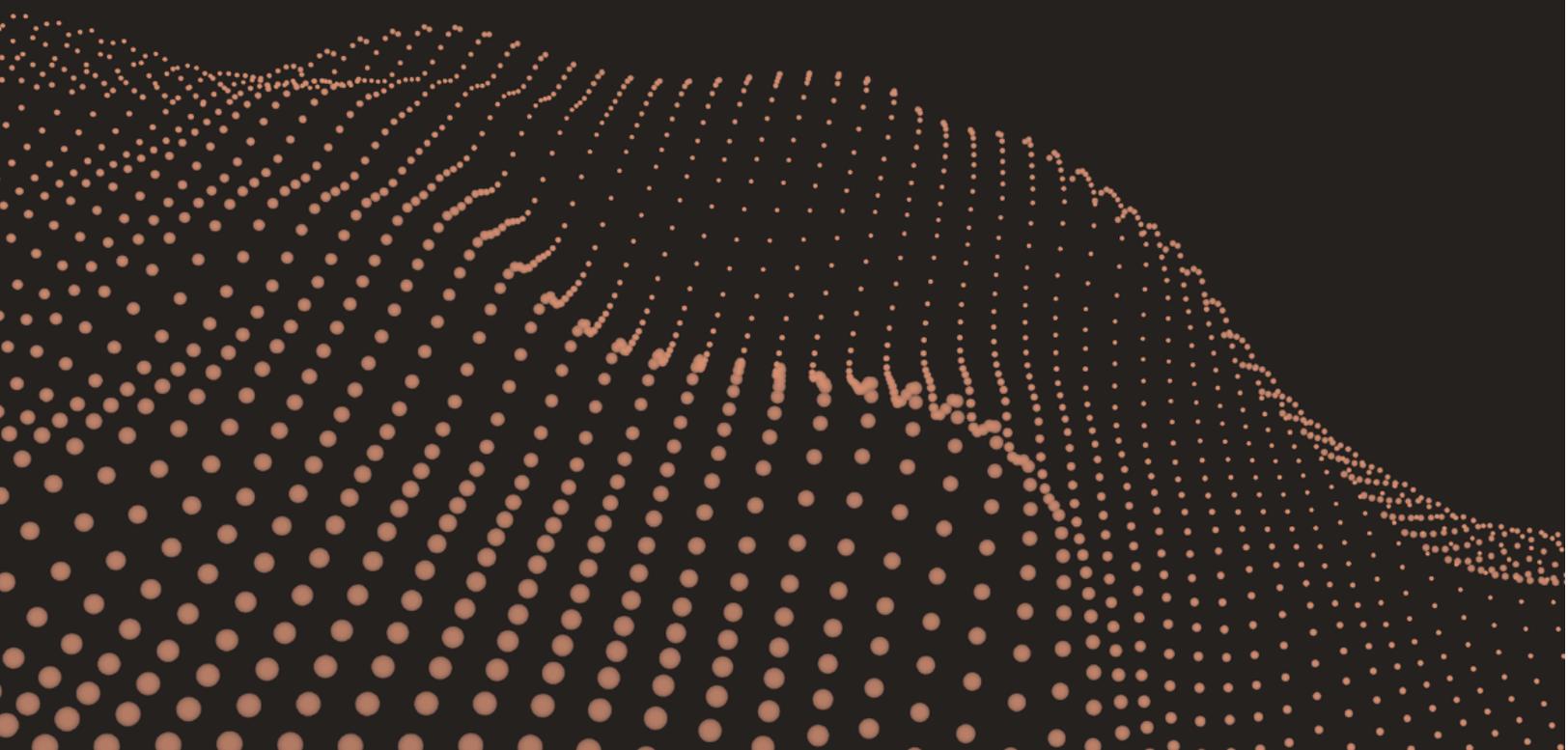




# Australian Code of Practice on Disinformation and Misinformation | 2025 Review **Discussion Paper**

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## A. Purpose of this discussion paper

This Discussion Paper has been prepared by the Digital Industry Group Inc. (DIGI) to assist public consultation for the 2025 review of the *Australian Code of Practice on Disinformation and Misinformation* (ACPDM) (the Code)<sup>1</sup>. The ACPDM, an industry code developed by DIGI, has been adopted by major companies including Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok, and Twitch. The current review of the Code will be comprehensive, examining the scope of the ACPDM and potential improvements to the code's governance and oversight. We encourage stakeholders to this review to consider the challenges inherent in regulating misinformation and disinformation.

