

# Meaningful action, not more misinformed pledges

Submission to the review of the  
Australian Code of Practice on  
Disinformation and Misinformation

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# Summary

The Australia Institute's Centre for Responsible Technology welcomes the opportunity to make a submission to the Digital Industry Group Inc. (DIGI) review of the Australian Code of Practice on Disinformation and Misinformation.

Mis- and disinformation remains one of the most complex and problematic issues with digital platforms today. Whether it's through COVID hoaxes and inaccuracies, election lies and tampering, or any number of harmful topics, mis- and disinformation affects many Australians.

The Australian Government's initial attempt at developing a regulatory initiative specifically to tackle this issue, distilled as the Code is now over a year in operation, and a review of the Australian Code of Practice on Disinformation and Misinformation a necessary step in assessing its impact.

While signatories have made some positive steps to comply with the Code, they have failed to take the meaningful and material actions that would properly address the severity and influence of mis- and disinformation.

Further, this review – though aimed at strengthening the Code – defines a narrow scope of action, with only limited improvements being proposed.

To ensure meaningful action on misinformation, the Centre for Responsible Technology recommends the following:

- Enforcing a mandatory Code with specific platforms designated
- A minimum of six-monthly transparency reporting from signatories
- Stronger enforcement actions modelled after the European Union Code of Practice on Disinformation and the Digital Services Act
- Enforcing algorithmic transparency from signatories to provide clarity and better understanding on the nature and impact of misinformation within digital platforms
- Assigning a genuinely independent oversight group with a transparent selection process, selected from relevant parties in academia, industry and civil society with no ties to the signatories

# Introduction

The Australian Code of Practice on Disinformation and Misinformation was launched by digital lobby group Digital Industry Group Inc (DIGI) on February 2021. The Code was developed in response to the Australian Consumer and Competition Commission's Digital Platforms Inquiry and the Australian Government requested digital platforms develop a code of practice to address disinformation and news quality online.

The Code was adopted by the largest technology companies operating in Australia, including Google, Meta, TikTok, Twitter, Microsoft, Apple, Adobe and Redbubble.<sup>1</sup> A year after it was first launched, the Australian Code of Practice on Disinformation and Misinformation (ACPDM) is being reviewed for its impact and effectiveness.

The Australian Communications and Media Authority (ACMA) has also released a paper which assessed the ACPDM and provided several recommendations to the Australian Government to address areas for improvement.<sup>2</sup>

The environment for misinformation that the digital platforms provide continues to cause widespread issues, both in Australia and overseas. COVID<sup>3</sup>, election-related<sup>4</sup> and other harmful misinformation<sup>5</sup> remains prevalent on digital platforms.

Further, now that high profile events like elections have passed, ACPDM signatories like Meta have decreased misinformation efforts and decommissioned critical misinformation research tools like CrowdTangle.<sup>6</sup>

The Code review continues to define a narrow scope for action, not addressing critical shortcomings in its framework and governance.<sup>7</sup>

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<sup>1</sup> DIGI (2021) *Disinformation Code*, <https://digi.org.au/disinformation-code/>

<sup>2</sup> ACMA (2021) *A report to government on the adequacy of digital platforms' disinformation and news quality measures*

<sup>3</sup> ABC Fact Check (2022) *We fact checked claims that vaccines caused Germany's birth rate to plunge. Here's what we found*, <https://www.abc.net.au/news/2022-07-15/fact-check-germany-birth-rate-decline-not-vaccines/101237438>

<sup>4</sup> RMIT Factlab (2022) *The misinformation wars: Kooyong electorate*, <https://www.rmit.edu.au/news/factlab/frydenberg-ryan-kooyong-misinformation-wars>

<sup>5</sup> Bonyhady and Wong (2022) *WeChat, the Chinese mega app can do almost everything – including election misinformation*, <https://www.smh.com.au/technology/wechat-the-chinese-mega-app-can-do-almost-everything-including-election-misinformation-20220511-p5akh0.html>

<sup>6</sup> Lawler (2022) *Meta reportedly plans to shut down CrowdTangle, its tool that tracks popular social media posts*, <https://www.theverge.com/2022/6/23/23180357/meta-crowdtangle-shut-down-facebook-misinformation-viral-news-tracker>

<sup>7</sup> DIGI (2022) *Australian Code of Practice on Misinformation and Disinformation 2022 Review Discussion Paper*

DIGI has chosen to adopt a very limited view of the recommendations from ACMA's report, and continues to miss key limitations and shortcomings of the Code. Its focus for the review has cherry-picked specific examples that ACMA has provided while missing the fundamental question of whether the Code and its governance is effective or meaningfully addresses the problem of mis- and disinformation in Australia.

