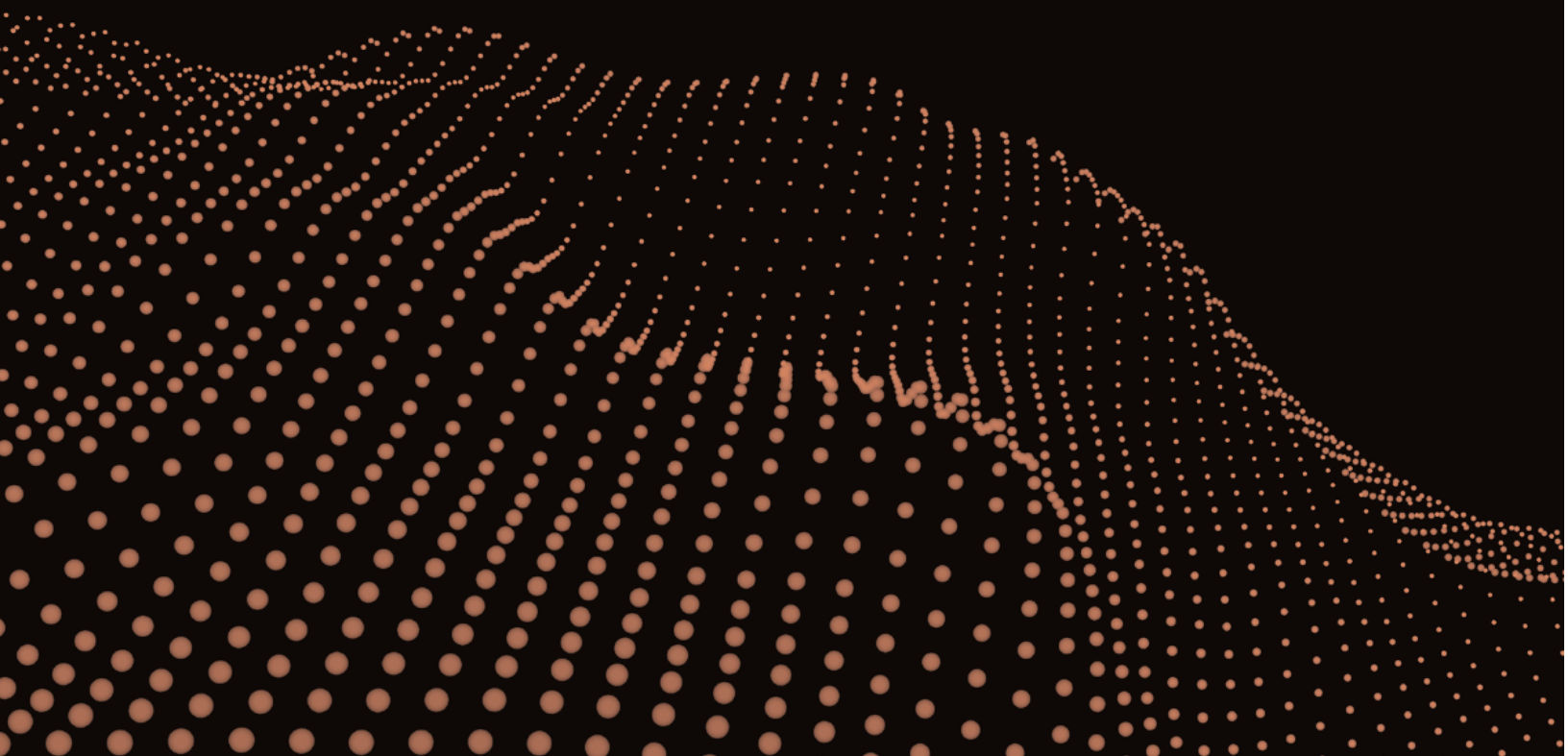


Australian Code of Practice on Misinformation and Disinformation | 2022 Review **Discussion Paper**

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A. Purpose of this discussion paper

The *Australian Code of Practice on Disinformation and Misinformation* ('ACPDM' or 'the code') has been developed by the Digital Industry Group Inc. (DIGI), and adopted by Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok and Twitter¹.

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*². The development of the ACPDM was informed by expert guidance provided by the University of Technology Sydney, Centre for Media Transition, and First Draft, a global organisation that specialises in helping societies overcome false and misleading information. It was also informed by stakeholder input from public consultation, in line with guidance provided by the Australian Communications and Media Authority (the ACMA) set out in *Misinformation and News Quality on Digital Platforms in Australia: A Position Paper to Guide Code Development*³ (ACMA Position Paper).

The ACPDM must be reviewed after it has been in operation for twelve months, and thereafter at two yearly intervals. The review must be based on the input of the signatories, and relevant government bodies (including the ACMA) and other interested stakeholders including academics and representatives from civil society active in this field⁴. In its June 2021 *Report to government on the adequacy of digital platforms disinformation and news quality measures*⁵ (ACMA Report to Government), released in March 2022, the ACMA made a series of recommendations about further work to be undertaken throughout 2022 to support industry's efforts to make improvements to the ACPDM. In relation to the first review of the ACPDM, the ACMA recommended that: 'The government should encourage DIGI to consider the findings in this report when reviewing the code in February 2022'⁶. The then Minister for Communications, Urban Infrastructure, Cities and the Arts endorsed the ACMA's recommendations⁷. DIGI is responsible for the ongoing administration of the ACPDM and is now consulting on its first review of the code that will consider and evaluate:

- a) specific questions and proposed changes and clarifications to the ACPDM, based on the findings of the ACMA Report to Government, and operational experience of the code since February 2021. These questions and proposals are discussed in Section C below.
- b) whether the ACPDM is meeting the needs of industry and the community to balance concerns about misinformation and disinformation with the need to protect freedom of expression online; and
- c) whether a need exists to change the scope of the ACPDM and/or amend specific provisions.

This Discussion Paper provides background and specific questions and proposals to assist public

¹ DIGI (2021), *Australian Code of Practice on Disinformation and Misinformation*, <https://digi.org.au/disinformation-code/> (ACPDM)

² 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>

³ ACMA (26/06/21), *Misinformation and News Quality on Digital Platforms in Australia: A Position Paper to Guide Code Development*, <https://www.acma.gov.au/sites/default/files/2020-06/Misinformation%20and%20news%20quality%20position%20paper.pdf> (ACMA Position Paper)

⁴ ACPDM, Section 7.7

⁵ 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)

⁶ ACMA Report to Government, Recommendation 1.

⁷ 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>

consultation of the 2022 review. We have included an Appendix that shows the proposed changes to the ACPDM, which are underlined.

B. Background to the ACPDM and the review

Outcomes based approach

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, as defined in the code. The code incorporates a range of measures aimed at achieving seven key objectives and ten outcomes which are informed by the purpose and guiding principles of the code, including the principle that in developing responses to mis- and disinformation, signatories should be cognisant of the need to protect international human rights. The ACMA Report to Government found 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.'⁸ An advantage of the outcomes-based model is that it allows platforms with a range of business models to sign up to a single code⁹.