### Background

Launched in February 2021, the ACPDM was a direct response to the former Government's policy outlined in *Regulating in the Digital Age: Government Response and Implementation Roadmap for the Digital Platforms Inquiry (the Roadmap)*. Its development drew upon expert guidance from the University of Technology Sydney's Centre for Media Transition and First Draft, a global organisation dedicated to combating false and misleading information.

As currently drafted, the ACPDM regulates two types of online content: 'misinformation' which essentially concerns false misleading or deceptive content which may not be intended to cause harm, and 'disinformation', which is essentially false, misleading or deceptive content which is disseminated in ways that are deliberately coordinated or designed to disrupt and undermine genuine discourse online. In the Code, both concepts also require that the material is likely to cause societal harms such as harm to democratic processes or public health. [See ACPDM definitions of misinformation and disinformation and harm in section F below]. When DIGI originally drafted the Code in 2020 it was focused on disinformation, consistent with the Government's request of industry as articulated in *the Roadmap* and recommendations of the ACCC Digital Platforms Inquiry, from which the Code originates.<sup>2</sup> When the ACPDM was launched in 2021, it was expanded to encompass misinformation in response to the public consultation, including feedback from the ACMA.

### Timing

While this review was originally scheduled for 2024 in accordance with the Code's requirements, signatories paused the review while the Federal parliament considered the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024*. If passed, the Bill would have given the ACMA formal powers to oversee the efforts of digital platforms to combat disinformation and misinformation online, and substantially impacted the ACPDM. The review of the ACPDM is now being advanced, following the withdrawal of the Bill.

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<sup>1</sup> The most recent version of the ACPDM is accessible at <https://digi.org.au/wp-content/uploads/2022/12/Australian-Code-of-Practice-on-Disinformation-and-Misinformation-FINAL--December-22-2022.docx.pdf>

<sup>2</sup> ACCC (2019), *Digital Platforms Inquiry Final Report*, <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>, p. 616.

## B. Consultation

The review of the ACPDM must be based on the input of the signatories, and relevant government bodies and other interested stakeholders including academics and representatives from civil society active in this field<sup>3</sup>. As part of the 2025 review, signatories will take into account key recommendations made by the ACMA in its [Third Report on Digital Platforms' Efforts under Voluntary Arrangements to Address Disinformation and Misinformation](#), noting some recommendations were linked to the withdrawn *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024*, and must be evaluated in that context. 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 September 30 to November 3, 2025.

DIGI encourages stakeholders contributing to the review to read [DIGI's Annual Reports on the ACPDM](#), in addition to this Discussion Paper. These reports contain information about how the ACPDM has evolved since it was initially launched, detailing its governance arrangements, complaints handling and improvements to the transparency reporting process.

Submissions should be uploaded using the form available at [digi.org.au/disinformation-code/code-review](https://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](mailto:hello@digi.org.au).

## C. Context of review: diversity of views on regulation of dis and misinformation

The public debate concerning the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024* highlighted the complex issues surrounding the regulation of dis- and misinformation, and the delicate balance between protecting democratic processes and the need for open public discourse on important political issues. The Bill was highly contentious, and generated a high volume of feedback from the public. The Senate Environment and Communications Legislation Committee received 105 submissions and 30,000 comments on the draft Bill, which were overwhelmingly negative in tenor<sup>4</sup>. According to academic Michael Davis:

*The bill's failure is an illustration of the fundamental difficulty that lies at the heart of any effort to regulate misinformation in a democratic regime: resolving the tension between platform accountability and freedom of expression<sup>5</sup>.*

There is a strong body of opinion that misinformation can threaten democratic processes, for example by undermining electoral integrity. Scholars argue that 'misinformation threatens the epistemic integrity of democracy, contributing to polarisation, fragmentation, declining institutional trust, and weakening

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<sup>3</sup> ACPDM, Section 7.7

<sup>4</sup> Senate Environment and Communications Legislation Committee, *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 [Provisions] Final Report*, para 1.3.