The Australia Institute's Centre for Responsible Technology welcomes the opportunity to submit to this critical review of the ACPDM, to ensure meaningful action against misinformation.

# Response to the review

## Action, not pledges

From the outset, the premise of the ACPDM as a voluntary, opt-in Code acted on through the goodwill of technology companies to take action on misinformation was limited.

The review is similarly narrowly focused, with DIGI cherry-picking specific examples from ACMA's effectiveness report rather than addressing fundamental issues of its impact. Most questions and proposals are about clarifying definitions and considering specific platform features and future signatories.

The most meaningful question currently being considered is:

*Should the ACPDM take an opt-out rather than an opt-in approach to the optional commitments under the Code?*

The review does not, but should, ask questions about:

- a) whether its current framework, including the voluntary system, the annual transparency reports and the self-defining actions from technology companies meaningfully address misinformation issues
- b) whether the Code's governance, administered by a representative of the technology companies, and overseen by an opaque "independent oversight" group effectively hold the technology companies and the Code to account

While the proposal for an opt-out rather than an opt-in approach may somewhat strengthen the Code, this approach still falls short and fails to recognise the role technology companies play in facilitating and amplifying disinformation.

An annual commitment of a self-congratulatory transparency report is an inadequate response to digital platform operating environments where misinformation is a daily occurrence. The technology companies, several of which have trillions of dollars of revenue including billions of dollars locally, have the resources and capabilities to deliver more meaningful action on disinformation.

There is growing research on the limits of current technology regulation frameworks as well. Currently technology regulation is either framed through individual action, or through self-regulation by industry. Jamie Susskind, researcher at the Bennett Institute for Public Policy, argues for a collective approach:

*There should be a collective solution where society and individuals set down rules and standards and enforce them together.<sup>10</sup>*

The Code's current remit and this review imagine the bare minimum level of activity when it comes to the huge problem of mis- and disinformation.

## Stronger enforcement - the European model

While it is encouraging that all signatories participated in the initial version of the Code, there is plenty of room for further action, by strengthening and expanding the Code and considering broader terms of reference.

The European Union provides two relevant models for stronger enforcement:

- 1) The EU 2022 Code of Practice on Disinformation:<sup>18</sup>
  - Creates better engagement with the public by empowering users to have better tools to understand and report on disinformation, including fact-checks, warning labels and flagging facilities, in stark contrast to the Australian Code's indirect and Code-specific complaints mechanism
  - Develops a transparency centre which is available to the public with diverse representatives versus Australia's opaque and questionable independent sub-committee
  - A stronger monitoring framework which requires six-monthly transparent reports from signatories that classify as very large online platforms

The EU Code of Practice on Disinformation is an official code of conduct that is part of the Digital Services Act, which goes even further in holding technology platforms to account, including:

- 2) The EU Digital Services Act includes:<sup>19</sup>
  - Developing more effective safeguards for users, including the possibility to challenge platforms' content moderation decisions
  - Transparency measures for online platforms, including on the algorithms used for recommendations
  - Independent audits of risk management systems for very large platforms
  - Access to key data for researchers to gain clarity on how misinformation issues evolve

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<sup>10</sup> Susskind (2022) *The Digital Republic*, Bloomsbury Publishing PLC

<sup>18</sup> European Commission (2022) *The 2022 Code of Practice on Disinformation*, <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>

<sup>19</sup> European Commission (2022) *The Digital Services Act: ensuring a safe and accountable online environment*, [https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment_en)

- More oversight by regulators, including a new European Board for Digital Services

There are stronger enforcement measures already legislated elsewhere in the world that would serve as a better model for Australia than the one currently being proposed.

## Algorithmic intervention and transparency

Key to the fight against misinformation is clarity on the way digital platforms facilitate, amplify and distribute it across their networks. The current Code and this review propose initiatives that are peripheral to or do not involve changes to any of the platforms' algorithms, the central feature which influences information categorisation and dissemination, and therefore a key ingredient in fighting misinformation.