There are two key mandatory requirements for signatories under the code:

- a) each signatory must commit to the core objective of providing safeguards against harms that may be caused by disinformation and misinformation and the corresponding outcome of contributing to reducing the risk of harm caused by disinformation and misinformation by adopting a range of scalable measures¹⁰. Signatories can also make additional, opt-in commitments to a range of additional objectives and outcomes relevant to the services provided on their platform; and
- b) each signatory must submit an annual transparency report. The report must describe the signatory's progress towards achieving the outcomes of the code, and explain why it has not elected to make optional commitments (where that is the case). For example, a user-generated content platform may adopt different measures to a search engine.

The reporting requirement enables the ACMA and other stakeholders to evaluate a signatory's performance against its commitments under the code, and incentivises signatories to improve their approach to tackling mis- and disinformation year on year. The second set of reports for the 2021 calendar year were published by DIGI in May 2022.

Independent oversight

The ACPDM goes beyond self-assessment, by establishing governance arrangements for the independent oversight of the code and a facility via which the public can make complaints about code breaches. The governance arrangements were implemented in October 2021 and comprise:

- a) the establishment of an Administration Sub-Committee comprising representatives from signatories and independent members who will meet at six monthly intervals to review the actions of signatories and monitor how they are meeting their commitments under the code (section 7.6);¹¹

⁸ ACMA Report to Government, see finding 21.

⁹ ACMA Report to Government, see finding 20.

¹⁰ ACPDM, See Objective 1a, Outcome 1a.

¹¹ The facility has been established to resolve complaints by the public about possible breaches of signatories' commitments under the code. The public can access the facility via a complaints portal on DIGI's website. An independent Complaints Sub-committee resolves complaints in accordance with Terms of Reference, which are

- b) a process for the independent expert review of all signatories' transparency reports;
- c) best practice guidelines developed by the independent expert reviewer that will inform the data and other information to be included in subsequent reports¹²; and
- d) a complaints handling facility with an independent Complaints sub-committee (required under section 7.4 of the code).

More information about the governance arrangements for the ACPDM, including the Terms of Reference for the complaints facility are available on the DIGI website¹³ and in DIGI's 2022 annual report¹⁴.

C. Scope of ACPDM 2022 review

The 2022 review of the ACPDM will consider eight specific questions that take into account the findings in the ACMA Report to Government.

Consultation questions

- 1) Should the ACPDM cover a broader scope of signatories? If so should:
 - a) the ACMA have a continued role in identifying those services that are within the scope of the code; and
 - b) what should the criteria be for a company's eligibility to participate in the code?
- 2) Should the ACPDM take an opt-out rather than an opt-in approach to the optional commitments under the code?¹⁵
- 3) Should the definition of harm be amended to deal with concerns about the narrowness of 'serious and imminent threat' language?¹⁶
- 4) Should the exemption for professional news content be revised so that it is clearer? Should the code be extended to cover news aggregation services?¹⁷
- 5) Should the code be extended to include private messaging services?¹⁸
- 6) Should the approach of the code to issues-based advertising be clarified ?¹⁹
- 7) Should the code better define paid and sponsored content?²⁰
- 8) Is the code meeting the needs of industry and the community to balance concerns about misinformation and disinformation with the need to protect freedom of expression online?

It is important to note that some of the findings of the ACMA review of the ACPDM pre-date changes that were made by the signatories in October 2022 to improve governance of the code. These governance arrangements are not included within the 2022 code review since they have been in force for less than 12 months and signatories consider there is insufficient operational experience at this stage to evaluate their

published on the DIGI website, together with information about the operation of the complaints facility and the governance of the Code.

¹² ACPDM, See Section 7.3

¹³ DIGI (11/10/21), *Disinformation Code Complaints*, <https://digi.org.au/disinformation-code/complaints/>

¹⁴ DIGI, *Australian Code of Practice on Disinformation and Misinformation | Annual Report*, (06/06/22), www.digi.org.au/disinformation-code/code-review

¹⁵ *ACMA Report to Government*, findings 22 and 39, p. 87.

¹⁶ *ACMA Report to Government*, finding 24, p. 87.

¹⁷ *ACMA Report to Government*, finding 26, p. 87.

¹⁸ *ACMA Report to Government*, finding 27, p. 87

¹⁹ *ACMA Report to Government*, finding 28, . ,87

²⁰ *ACMA Report to Government*, finding 27, p. 87

effectiveness. The governance arrangements may be reviewed in 2024, taking into account the ACMA's next review of the code, which is likely to be released in the second half of 2023.

In considering the questions raised by this review, it is worth noting some of the key challenges involved in designing regulation for mis- and disinformation that were outlined by the experts at the Centre for Media Transition and First Draft who authored the *Discussion paper on an Australian Code of Practice on Disinformation* as part of the development process for the ACPDM. These challenges include:²¹

- a) the choices that must be made in defining disinformation – including the type of ‘harms’ which are included within that concept;
- b) the risks to freedom of speech, including political communication, that may arise in the course of taking action in relation to content;
- c) the difficulties of setting regulatory initiatives at a national level for issues that affect a range of industry participants and consumers across multiple jurisdictions;
- d) the need to combine regulatory approaches with other initiatives to raise awareness and media literacy or to encourage factual accuracy in news reporting; and
- e) how regulation can encourage a sense of shared responsibility among the community, government, content producers and digital platforms.

D. Discussion of questions and proposals

Question 1: Should the code cover a broader scope of signatories?

The scope of the ACPDM currently covers major digital platforms in Australia, including platforms that are not existing DIGI members, and platforms that are not signatories to the European Union (EU) Code of Practice on Disinformation. These platforms meet the ACMA's recommended threshold for participation in the code of one million active monthly active users in Australia:

*The bulk of ‘major platforms’ in Australia have signed up to the code. As such, it should be regarded as an industry-wide initiative.*²²

The ACMA has identified a risk that mis- and disinformation may become a larger issue in the future, noting that some platforms have experienced significant growth in Australia over the past 18 months.

*With major platforms implementing measures to address misinformation and disinformation on their services, purveyors of misinformation are moving to alternative platforms, like Telegram, that are not code signatories and have less stringent content moderation.*²³

The ACMA has suggested it would be desirable for the code to be extended to other digital services if they do not meet the proposed threshold of one million active monthly users.²⁴ While DIGI is unable to enforce participation in the ACPDM, however we are interested to hear views about whether additional online services should become signatories to the code, and if so should:

- a) the ACMA have a continued role in identifying those services that are within the scope of the code; and
- b) what should the criteria be for a company's eligibility to participate?

²¹ UTS Centre for Media Transition & First Draft (16/10/2020), *Discussion paper on an Australian Code of Practice on Disinformation*, <https://digi.org.au/wp-content/uploads/2020/10/Discussion-Paper-Final.pdf>

²² ACMA Report to Government, finding 17, p. 86.

²³ ACMA Report to Government, findings 19-21, p. 81.

²⁴ ACMA Report to Government, findings 18, p. 86.

Question 2: Should the code take an opt-out rather than an opt-in approach to the optional commitments under the code?