<sup>5</sup> Michael Davis and Sacha Molitorisz 'Promoting rights and accountability in the regulation of misinformation'. (2024), 30(2), *Australian Journal of Human Rights*, 251–278.

support for democratic norms<sup>6</sup>. The World Economic Forum has identified misinformation as the world's most pressing issue<sup>7</sup>. However, as Michael Davis notes, there is equally an emerging body of scholarship that suggest regulation is an inappropriate approach to misinformation because the potential for social harms are overstated and or nebulous<sup>8</sup>.

The question of assessing the best policy response to misinformation in the Australian context is very challenging. High levels of public concern about misinformation aren't necessarily indicative of public exposure to false or misleading materials nor do they equate to actual negative impacts of misinformation on the Australian community. Some researchers have suggested that the degree of 'noise' in the information environment on the topic is in fact generating 'misinformation alarmism', a phenomenon that can lower people's trust in media and journalism in general and their satisfaction with the current state of democracy<sup>9</sup>. According to Andrea Carson "The very fact that public commentary about an "infodemic" is so widespread may lead some people to the cynical conclusion that nothing and no one can be trusted anymore."<sup>10</sup>

## D. Should the scope of the ACPDM be reconsidered?

In this complex context, it is worth considering a threshold question about the scope of the ACPDM. Should the Code continue to regulate disinformation and misinformation, with perhaps a greater emphasis on the steps signatories are taking to promote freedom of speech online, or should it be focused on disinformation, which is arguably a more serious risk to the Australian community and a more objective concept. [See code definitions of misinformation and disinformation in section F below].

An argument for retaining the existing scope is that disinformation and misinformation can be closely intertwined, because the promoters of disinformation campaigns often aim to persuade credible information sources, such as news media to promote their false narratives to a wider audience. Furthermore, one of the advantages of the ACPDM is that it adopts a flexible approach that enables signatories to update platform policies and interventions concerning both disinformation and misinformation in accordance with changes in the information ecosystem. Many signatories have for example, made adjustments to platform policies and interventions concerning Covid-19 in line with changes to government health policies post pandemic. At the same time, as AI tools have become widely available, signatories have introduced new policies around the use of AI on materials posed by users on

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<sup>6</sup> Andrea Carson, Dr Max Grömping, *Measuring, monitoring and diagnosing the impact of mis /dis information to support future (non-legislative) policy development*, Australian National University Australian Resilient Democracy Research and Data Network | Discussion Paper 2, 18 November 2024 available at <https://polis.cass.anu.edu.au/research/publications/measuring-monitoring-and-diagnosing-impact-mis-dis-informati-on-support-future>, p 2; U. K. H. Ecker, et al 'Misinformation poses a bigger threat to democracy than you might think. (2024), *Nature*, 630.

<sup>7</sup> World Economic Forum, (2024). *Global risks report 2024* accessible at <https://www.weforum.org/publications/global-risks-report-2024/>

<sup>8</sup> Ibid. See also Sacha Altay et al, 'A Survey of Expert Views on Misinformation: Definitions, Determinants, Solutions, and Future of the Field' (2023) *Harvard Kennedy School Misinformation Review* 4.