The technology companies have demonstrated in several examples that intervention within their algorithms is possible. Most recently, as a reaction to the United States Supreme Court overturning *Roe v. Wade*, Google announced that it would delete location history for visits to abortion clinics.<sup>30</sup> YouTube has deprioritised sensitive topics, including COVID related information<sup>31</sup>, or high-profile personalities like Meghan Markle.<sup>32</sup> Facebook regularly tweak their algorithms, to emphasise different areas of priority, for example, more personalised stories versus news stories, forcing users and businesses to adapt to those changes.<sup>33</sup>

During the contentious News Media Bargaining Code negotiations in February 2020, Google threatened to carve off all news stories from Australian users, and Facebook actually did so for a number of days, demonstrating that digital platforms can engage in large-scale algorithmic manipulation if they deem an issue a priority.<sup>34</sup> A whistleblower group has since claimed that Facebook deliberately took down Australian emergency services pages during this period.<sup>35</sup>

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<sup>30</sup> Carey (2022) *Google announces massive abortion move as Roe v Wade fallout grows*, <https://www.news.com.au/technology/online/google-announces-massive-abortion-move-as-roe-v-wade-fallout-grows/news-story/0f78d31d7b065f7f1822e6a12b920953>

<sup>31</sup> Milmo (2021) *YouTube to remove misinformation videos about all vaccines*, <https://www.theguardian.com/technology/2021/sep/29/youtube-to-remove-misinformation-videos-about-all-vaccines>

<sup>32</sup> Hall (2022) *YouTube just deranked anti-Meghan Markle channels from search results and recommendations*, <https://www.buzzfeednews.com/article/ellievhall/youtube-anti-meghan-markle-search-channels>

<sup>33</sup> Oremus et al (2021) *How Facebook shapes your feed*, <https://www.washingtonpost.com/technology/interactive/2021/how-facebook-algorithm-works/>

<sup>34</sup> Lewis (2021) *It's time to unfriend Facebook when it resorts to starving us of news*, <https://www.smh.com.au/national/it-s-time-to-unfriend-facebook-when-it-resorts-to-starving-us-of-news-20210218-p573lt.html>

<sup>35</sup> BBC News (2022) *Facebook accused of deliberately disrupting Australia emergency services*, <https://www.bbc.com/news/world-australia-61347620>



Algorithmic transparency is key to understanding the complexity of how misinformation is created, distributed, prioritised, ranked, amplified and how users are targeted to receive specific pieces of misinformation.

These digital platforms are more than capable of developing stronger actions against misinformation at an algorithmic level, but regularly choose not to do so.

## Independent oversight

The “independent oversight” currently setup for the Code is specific to any publicly submitted complaints about the Code and whether signatories are in breach of any of the Code’s terms. There are several issues with this setup:

- The “independent members” of the “complaints sub-committee” are chosen by DIGI, with no transparency given on the selection criteria for members, on the process of selection, and any declarations of conflicts of interest
- There are no public reports on the actions and initiatives taken by this group
- This group is still ultimately managed by DIGI, which works on behalf of signatories, therefore the independent nature of the group is questionable.
- The complaints mechanism assumes public knowledge of the Code, rather than providing a mechanism for addressing misinformation directly, which places undue burden on the public to understand the specific terms of the Code and actions taken by signatories.

To have truly independent oversight, the Code must have a group responsible for its transparency, accountability and performance that is not managed by DIGI or one of its representatives. This group must be free from any ties with the signatories, have a clear and transparent selection criterion, and publicly available records of its actions.

# Recommendations

The Australia Institute's Centre for Responsible Technology welcomes the opportunity to submit to the review of the Australian Code of Practice on Disinformation and Misinformation. To ensure meaningful action on misinformation, we recommend the following:

- Enforcing a mandatory Code with specific platforms designated
- A minimum of six-monthly transparency reporting from signatories
- Stronger enforcement actions modelled after the European Union Code of Practice on Disinformation and the Digital Services Act
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# Conclusion

To tackle the problematic issues of mis- and disinformation, Australia's Code should be strengthened beyond a deliberately narrow and limited review of its effectiveness.

The veracity and impact of the Code should be assessed, with stronger enforcement models being considered, and a genuinely independent group responsible for its oversight, to ensure its success into the future.