The ACMA has recommended that the ACPDM should be strengthened by taking an opt-out approach. Under such a framework, platforms would be permitted to opt out of an outcome only where that outcome is not relevant to their services.²⁵ In recognition of the variation in business models and product offerings of digital platforms, the code is designed to allow a range of businesses to make commitments by way of opt-in arrangements²⁶. These cover:

- a) disrupting advertising and monetisation incentives for disinformation;²⁷
- b) ensuring the integrity and security of services is not undermined for example, by the use of fake accounts or automated bots that are designed to propagate disinformation.
- c) enabling users to make more informed choices about digital content;²⁸
- d) improving public awareness about the source of political advertising on platforms;²⁹
- e) supporting the efforts of independent researchers to improve public understanding of disinformation and misinformation;³⁰ and
- f) in addition to filing the mandatory annual transparency report, publishing additional information detailing their progress in relation to Objective 1 and any additional code commitments they have made.

This approach is designed to accommodate digital platforms that 'operate vastly different businesses which offer a wide and constantly evolving variety of services and products'³¹ and 'the need of the Signatories to choose those measures which are most suitable to address instances of disinformation and misinformation' on their services³². DIGI considers the flexibility provided by the opt-in model is currently working well. Five out of the eight signatories have currently opted in to all of the measures set out in the code. DIGI's experience is that this flexibility was key to securing the commitment of diverse signatories to the code. The ACPDM currently provides that signatories should include a brief explanation as to why they have not elected to make specific optional commitments³³. The commitments that are currently made by signatories are published on the DIGI website.³⁴

The opt-in model could be strengthened by amending the code to require signatories to reassess the relevance of the opt-in commitments to their products and services each year and provide additional transparency about the results of that assessment. We therefore suggest that the code be amended as per Proposal 1. This is also consistent with the ACMA's finding that for future reports, signatories should clearly specify the products and services covered by the code, and justify any major exclusions.³⁵

²⁵ ACMA Report to Government, finding 22, p.87.

²⁶ ACPDM, Section 7.1.

²⁷ ACPDM, Section 5.14-5.16.

²⁸ ACPDM, Section 5.17, 5.18.

²⁹ ACPDM, Section 5.21-23.

³⁰ ACPDM, Section 5.24-5.27.

³¹ ACPDM, Section 1.5.

³² ACPDM, Section 5.19, 5.20.

³³ See Appendix 1 of this paper.

³⁴ DIGI, Transparency Reports, <https://digi.org.au/disinformation-code/transparency/>

³⁵ ACMA Report to Government, finding 39, p. 88.

Proposal 1

Section 7.1 of the ACPDM be amended by adding the following additional requirements:

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 on the DIGI website.

Section 7.3 be updated to provide:

Each signatory's transparency reports will list the product and services covered by the code including additional products and services that have been assessed to be subject to the code during the period covered by the report.

Question 3: Should the definition of harm be amended to deal with concerns about the narrowness of 'serious and imminent threat' language?

The ACPDM requires signatories to take action against content that is reasonably likely to result in 'serious' and 'imminent' harm. Section 3.4 defines harm as follows:

Harm means harms which pose an imminent and serious threat to:

A. democratic political and policymaking processes such as voter fraud, voter interference, voting misinformation; or

B. public goods such as the protection of citizens' health, protection of marginalised or vulnerable groups, public safety and security or the environment.

This approach to harm is in line with the Digital Platforms Inquiry conducted by the ACCC which recommended a high threshold of 'serious public detriment' as a criterion for platforms to take action against disinformation.³⁶ The ACMA agrees that a threshold of 'serious' harm in the ACPDM is appropriate but considers the requirement that harm be 'imminent' could also exclude a range of chronic harms that can result from the cumulative effect of misinformation over time. The difficulty with that approach is that it is extremely difficult for platforms to foresee when an accumulation of instances of misinformation on a given topic is likely to result in harm that may be years or decades away. Further, many examples of chronic harm resulting from misinformation and disinformation are contentious. For example, lack of trust by citizens in democratic institutions is a complex phenomena which cannot readily be assigned to any single cause or point in time.³⁷ On the other hand, platforms recognise that an accumulation of misinformation can pose an imminent threat, for example, to public health during a pandemic and that this threat can be ongoing and persistent in nature that needs to be addressed on an ongoing basis.

³⁶ACCC (2019), *Digital Platforms Inquiry Final Report*.

<https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>, p. 370

³⁷ See for example Lee Rainie, Scott Ketter and Andrew Perrin, Pew Research Center (22/07/19), *Trust and distrust in America*, <https://www.pewresearch.org/politics/2019/07/22/trust-and-distrust-in-america>.

Proposal 2

Section 3.4 of the ACPDM be amended with the addition of a clarifying note as follows:

Note: an imminent and serious threat includes a situation where an accumulation of harms creates a persistent serious and imminent threat to A or B.

Question 4: Should the exemption for professional news content be revised so that it is clearer? Should the code be extended to cover news aggregation services?

The exemption of professional news from the code

In Australia, traditional media has long regulated itself through developing its own regulatory instruments and complaint schemes. Print news media and associated online activities have self-regulatory standards of practice. The Australian Press Council 'is the principal body with responsibility for responding to complaints about Australian newspapers, magazines and associated digital outlets'³⁸. There are also other industry regulators, such as the Independent Media Council, which has a code of conduct for print and online print media publishers³⁹. Print media and their online outlets may also adopt their own codes of conduct. The exemption in the ACPDM of news from the requirements of the code concerning misinformation were drafted with these considerations in mind. Section 4.4 D. of the ACPDM contains an exemption for:

news content that is the subject of a published editorial code which sets out content standards and or/complaints mechanisms

The ACMA has accepted that professional news should be treated differently from other types of online content, as most news content is already covered by separate regulatory frameworks that promote accuracy and impartiality in reporting, and provide separate avenues for complaints handling. The ACPDM also provides a relevant model for media and other stakeholders in the digital ecosystem to respond to mis- and disinformation online. In this context, we consider that the regulation of the accuracy and quality of news and journalism is best dealt with by news providers. However, the ACMA also raises concerns that news content that does not present a high risk of harm at the publisher level can present a risk once it is taken out of its original context. We agree that this can be the case, for example, where old news is presented as current news as part of a coordinated disinformation campaign.

We are of the view that professional news should only fall within the scope of the ACPDM, where it is being disseminated via inauthentic behaviours to mislead online users as part of a disinformation campaign. Platforms that distribute professional news should generally be able to rely on the news provider to ensure the accuracy and editorial integrity of news content. However, we agree that the code should clarify how it treats news from sources not subject to an Australian editorial code, such as non-Australian sources, to ensure that only news of a professional standard falls within the Section 4.4 exclusion.