<sup>9</sup> A. Jungherr and A. Rauchfleisch, 'Negative Downstream Effects of Alarmist Disinformation Discourse: Evidence from the United States'. (2024) *Political Behavior* 46, 2123–2143 ; Jakob-Moritz Eberl, Marie Heřmanová, Matouš Pilnáček Sebastian Sherrah, *Too Much Alarmism? Experimental Insights into Misinformation Communication*, ECPR General Conference, Aristotle University of Thessaloniki, August 2025, Sacha Atlay and Alberti Acerbi 'People believe misinformation is a threat because they assume others are gullible' (2023) Volume 26, Issue 11 *New Media and Society*, <https://doi.org/10.1177/14614448231153379>.

<sup>10</sup> Andrea Carson, Dr Max Grömping, n.6 p.6.

their services. It can be argued that the ACPDM helps promote platform accountability for changes in their policies via the transparency reporting process and enable evaluation of the extent to which signatories are taking appropriate steps to protect the freedom of speech of ordinary citizens.

However, recent experience demonstrates that the regulation of misinformation is a politically charged and contentious issue within the Australian community. It is widely accepted that coordinated malicious online activity in the form of a 'disinformation campaign' may cause systemic public harms if it promotes false, misleading or deceptive claims at a large scale, or discourages citizens from engaging with high-quality sources of information. Misinformation, in contrast, is much more complex and subjective as the concept of misinformation is fundamentally linked to people's beliefs and value systems<sup>11</sup>. Research conducted by Resolve Strategic on DIGI's behalf in 2022, indicated there is no consensus within the Australian community on the meaning of the term 'misinformation'. This research also suggests that Australians' assessment of whether material concerning politically contentious topics such as the effects of climate change, is misinformation or truthful is sharply divided, according to their allegiance to different political parties.<sup>12</sup> A further body of empirical studies that show a single pieces of information have only limited power to change people's attitudes, and 'people who most likely interact with and share misinformation tend to already agree with the advocated political stance'<sup>13</sup>. There is also mounting credible evidence that misinformation comprises only a small proportion of the typical user's news and information consumption online, with traditional media, and political elites also playing an important part in amplifying false narratives online<sup>14</sup>. In light of the recent public concerns expressed by some Australians about the regulation of misinformation, particularly in submissions made in relation to the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024*,<sup>15</sup> this review is seeking stakeholder views on whether misinformation should remain within the ACPDM's scope.

## E. Additional issues considered by ACPDM 2025 review

In addition to the threshold question on the scope of the ACPDM, the 2025 review of the ACPDM will include consideration of the following issues, but is not limited to these:

- 1) The transparency reporting process as a means of informing the public and to provide a framework for the review of activities by signatories under the Code
- 2) What role (if any) can the Code play in facilitating an eco-system approach to combatting

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<sup>11</sup> U.K. Ecker. *et al.* The psychological drivers of misinformation belief and its resistance to correction. *National Review Psychology*, Volume 1, 2022, Pages 13–29.

<sup>12</sup> Resolve Strategic 'Research on Australians' perceptions of misinformation' in DIGI, *Australian Code of Practice on Disinformation and Misinformation Annual Report* <https://digi.org.au/disinformation-code/code-review/>.

<sup>13</sup> Andrew Guess, Jonathan Nagler and Joshua A Tucker, 'Less Than You Think: Prevalence and Predictors of Fake News Dissemination on Facebook' (2019) 5 *Science Advances* 1.

<sup>14</sup> Andrea Carson, Dr Max Grömping, n 6, Ceren Budak *et al.*, 'Misunderstanding the Harms of Online Misinformation' (2024) 630 *Nature* 45; Sacha Altay, Manon Berriche and Alberto Acerbi, 'Misinformation on Misinformation: Conceptual and Methodological Challenges' (2023) 9 *Social Media and Society*; Jennifer Allen *et al.*, 'Evaluating the Fake News Problem at the Scale of the Information Ecosystem' (2020) 6 *Science Advances*.

<sup>15</sup> Submissions to 2024 consultation, *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024* [Provisions], [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/MisandDisinfobill/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/MisandDisinfobill/Submissions)

- misinformation and disinformation?;
- 3) The complaints handling process as a means of promoting accountability by signatories for compliance with their mandatory commitments under the Code; and
  - 4) The role, membership and remit of the Administration sub- Committee in overseeing the Code in the light of emerging best practice approaches for advisory committees.

