitments and provide transparency to Australians on the effectiveness of these measures to address mis/disinformation and their impact on freedom of expression.

In conclusion, and consistent with our third report's findings, the ACMA considers that our 2021 recommendations to government remain relevant and their implementation is more urgent than ever, given community concern. The bill, if passed by the Parliament, would enable the ACMA to collect information to improve the transparency of platforms systems, processes and actions, including those platforms that are not signatories to the current code.

This would significantly improve current arrangements and provide greater confidence to Australians that mis/disinformation was being actively addressed by digital platforms.

We would be happy to provide further information to assist the committee in its inquiry.

Yours sincerely



Nerida O'Loughlin PSM

30 September 2024