³⁸Press Council, *Press Council Standards of practice for print and online media*, <https://www.presscouncil.org.au/standards>

³⁹ Independent Media Council, *Independent Media Council Code of Conduct for Print and Online Media Publishers*, <http://www.independentmediacouncil.com.au/#>

Treatment of news aggregation services under the ACPDM

Additionally, the ACMA recommends that the ACPDM clarifies that news aggregation services are within its scope⁴⁰. News aggregation services are basically software or a web application that aggregate syndicated web content such as online newspapers, blogs, podcasts, and video blogs (vlogs) in one location. Most news aggregators do not publish their own content but fetch articles from other websites using their RSS feeds. There are different types of content aggregators on the Internet. Some, such as Google News, Apple News, Microsoft Start, and Yahoo News gather articles from popular online newspapers and display them in related categories based on the user's geographical location or a user's search history (subject to the user's preferences). Other services allow end-users to create a personalised news feed with selected publishers; for example, Flipboard. The scope of the code is intended to cover news aggregation services on larger platforms where there is a risk that inauthentic behaviour can manipulate the priority of news stories by, for example, drowning out a trending story by pushing competing content. DIGI proposes that the code be amended to make clear that news aggregation services are in scope.

Proposal 3

Section 4.4 of the code currently provides an exemption for news content that is the subject of a published editorial code which sets out content standards and or/complaints mechanisms. We propose that Section 4.4 D. of ACPDM be amended to limit this exemption to 'professional news'. Additionally we propose that the Glossary in section 3 be amended to include definitions of 'Professional news' and 'news source' as follows:

Professional news is online material produced by a news source that reports, investigates or provides critical analysis of:

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

A news source is a journalistic producer of news that is:

- a) subject to the rules of the Australian Press Council Standards of Practice or the Independent Media Council Code of Conduct; or
- 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
- c) subject to the rules of a code of practice regulating its standard of editorial practice in another country; or
- d) is subject to internal editorial standards that relate to the provision of quality journalism; or
- e) provides a publicly accessible mechanism for making complaints about the quality of its news coverage; or
- f) has editorial independence from the subjects of its news coverage.

Proposal 4

Section 4.1 of the ACPDM be amended to clarify that the scope of the code includes news aggregation services with a note that professional news content disseminated by a news aggregation service is

⁴⁰ ACMA Report to Government, finding 26, p. 87.

excluded from the operation of the code unless signatories determine that specific instances of its propagation clearly fall within the scope of Disinformation.

Question 5: Should the code be extended to include private messaging?

Private messaging services including those provided via software applications are currently excluded from the scope of the ACPDM. The ACMA has recommended that private messaging services should be included within the scope of the code as these are 'known vectors of disinformation and misinformation' with 'appropriate caveats on the right to privacy'⁴¹

Private messaging works very differently to publicly accessible services like websites or social media. Users of messaging services have greater expectations about the privacy of their personal communications and will likely be seriously concerned about the imposition of regulations that require businesses to monitor or control the content of their messages for truthfulness. We note that the Australian Government currently has significant powers of surveillance to detect unlawful activities online. For example, the Assistance and Access Act 2018 (Cth), International Production Orders Act 2021 (Cth) and the Surveillance Legislation Amendment (Identify and Disrupt) Act 2021(Cth) provide law enforcement agencies and intelligence organisations with far-reaching powers to access any network, system, device, or user accounts covertly and, where required, with the assistance of the service provider. In our view, the scope of the existing laws do not indicate that there is any need for digital platforms to undertake voluntary intrusive monitoring of users' private communications beyond those given to enforcement agencies. We are concerned that any further powers, particularly directed at the surveillance of private messaging, will not strike an appropriate balance between the core objective of the code to safeguard the public from the risks posed by mis- and disinformation, and preserving the secure user environment that a thriving democratic society depends upon.

Proposal 5

No change be made to include private messaging within the scope of the ACPDM at this stage.

Question 6: Should the approach to issues-based advertising be clarified?

In Australia, political advertising is regulated by state and federal election laws. There is ongoing discussion about the appropriate policy settings for political advertising, including whether truth in advertising laws should be introduced at the federal level. In this context, we do not think the ACPDM should pre-empt decisions of the state and federal governments on these issues⁴².

Section 4.4. excludes from the scope of the ACPDM:

Political Advertising or content authorised by a political party registered under Australian law from the provisions of the code that regulate misinformation. Section 3.7 defines Political advertising as paid for advertisements:

A. made by, on behalf of a political party; or

⁴¹ ACMA Report to Government, p. 46.

⁴² See for example House of Representatives, Joint Standing Committee on Electoral Matters (2020), *Report on the conduct of the 2019 federal election and matters related thereto*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2019Federalelection/Report

- B. that advocate for the outcome of an election or referendum; or
- C. that advocate for the outcome of a political campaign concerning a social issue of public concern in Australia; or
- D. are regulated as political advertising under Australian law.

The effect of this exemption is that signatories are not required to treat political advertising as misinformation; however, they must take action on disinformation campaigns involving political ads. In addition, signatories may exercise the option to commit to the objective of improving public awareness of the source of political advertising carried on digital platforms⁴³. This combination of commitments means that platforms subject to the ACPDM voluntarily commit to do more to address concerns about misleading and deceptive advertising and transparency of political advertising than other providers of political advertising, online and offline. DIGI considers that, given the importance of free political speech to democratic processes, it is not appropriate for signatories to make assessments as to whether political based advertising, including issues-based advertising, constitute *misinformation*. However, when political content crosses the threshold whereby it constitutes *disinformation* – i.e when it is being distributed by inauthentic behaviours – it should be covered under the code.

Issues-based advertising that 'advocates for the outcome of a political campaign concerning a social issue of public concern in Australia' is currently included within the scope of both the exemption for political advertising and the optional commitments in Objective 5 of the code. This definition was intended to cover paid for advertising that promotes an outcome of a political campaign such as the marriage equality campaign in 2018, which is overseen by a State or Federal body such as an electoral management body. It is not intended to cover issues-based advertising that is for general advocacy purposes not associated with a clear proposal by a parliament for policy change via a democratic process such as via an election, referendum, or postal vote.

The ACMA suggests that it is unclear whether issues-based advertising is excluded from the ACPDM. According to the ACMA, issues-based advertising includes sponsored and paid-for content that is intended to bring awareness to, advocate for, or call for action on certain topics that are widely discussed in the public sphere, such as political and social issues.⁴⁴ This definition would capture advertising by interest groups that are established primarily for the purpose of advocating on issues such as health, climate change, abortion, gender inequality, racism and animal rights. It would also capture an influencer on social media, advocating for action on these topics, using a sponsored content arrangement to amplify their view to a wider audience than their account followers. Additionally, the definition would encompass many mainstream advertising campaigns by household brands that seek to demonstrate their commitment to certain values by aligning themselves with the same types of issues. Furthermore, issues-based advertising in an online context can equally be understood as involving the collection of data across web domains owned or operated by different entities, or the use of such data, for the purpose of tailoring advertising based on preferences or interests known or inferred from the data collected.⁴⁵ As a result, it is very difficult to clearly define issues-based advertising in a way that is clearly distinguished from other categories of advertising and does not impinge on citizens' rights to communicate freely on issues of public concern. For that reason, we think it is appropriate to retain the current scope of issues based advertising, clarifying that it does not apply to general advocacy.