In addition, section F outlines key terms and features of the ACPDM and section G explains the specific challenges that relate to the Issues in this Discussion Paper.

## F. Key Terms and Features of the ACPDM

### Key Terms

The Terms used in this Code define the scope of content and services which are regulated by the Code and, together with the guiding principles in section 2 are intended to strike a balance between the need to protect the public from the risk of harm, and the need to promote democratic debate on issues of public concern.

*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.

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.

*Harm* means harms which pose a credible 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:* Harm which poses a credible and serious threat excludes harm that cannot be reasonably foreseen.

*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.

*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.

## Key features of the Code

In conducting this review, DIGI is conscious that the global online information ecosystem is constantly evolving, and the prevalence and impact of misinformation and disinformation and effectiveness of various policy responses is not yet fully understood. This dynamic environment is why the ACPDM was founded on an outcomes-based regulatory approach, consistent with the Australian Communications and Media Authority's (ACMA) recommendations in its *Misinformation and News Quality on Digital Platforms in Australia: A Position Paper to Guide Code Development*. This approach enables a broad range of services to sign the Code, and gives signatories the flexibility to adapt to new and emerging risks, in a manner appropriate for their diverse business models.

The signatories to the ACPDM recognise their role as important actors within the Australian information ecosystem and, in accordance with their commitments to the Code's objectives and outcomes, currently implement a range of safeguards to protect Australians against online disinformation and misinformation. Mandatory code commitments include: Publishing & implementing policies on misinformation and disinformation, providing users with a way to report content against those policies and implementing a range of scalable measures that reduce the spread & visibility of disinformation and misinformation (Mandatory Outcome #1a). Every signatory has agreed to prepare annual transparency reports about those efforts to improve understanding of both the management and scale of misinformation and disinformation in Australia (Mandatory Outcome #7).

Additionally, there are a series of opt-in commitments that Signatories adopt if relevant to their business model: (Outcome #2) addressing disinformation in paid content; (Outcome #3) addressing fake bots and accounts; (Outcome #4) transparency about source of content in news and factual information (e.g. promotion of media literacy, partnerships with fact-checkers) and (Outcome #5) political advertising; and (Outcome #6) partnering with universities/researchers to improve understanding of disinformation and misinformation. The ACPDM requires each signatory to undertake work to ensure their platform implements their obligations set out in the Code.

Signatories document their evolving approaches in their annual transparency reports published on the DIGI website under the Code. The transparency reporting process provides stakeholders, including the Australian Government and the public, with information about signatories' implementation of their commitments under the ACPDM. The [fifth set of reports](#) were published in June 2025 and cover data from the January 2024 – December 2024 calendar year. The reports have been reviewed by an independent expert Shaun Davies, in accordance with the Codes governance arrangements. DIGI's analysis of the insights from the most recent round of reports can be found in our *Annual Report on the Australian Code of Practice on Disinformation and Misinformation, May 2025*<sup>16</sup>.

The ACPDM also establishes governance arrangements for the 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:

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<sup>16</sup> Available at [https://digi.org.au/wp-content/uploads/2025/06/FINAL-Annual-Report\\_-\\_May-2025.pdf](https://digi.org.au/wp-content/uploads/2025/06/FINAL-Annual-Report_-_May-2025.pdf).

- a) the establishment of an Administration Committee comprising representatives from signatories and independent members who review the actions of signatories and monitor how they are meeting their commitments under the code (section 7.6);<sup>17</sup>
- b) a process for the independent expert review of signatories' transparency reports;
- c) *Transparency Reporting Guidelines for The Australian Code on Disinformation and Misinformation* developed by the previous independent expert reviewer, Hal Crawford, that inform the format and other information to be included in signatories' transparency reports<sup>18</sup>; and
- d) a complaints handling facility with an independent Complaints Committee that deals with complaints from the public about compliance with the ACPDM (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 website<sup>19</sup> and in DIGI's 2022 annual reports.

## G. Discussion of Issues

### Issue 1: The transparency reporting process as a means of informing the public and a framework for the review of activities by signatories under the Code

There is no doubt that misinformation and disinformation have proven difficult to define, and consequently to research and understand. In the case of the ACPDM, a key and ongoing challenge is developing a transparency reporting process that can give meaningful information about the activities of signatories under the Code.

It is also important to appreciate that the ACPDM cannot purport to provide comprehensive data that measures the nature, prevalence and exposure of Australians to misinformation and disinformation online, its impact on attitudes and beliefs or the effectiveness of different interventions in countering the risk of harm. This is an area which requires sustained international and interdisciplinary research and cooperation over a long period of time<sup>20</sup>.

The transparency reporting process under the ACPDM has evolved every year since the inception of the Code with the aim of improving the quality of the information provided to the public about signatories efforts under the Code as well as a framework for reviewing signatories activities against the Code objectives and outcomes.

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<sup>17</sup> 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 published on the DIGI website, together with information about the operation of the complaints facility and the governance of the Code.

<sup>18</sup> ACPDM, See Section 7.3

<sup>19</sup> Digital Industry Group Inc., *Disinformation Code Complaints*, (Website, 2021), <https://digi.org.au/disinformation-code/complaints/>.

<sup>20</sup> See Jon Bateman and Dean Jackson, *Countering Disinformation Effectively: An Evidence-Based Policy Guide*, Carnegie Endowment for International Peace, 31 Jan 2024 available at <https://carnegieendowment.org/research/2024/01/countering-disinformation-effectively-an-evidence-based-policy-guide>.

An ongoing question in relation to the transparency reporting process is whether it is achievable for signatories to devise a common set of metrics that enable them to meaningfully report their progress against outcomes. Developing metrics for platforms responses in the case of the *EU 2022 Code of Practice on Disinformation* is acknowledged to be a 'hard problem' that requires 'complex work' over time.<sup>21</sup> In the case of the ACPDM, there is a tension between developing common metrics that could be used to compare platforms progress and the aim of the ACPDM to encompass a diverse range of platforms, with different business models, policies and different interventions that are tailored to their information environments. We have as yet been unable to identify a set of quantitative metrics that allow for useful comparisons of the diverse platforms that have made commitments under the Code. Additionally, we note that it is also inherently difficult to devise useful metrics in relation to misinformation, given the inherently subjective nature of that concept and the extent to which false and misleading materials may be dealt with under a range of platforms policies and laws including prohibitions against hate speech, cyberbullying, misleading and deceptive advertising or defamation. This is another reason why it may be desirable to limit the scope of the ACPDM to disinformation which involves inauthentic behaviours including manipulation of content using AI, which is likely to be more clearly identified and reported upon by relevant platforms.

This review also provides an opportunity to consider further refinements to the current reporting process, including the *Transparency Reporting Guidelines for The Australian Code on Disinformation and Misinformation*<sup>22</sup>. These guidelines currently request that signatories provide:

- Trended data relevant to the Australian market over extended periods
- Clear explanations of major changes in policy
- Consistency in reported metrics year-on-year
- Audience-friendly documents with a minimum of promotional language;
- Specific information about efforts to combat AI-generated disinformation misinformation.<sup>23</sup>

We are interested to hear views about how the transparency reports can be improved including:

- What data should signatories provide that is a meaningful indicator of their efforts under each of the outcomes under the Code?;
- Should the format of the reports be updated?;
- Should there be a greater focus in changes to policies and moderation processes in response to changing environmental conditions; and
- Can the analysis and presentation of information about the Transparency Reports in DIGI's Annual report be improved?

## Issue 2: What role (if any) can the Code play in facilitating an eco-system approach to combatting misinformation and disinformation?