⁴³ ACPDM, Objective 5

⁴⁴ ACMA Report to Government, p. 56

⁴⁵ N.A. Dodoo, (2019), *Exploring the antecedent impact of personalized social media advertising on online impulse buying tendency*, International Journal of Internet Market Advertising, Volume 13 2019, p. 73-95

Proposal 6

The Code be amended to include a note that clarifies that the definition of political advertising in section 4.4 excludes advertising (including sponsored content) that is for the purpose of general advocacy on social issues.

Question 7: Should the code define sponsored content?

The ACMA suggests that the treatment of paid and sponsored content should be made clearer in the code. While sponsored content is explicitly included within the scope of user-generated content, the term should be defined.

Proposal 7

Sponsored content be defined in section 3 of the code 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.

Question 8: Is the code meeting community and industry needs to balance concerns about mis- and disinformation with freedom of expression?

As noted by the ACMA, it is important that the ACPDM balances any interventions with rights to freedom of expression and speech. The first guiding principle in section 2.1 of the code is focused on protection of freedom of expression:

Protection of freedom of expression: Digital platforms provide a vital avenue for the open exchange of opinion, speech, information, research and debate and conversation as well as creative and other expression across the Australian community. Signatories should not be compelled by Governments or other parties to remove content solely on the basis of its alleged falsity if the content would not otherwise be unlawful.

In response to feedback⁴⁶ received during DIGI's public consultation on the draft code, and the recommendations in the ACMA Position Paper, the signatories decided to include misinformation within the scope of the code. The decision to include misinformation within the scope of the ACPDM was a significant change to the draft code that was presented for public consultation. Some stakeholders indicated that this change should have been subject to additional consultation before it was adopted. There has also been some criticism of this inclusion as being beyond the scope of the recommendations

⁴⁶ DIGI (22/02/21), *Submission report: Australian Code of Practice on Disinformation and Misinformation*, <https://digi.org.au/wp-content/uploads/2021/02/DIGI-Submission-report-ACPDM-Feb-22-2021-FINAL.pdf>

of the ACCC, from which the code originates⁴⁷.

In its 2019 report on the Digital Platforms Inquiry, the ACCC considered that any intervention directly aimed at affecting individuals' access to information must carefully balance the public interest with the case for free speech and the right of individuals to choose. It recommended that misinformation should be excluded from regulation for that reason. Instead, regulation should focus on disinformation, defined as 'false or inaccurate information that is deliberately created and spread to harm a person, social group, organisation or country'⁴⁸. This recommendation corresponds with the findings of recent research commissioned by DIGI and conducted by Resolve Strategic into Australian perceptions on misinformation. This research found that the public appreciates the difficulty of policing misinformation, and is mainly concerned with false information that is deliberately disseminated on a coordinated basis or for political purposes⁴⁹. DIGI is interested in hearing further from stakeholders on whether the Code has struck an appropriate balance on these issues.

E. Consultation

The proposals and questions outlined in this discussion paper are open for a six week period of public consultation. DIGI will be accepting public submissions to inform potential changes to the code between June 6, 2022 until July 18, 2022.

DIGI encourages stakeholders contributing to the review to read DIGI's Annual Report, in addition to this Discussion Paper. This report provides research about Australians' perceptions of misinformation. It contains information about how the code has evolved since it was initially launched, detailing its governance arrangements, complaints and evolutions in the transparency reporting process.

Submissions should be uploaded using the form available at digi.org.au/disinformation-code/code-review. Should you have trouble with the form or have any questions, please email us at hello@digi.org.au.

⁴⁷ See Anna Belgiorno-Nettis and Peter Waters, Gilbert and Tobin (08/12/2021), first published in *Internet Law Bulletin Volume 24 Number 4*,

<https://www.qtlaw.com.au/knowledge/how-should-australia-regulate-disinformation-misinformation-even-right-questions>. These authors have suggested that a careful review of the code is 'vital to ensure that free speech without fear of persecution, privacy and our 'collective sensemaking' in times of crisis are not lost to overregulation'. To balance these competing interests, they recommend the code does not include 'misinformation' which is defined as false or inaccurate information not created with the intention of causing harm.

⁴⁸ ACCC (2019), *Digital Platforms Inquiry Final Report*,

<https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>, p. 616.

⁴⁹DIGI, *Australian Code of Practice on Disinformation and Misinformation | Annual Report*, (06/06/22), www.digi.org.au/disinformation-code/code-review.

Appendix: Proposed updates to the *The Australian Code of Practice on Disinformation and Misinformation*

Proposed updates outlined in the proposals in this Discussion Paper are underlined.

1. Preamble

- 1.1. *Background*: The Australian Code of Practice on Disinformation and Misinformation (The Code) has been developed by the Digital Industry Group Inc. (DIGI), a non-profit industry association that advocates for the interests of the digital industry in Australia. The Code was developed in response to Government policy as set out in *Regulating in the Digital Age: Government Response and Implementation Roadmap* for the Digital Platforms Inquiry, where Government asked the major digital platforms to develop a voluntary code of conduct outlining what the platforms will do to address concerns regarding disinformation and credibility signalling for news content. The Code also takes into account guidance provided by the Australian Communications and Media Authority set out in *Misinformation and News Quality on Digital Platforms in Australia: A Position Paper to Guide Code Development*.
- 1.2. *Subject matter*: Disinformation and misinformation are aspects of a wider, multifaceted social problem which involves a range of offline and online behaviours which propagate information that threatens to undermine established democratic processes or public goods such as public health. Concepts such as 'disinformation', 'misinformation', and 'fake news' mean different things to different people and can become politically charged when they are used by people to attack others who hold different opinions on value-laden political issues on which reasonable people may disagree. The understanding and effects of these concepts varies amongst individuals and is also under-researched.

- 1.3. *Role of digital platforms:* The digital platforms who have signed this Code recognise their role as important actors within the Australian information ecosystem and have already implemented a range of measures to tackle the propagation of disinformation and misinformation amongst users of their services and products. This Code is designed to express the minimum commitments made by Signatories to address the propagation of Disinformation and Misinformation (as defined in this Code) via digital platforms.
- 1.4. *Minimum Commitments:* All Signatories commit to meet the commitments outlined in section 5.2 including the core objective of providing appropriate safeguards against Harms that may be caused by Disinformation and Misinformation.
- 1.5. *Opt-in:* The digital industry is highly innovative and diverse, and digital platforms operate vastly different businesses which offer a wide and constantly evolving variety of services and products. As a result, the measures taken by digital platforms to address Disinformation and Misinformation in the context of their respective businesses may vary over time. For example, measures which are taken by a user-generated content platform may differ from those taken by a search engine. To accommodate the need of the Signatories to choose those measures which are most suitable to address instances of Disinformation and Misinformation in relation to different services and products provided by digital platforms, this Code provides Signatories the ability to opt into a range of measures and objectives, additional to the minimum commitments outlined in 1.4.
- 1.6. *Proportionality:* The types of user behaviours, content and Harms that this Code seeks to address will vary greatly in incidence and impact amongst the diverse range of services and products offered by different digital platforms. Accordingly, the commitments made by Signatories to the Code are intended to enable them to take actions which are proportional responses to their commitments under the Code. Section 6 provides further guidance on the contextual factors that Signatories may take into account in this regard.
- 1.7. *Signatories may take a more expansive approach:* Signatories may in their discretion implement policies and processes that contain a more expansive set of obligations than is provided for under this Code.