A key challenge in relation to misinformation and disinformation policy is how policy responses can encourage a sense of shared responsibility among the community, government, content producers and

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<sup>21</sup> "How Effective is the Code of Practice on Disinformation? The First Pilot Measurement of its Structural Indicators is Now Available," November 14, 2023, *EUI Centre for Media Pluralism and Media Freedom* <https://cmpf.eui.eu/first-pilot-measurement-of-structural-indicators-on-disinformation/>.

<sup>22</sup> Digital Industry Group Inc, *Best Practice Transparency Reporting Guidelines* (Annual Report, 2024).

<sup>23</sup> In 2024, the *Best Practice Transparency Reporting Guidelines* were updated by the Code's independent reviewer to include reporting on AI technologies to inform signatory reports. However, this reporting is not explicitly mandatory

digital platforms.<sup>24</sup> To date, policymakers have tended to concentrate on a few aspects of the disinformation puzzle – including novel technologies like social media and artificial intelligence (AI) – without considering the full range of possible responses in realms such as education, journalism, and political institutions.<sup>25</sup> A recent study by the Carnegie Endowment for International Peace found that:

*The rhetoric of political elites, programming on traditional media sources like TV, and narratives circulating among trusted community members are all highly influential in shaping people's speech, beliefs, and behaviors. At the same time, the growing number of digital platforms dilutes the effectiveness of actions by any single company to counter disinformation. Given this interplay of many voices and amplifiers, effective policy will involve complementary actions in multiple spheres<sup>26</sup>.*

On this view, regulation of digital platforms, whether by this Code or another means, is only one piece of the disinformation puzzle and regulation should focus on improving the online information ecosystem, rather than on misinformation narrowly conceived<sup>27</sup>. While the ACPDM is intended to primarily 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 and that an effective policy response to disinformation and misinformation requires an ecosystem approach that is not limited to digital platforms, but spans advertising organisations, traditional media, and political parties. DIGI considers that an ecosystem approach is also important to encouraging greater take-up of the ACPDM, which is at present the sole regulatory tool to tackle this issue in the Australian context<sup>28</sup>.

There are several ways an ecosystem approach may be fostered in Australia including:

- Government support for nationwide digital media literacy initiatives;<sup>29</sup>
- Initiatives that train and support 'influencers' in responsible information practices;<sup>30</sup>
- 'Truth in political advertising' laws;<sup>31</sup>
- Strengthened regulation of misleading advertising<sup>32</sup>; and

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<sup>24</sup> UTS Centre for Media Transition & First Draft, *Discussion paper on an Australian Code of Practice on Disinformation* (Report, 16 October 2020) <<https://digi.org.au/wp-content/uploads/2020/10/Discussion-Paper-Final.pdf>>.

<sup>25</sup> n 20.

<sup>26</sup> Ibid

<sup>27</sup> Davies and Sacha Molitorisz, n5.

<sup>28</sup> Among liberal democracies, the European Union (EU) has adopted the most comprehensive measures to tackle illegal and non-illegal but harmful disinformation of various types. This includes the initiation, development and supervision of two 'codes of practice on disinformation' (2018 and 2022) and the adoption of the Digital Services Act (DSA),

<sup>29</sup> See Tanya Notley et al *Adult Media Literacy in 2024: Australian Attitudes, Experiences and Needs*, accessible at <https://medialiteracy.org.au/latest-research/>.

<sup>30</sup> For example, *Australian Influencer Marketing Code of Practice* <https://aimco.org.au/best-practice-provides> useful guidance on how and when advertisers and influencers should be making relevant disclosures. There are also platform specific policies for each of the social media platforms that specify what is considered branded content and the applicable restrictions that apply to such content, contravention of which may result in content being removed by the platform itself.

<sup>31</sup> Political advertising is exempted from the ACPDM as signatories consider political advertising a form of political speech and it is in appropriate to address this via voluntary industry regulation: it remains open to the government to introduce legislation that addresses this issue.