- 1.8. *Need for collaboration and cooperation among all relevant stakeholders:* While this Code is intended to apply to digital platforms, the Signatories recognise and emphasise that a range of relevant stakeholders have roles and responsibilities in dealing with Disinformation and Misinformation including public authorities, academia, civil society, influencers, and news organisations. Tackling Disinformation and Misinformation effectively will require concerted effort and collaboration by and among these various stakeholder groups, and not only digital platforms. The Signatories welcome ongoing dialogue with stakeholders about what works well, and what does not.
- 1.9. *Best Practice Guidance:* The Signatories encourage other participants in the information ecosystem such as other digital services to use this Code as a guide to best practice in developing their own response to the evolving challenges of Disinformation and Misinformation.

2. Guiding Principles

- 2.1. *Protection of freedom of expression:* Digital platforms provide a vital avenue for the open exchange of opinion, speech, information, research and debate and conversation as well as creative and other expression across the Australian community. Signatories should not be compelled by Governments or other parties to remove content solely on the basis of its alleged falsity if the content would not otherwise be unlawful. Given its subject matter, the Code gives special attention to international human rights as articulated within the *Universal Declaration on Human Rights*, including but not limited to freedom of speech. Signatories are encouraged to, in developing proportionate responses to Disinformation and Misinformation to be cognisant of the need to protect these rights.
- 2.2. *Protection of user privacy:* Digital platforms value their users' privacy. Any actions taken by digital platforms to address the propagation of Disinformation and Misinformation should not contravene commitments they have made to respect the privacy of Australian users, including in terms and conditions, published policies and voluntary codes of conduct as well as by applicable laws. This includes respect for users' expectations of privacy when using digital platforms and in private digital communications. Additionally, any access to data for research purposes must protect user privacy.

- 2.3. *Policies and processes concerning advertising placements:* Digital platforms recognise the importance of having policies and processes in place with respect to advertisement placements on their services and products to reduce revenues that may reach the propagators of Disinformation.
- 2.4. *Empowering users:* Digital platforms should empower users to make informed choices about digital media content that purports to be a source of authoritative current news or of factual information.
- 2.5. *Integrity and security of services and products:* Digital platforms should communicate on the effectiveness of efforts to ensure the integrity and security of their services and products by taking steps to prohibit, detect and take action against inauthentic accounts on their services and products whose purpose is to propagate Disinformation.
- 2.6. *Supporting independent researchers:* Digital platforms recognise the importance of industry support for research efforts by independent experts including academics that can inform on trends and effective means to counter Disinformation and Misinformation. The Code provides various options for digital platforms to participate in independent research initiatives.
- 2.7. *Without prejudice commitments:* This Code is without prejudice to other initiatives aimed at tackling Disinformation and Misinformation by digital platforms.

3. Glossary

This glossary provides information on some of the key terms used in this Code.

- 3.1. *Digital Content* is content distributed online on a platform owned and operated by a Signatory to this Code that is targeted at Australian users and includes content that has been artificially produced, manipulated or modified by automated means such as through the use of an artificial intelligence algorithm.
- 3.2. The aspect of *Disinformation* that this Code focuses on is:
 - A. Digital Content that is verifiably false or misleading or deceptive;
 - B. is propagated amongst users of digital platforms via Inauthentic Behaviours; and
 - C. the dissemination of which is reasonably likely to cause Harm.

- 3.3. *Enterprise Services* is software and services including cloud storage and content delivery services which are designed for the use of a specific organisation.
- 3.4. *Harm* means harms which pose an imminent and serious threat to:
- A. democratic political and policymaking processes such as voter fraud, voter interference, voting misinformation; or
 - B. public goods such as the protection of citizens' health, protection of marginalised or vulnerable groups, public safety and security or the environment.

Note: an imminent and serious threat includes a situation where an accumulation of harms creates a persistent serious and imminent threat to A or B.

- 3.5. *Inauthentic Behaviour* includes 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.
- 3.6. *Misinformation* means:
- A. Digital Content (often legal) that is verifiably false or misleading or deceptive;
 - B. is propagated by users of digital platforms; and
 - C. the dissemination of which is reasonably likely (but may not be clearly *intended to*) cause Harm.
- 3.7. *A news source* is a journalistic producer of news that is:
- A. subject to the rules of the Australian Press Council Standards of Practice or the Independent Media Council Code of Conduct; or
 - 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
 - C. subject to the rules of a code of practice regulating its standard of editorial practice in another country; or
 - D. is subject to internal editorial standards that relate to the provision of quality journalism; or

- E. provides a publicly accessible mechanism for making complaints about the quality of its news coverage; or
- F. has editorial independence from the subjects of its news coverage.

3.8. *Political Advertising* means paid for advertisements:

- A. made by, on behalf of a political party; or
- B. that advocate for the outcome of an election or referendum; or
- C. that advocate for the outcome of a political campaign concerning a social issue of public concern in Australia; or
- D. are regulated as political advertising under Australian law.

Note: the definition of political advertising in section 4.4 excludes advertising (including sponsored content) that is for the purpose of general advocacy on social issues that may be of public concern.

3.9. *Professional news* is online material produced by a news source that reports, investigates or provides critical analysis of:

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

- 3.10. *Search Engines* consist of software systems designed to collect and rank information on the World Wide Web in response to user queries. Search Engines automate their systems in two ways. First, they use software known as 'web crawler,' 'bots' or 'spiders' to discover publicly available webpages and automatically index and collect information from and about these webpages and internet sites. Second, they use ranking systems to return results in a set of links to websites. These ranking systems are made up of a series of algorithms that are ranked based on many factors such as relevance and usability of pages, expertise of sources, and more. The weight applied to each factor may depend based on the nature of the query. 'Search Engine' excludes downstream entities that offer search functions on their own platforms, for which the results are powered by third-party search engines, as these downstream entities have no legal or operational control of the search results, the index from which they are generated nor the ranking order in which they are provided.
- 3.11. *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.

4. Scope, application and commencement of this Code

- 4.1. *Scope*: Recognising that the types of user behaviour and content that is subject to the Code will vary greatly in incidence and impact amongst the diverse range of services and products offered by different digital platforms, it is expected that the commitments under this Code will apply to the services and products that deliver to end users in Australia:
- A. user-generated (including sponsored content and shared) content: and/or
 - B. content that is returned and ranked by Search Engines in response to user queries; and
 - C. news aggregation services.

Note: professional news content disseminated by a news aggregation service is excluded from the operation of the Code unless Signatories determine that specific instances of its propagation clearly fall within the scope of Disinformation in accordance (See section 4.4 below).

- 4.2. *Excluded services and products*: The following are not services and products subject to this Code:

- A. private messaging services including those provided via software applications;
 - B. email services including those provided via software applications;
 - C. Enterprise Services;
- 4.3. The list of excluded services and products is not intended to be exhaustive as new services and products are likely to emerge, some of which will not be relevant to the Code.
- 4.4. *Excluded Content:* The following content is excluded from the operation of the Code unless Signatories determine that specific instances of its propagation clearly fall within the scope of Disinformation set out in section 3.2:
- A. content produced in good faith for entertainment (including satire and parody) or for educational purposes;
 - B. content that is authorised by an Australian State or Federal Government;
 - C. subject to sections 5.21 to 5.23, Political Advertising or content authorised by a political party registered under Australian law; and
 - D. professional news content.
- 4.5. Signatories may, in their discretion, implement policies and procedures which govern the dissemination by users on their platforms of the types of content excluded from the operation of the provisions of the Code under section 4.4, where Signatories determine such content is reasonably likely to cause Harm.
- 4.6. *Application of existing laws:* There are a range of existing laws or regulatory arrangements (such as the *Enhancing Online Safety Act 2015 (Cth)*) as well as prohibitions or restrictions concerning matters as diverse as tobacco, therapeutic goods, online gambling, election advertising, and defamation that may overlap with some of the matters covered by the Code. To the extent of any conflict with this Code, those laws and regulations will have primacy.
- 4.7. *Application:* The commitments made by each Signatory apply to it, in respect of the commitments it adopts, in respect of the products and services it nominates, from the date that it opts into those commitments.
- 4.8. *Commencement:* This Code commences on 22 February 2021.

5. Objectives and Measures

- 5.1. *General:* This section incorporates a range of measures aimed at achieving seven key objectives and ten outcomes which are informed by the purpose and guiding principles of the Code set out in section 2 above.
- 5.2. *Signatories Commitments.* All Signatories commit to the core Objective 1 of this Code so as to contribute to reducing the risk of Harms that may arise from the propagation of Disinformation and Misinformation on digital platforms as set out in Outcome 1a, and will provide an annual report as set out in section 7. Not all objectives and outcomes will be applicable to all Signatories who may adopt one or more of the measures set out in this section 5 in a manner that is relevant and proportionate to their different services and products, in accordance with the guidance in section 6. Signatories recognise that measures implemented under the Code may also evolve to reflect changes in their services and products, technological developments and the information environment.
- 5.3. *Opt-in:* Section 7.1 below outlines how Signatories will elect to opt into the commitments.
- 5.4. *Terminology of measures:* In implementing measures under the Code, Signatories recognise that actions taken aimed at achieving any outcome including the implementation of policies and processes may use terminology other than 'Disinformation' and 'Misinformation' and may, for example, refer to or a range of prohibited user behaviours or conduct such as making false or misleading representations about the user's identity, origin or intentions and/or a range of prohibited content such as misleading, deceptive, dangerous or harmful content.
- 5.5. *Plain language:* Where Signatories commit to publishing their policies, procedures and any relevant community guidelines or additional information on their actions to combat Disinformation and Misinformation, they will use reasonable commercial efforts to do so in plain language and in an accessible, user-friendly format.
- 5.6. *Restrictions on lawful content or users' access:* In seeking to comply with the requirements of this Code, Signatories are not required to (although they may elect to) take measures that require them to delete or prevent access to otherwise lawful content solely on the basis that it is or may be misleading or deceptive or false. Nor will Signatories be required to signal the veracity of content uploaded and shared by their users.

- 5.7. *Need for transparency to be balanced against disclosure risks:* Signatories recognise that in implementing commitments to promote the public transparency of measures taken under this Code there is a need to balance the need to be open about those measures with the risk that the release of certain information may result in an increase in behaviours that propagate Disinformation and Misinformation, or which increase its virality.

Objective 1: Provide safeguards against Harms that may arise from Disinformation and Misinformation.

Outcome 1a: Signatories contribute to reducing the risk of Harms that may arise from the propagation of Disinformation and Misinformation on digital platforms by adopting a range of scalable measures.

- 5.8. Signatories will develop and implement measures which aim to reduce the propagation of and potential exposure of users of digital platforms to Disinformation and Misinformation.
- 5.9. Measures implemented under 5.8, may include, by way of example rather than limitation:
- A. policies and processes that require human review of user behaviours or content that is available on digital platforms (including review processes that are conducted in partnership with fact-checking organisations);
 - B. labelling false content or providing trust indicators of content to users;
 - C. demoting the ranking of content that may expose users to Disinformation and Misinformation;
 - D. removal of content which is propagated by Inauthentic Behaviours;
 - E. providing transparency about actions taken to address Disinformation and Misinformation to the public and/or users as appropriate;
 - F. suspension or disabling of accounts of users which engage in Inauthentic Behaviours;
 - G. the provision or use of technologies to identify and reduce Inauthentic Behaviours that can expose users to Disinformation such as algorithmic review of content and/or user accounts;

- H. the provision or use of technologies which assist digital platforms or their users to check authenticity or accuracy or to identify the provenance or source of digital content;
- I. exposing metadata to users about the source of content;
- J. enforcing published editorial policies and content standards;
- K. prioritising credible and trusted news sources that are subject to a published editorial code (noting that some Signatories may remove or reduce the ranking of news content which violates their policies in accordance with section 4.5);
- L. partnering and/or providing funding for fact checkers to review Digital Content; and
- M. providing users with tools that enable them to exclude their access to certain types of Digital Content.

Outcome 1b: Users will be informed about the types of behaviours and types of content that will be prohibited and/or managed by Signatories under this Code.

5.10. Signatories will implement and publish policies and procedures and any appropriate guidelines or information relating to the prohibition and/or management of user behaviours and/or content that may propagate Disinformation and/or Misinformation via their services or products.

Outcome 1c: Users can report content or behaviours to Signatories that violates their policies under section 5.10 through publicly available and accessible reporting tools.

5.11. Signatories will implement and publish policies, procedures and appropriate guidelines that will enable users to report the types of behaviours and content that violates their policies under section 5.10.

5.12. In implementing the commitment in section 5.11, Signatories recognise that the terms Disinformation and Misinformation may be unfamiliar to users and thus policies and procedures aimed at achieving this outcome may specify how users may report a range of impermissible content and behaviours on digital platforms.

Outcome 1d: Users will be able to access general information about Signatories' actions in response to reports made under 5.11.

5.13. Signatories will implement and publish policies, procedures and/or aggregated reports (including summaries of user reports made under 5.11) regarding the detection and removal of content that violates platform policies, including but not necessarily limited to content on their platforms that qualifies as Misinformation and/or Disinformation.

Objective 2: Disrupt advertising and monetisation incentives for Disinformation.

Outcome 2: Advertising and/or monetisation incentives for Disinformation are reduced.

5.14. Signatories will implement policies and processes that aim to disrupt advertising and/or monetisation incentives for Disinformation.

5.15. Policies and processes implemented under 5.14 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.

5.16. 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.

Objective 3: Work to ensure the integrity and security of services and products delivered by digital platforms.

Outcome 3: The risk that Inauthentic User Behaviours undermine the integrity and security of services and products is reduced.

- 5.17. Signatories commit to take measures that prohibit or manage the types of user behaviours that are designed to undermine the integrity and security of their services and products, for example, the use of fake accounts or automated bots that are designed to propagate Disinformation.
- 5.18. To allow for the expectations of some users and digital platforms about the protection of privacy, measures developed and implemented in accordance with this commitment should not preclude the creation of pseudonymous and anonymous accounts.

Objective 4: Empower consumers to make better informed choices of digital content.

Outcome 4: Users are enabled to make more informed choices about the source of news and factual content accessed via digital platforms and are better equipped to identify Misinformation.

- 5.19. Signatories will implement measures to enable users to make informed choices about Digital Content and to access alternative sources of information.
- 5.20. Measures developed and implemented in accordance with the commitment in 5.19 may include, for example:
 - A. the use of technological means to prioritise or rank Digital Content to enable users to easily find diverse perspectives on matters of public interest;
 - B. aggregation or promotion of news content subject to an independent editorial code and complaints scheme;

- C. the provision or use of technologies which signal the credibility of news sources, or which assist digital platforms or their users to check the authenticity or accuracy of online news content, or to identify its provenance or source;
- D. the promotion of digital literacy; and or
- E. the provision of financial support and/or sustainable partnerships with fact-checking organisations.

Objective 5: Improve public awareness of the source of Political Advertising carried on digital platforms.

Outcome 5: Users are better informed about the source of Political Advertising.

- 5.21. While Political Advertising is not Misinformation or Disinformation for the purposes of the Code, Signatories will develop and implement policies that provide users with greater transparency about the source of Political Advertising carried on digital platforms.
- 5.22. Measures developed and implemented in accordance with the commitment in 5.21 may include requirements that advertisers identify and/or verify the source of Political Advertising carried on digital platforms; policies which prohibit advertising that misrepresents, deceives, or conceals material information about the advertiser or the origin of the advertisement; the provision of tools which enable users to understand whether a political ad has been targeted to them; and policies which require that Political Advertisements which appear in a medium containing news or editorial content are presented in such a way as to be readily recognisable as a paid-for communication.
- 5.23. Signatories may also, as a matter of policy, choose not to target advertisements based on the inferred political affiliations of a user.

Objective 6: Strengthen public understanding of Disinformation and Misinformation through support of strategic research.

Outcome 6: Signatories support the efforts of independent researchers to improve public understanding of Disinformation and Misinformation.

- 5.24. Signatories commit to support and encourage good faith independent efforts to research Disinformation and Misinformation both online and offline. Good faith research includes research that is conducted in accordance with the ethics policies of an accredited Australian University, provided such policies require that data collected by the researcher is used solely for research purposes and is stored securely on a university IT system, or any research which is conducted in accordance with the prior written agreement of the digital platform.
- 5.25. Measures taken to implement 5.24 may include, for example, cooperation with relevant initiatives taken by independent fact checking bodies. Other measures may include funding for research and/or sharing datasets, undertaking joint research, or otherwise partnering with academics and civil society organisations.
- 5.26. Signatories commit not to prohibit or discourage good faith research, as described in 5.24, into Disinformation or Misinformation on their platform.
- 5.27. Relevant Signatories commit to convene an annual event to foster discussions regarding Disinformation and Misinformation within academia and Civil Society.

Objective 7: Signatories publicise the measures they take to combat Disinformation and Misinformation.

Outcome 7: The public can access information about the measures Signatories have taken to combat Disinformation and Misinformation.

- 5.28. All Signatories will make and publish the annual report information in section 7.
- 5.29. In addition, Signatories will publish additional information detailing their progress in relation to Objective 1 and any additional commitments they have made under this Code.

- 5.30. Signatories may fulfill their commitment in section 5.29 by providing additional reports and/or public updates on areas such as content removals, open data initiatives, research reports, media announcements, user data requests and business transparency reports. Examples of such information could include, by way of example rather than limitation, blog posts, white papers, in-product notifications, transparency reports, help centres, or other websites.

6. Guidance on platform-specific measures

- 6.1. *Proportionality of measures under Code:* The measures taken by Signatories pursuant to this Code will be proportionate and relevant to their specific context including the Harm posed by instances of Disinformation and Misinformation. Signatories may take into consideration a variety of factors in assessing the appropriateness of measures including:
- A. the actors which are engaged in propagating Disinformation and Misinformation;
 - B. the nature of the behaviour of users propagating Disinformation and Misinformation, for example, whether the behaviour is automated and intentional and/or maliciously motivated and the extent to which it is coordinated, persistent and at scale;
 - C. the type of Product or Service via which the content is distributed and whether it has network effects that result in content being widely and rapidly shared amongst users of the platform;
 - D. whether the platform may receive a commercial benefit from the propagation of the content (for example, whether the content is sponsored content);
 - E. the extent to which it is reasonably possible to verify the falsity of relevant Digital Content via an authoritative or credible source;
 - F. the proximity and severity of the Harm that is reasonably likely to result from the propagation of the content;
 - G. the nature of the online community using the digital platform;
 - H. the size and nature of the digital platform's business and the resources available to it;
 - I. the need to protect freedom of expression in balance with other human rights; and
 - J. the need to protect user privacy.

7. Code administration

- 7.1. *Opt-in:* In recognition of the variation in business models and product offerings of Digital platforms, this Code is designed to allow a range of businesses to make commitments by way of opt-in arrangements. Within three months of signing the Code, Signatories will nominate the provisions to which they commit using the Opt-in Nominations Form in Appendix 1. A Signatory is not bound to comply with commitments it has not nominated.

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.

- 7.2. *Withdrawal from Code:* A Signatory may withdraw from the Code or a particular commitment under the Code by notifying DIGI.

- 7.3. *Annual Report:* In addition to the Opt-in Nomination Form under section 7.1, each Signatory 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. Each Signatory's annual report will list its product 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 the period covered by the re

The first report will be in the form of the template report provided in Appendix 2 and submitted within three months of the commencement of the Code. Signatories have developed and implemented a best practice guideline that will inform the data and other information to be included in subsequent reports.

- 7.4. *Complaints:* Signatories have established a complaints facility for resolving complaints by the public about possible breaches of Signatories' commitments under the Code. The public can access the facility via a complaints portal on DIGI's website. An independent Complaints Sub-committee resolves complaints in accordance with Terms of Reference, which are published on the DIGI website, together with information about the operation of the complaints facility and the governance of the Code. The complaints facility does not accept complaints about individual items of content on Signatories' products or services, which should be directed to the relevant Signatory via their reporting mechanisms.

- 7.5. As part of this process, Signatories will also consider how they can leverage current arrangements with government and relevant regulatory agencies to identify and address instances of Inauthentic Behaviours that propagate Disinformation and are the subject of measures addressed by this Code.
- 7.6. *Code Administration:* The Administrator of this Code is DIGI who has established an Administration Sub-committee comprising representatives from Signatories and independent members who will meet at six monthly intervals to review the actions of Signatories and monitor how they are meeting their commitments under the Code. In addition, DIGI has appointed an independent expert to fact check and attest Signatories' annual transparency reports under the Code, in order to incentivise best practice and compliance.
- 7.7. *Code Review:* The Code will be reviewed after it has been in operation for twelve months, and thereafter at two yearly intervals. The reviews will be based on the input of the Signatories, and on relevant government bodies (including the Australian Communications and Media Authority) and other interested stakeholders including academics and representatives from civil society active in this field.