<sup>32</sup> The ACCC is responsible for enforcing the Australian Consumer law which regulates false and misleading advertising. Under the AANA regulatory scheme, Ad Standards Australia is the body which is responsible for enforcing and determining breaches of the AANA Code of Ethics. While the AANA Code does not have the force of law and Ad Standards' decisions are not legally binding, if an advertiser does not respond to the determination notice

- Strengthened regulation of traditional media online.

Academic Andreas Jungherr notes that the policy debate about disinformation both in Australia and in other Western democracies, 'largely ignores the role of disinformation from the domestic top and the role of news media in amplifying disinformation'.<sup>33</sup>

The ACPDM exempts professional news from the definition of misinformation, but it is open to professional media organisations to implement specific safeguards against misinformation and disinformation under their own co-regulatory and voluntary arrangements<sup>34</sup>. However, to date, most media organisations' codes of practice set basic standards for accuracy in news reporting, but do not contain specific safeguards against the amplification of disinformation online. For example, the Free TV Code sets a standard for accuracy for news and current affairs reporting in broadcast environments but this does not extend to the activities of broadcasters online. The media is often deliberately targeted by and sometimes persuaded by false narratives disseminated via disinformation campaigns.<sup>35</sup> There are some notable examples of Australian broadcasters amplifying misinformation and disinformation online. For example, Channel 7 incorrectly identified a student as the perpetrator of the April 13, 2024, attacks at Bondi junction on their live program and subsequently on its YouTube channel and website, apparently based on rumours trending on social media. This clip stayed on the Channel 7 YouTube channel for more than an hour before it was removed by Channel 7 and during this time was viewed at least 3,000 times<sup>36</sup>.

We are interested in receiving feedback on ways in which the Code could play a role in facilitating an ecosystem approach to disinformation and misinformation. For example, could the media and advertising sector or other relevant organisations be encouraged to adopt relevant Code commitments?

### Issue 3: Can the complaints handling process be improved?

The Code complaints facility is aimed at ensuring signatories are accountable for their commitments under the ACPDM, including the accuracy of the information in their transparency reports. Details concerning the operation of the complaints facility including the Terms of Reference of the Complaints Committee are published on the DIGI website<sup>37</sup>. Eligible complaints can be made by the public, via the complaints portal on the DIGI website, and are escalated to the Complaints Committee, which currently comprises three independent members. The complaints facility is not intended to address complaints

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or refuses to modify or remove the content, Ad Standards will work with industry contacts such as media organisations to resolve the issue. In extreme cases, Ad Standards may also refer instances to the ACCC for investigation.

<sup>33</sup> Andreas Jungherr, 'Foundational questions for the regulation of digital disinformation', (2024) Vol 16, no 1 *Journal of Media Law*, 8-16.

<sup>34</sup> Professional news defined in the Code as 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.

<sup>35</sup> Sacha Altay, Anne-Sophie Hacquin and Hugo Mercier, 'Why Do So Few People Share Fake News? It Hurts Their Reputation' (2022) 24 *New Media & Society* 1303; Melanie Freeze and others, 'Fake Claims of Fake News: Political Misinformation, Warnings, and the Tainted Truth Effect' (2021) 43 *Political Behavior* 1433; Emily Van Duyn and Jessica Collier, 'Priming and Fake News: The Effects of Elite Discourse on Evaluations of News Media' (2019) 22 *Mass Communication and Society* 29.

<sup>36</sup> Lewis and Nilsson, 'Anatomy of a media breakdown: Bondi Junction, misinformation and Channel 7 A timeline of what happened in Bondi, the cynical spread of misinformation, and the major network that amplified it' *Crikey.com* 15 April 2024

<sup>37</sup> Available at <https://digi.org.au/disinformation-code/complaints/>.

about individual pieces of content on digital platforms that may be false or misleading and should be reported under platform policies. It is intended to be a portal for community members to report that a Signatory may not be complying with their Code obligations.

To date, DIGI has received 96 complaints via the complaints portal. Of these, only two complaints have related to Signatories' compliance with the Code and meet the criteria for consideration by the Complaints Committee. Details of the outcomes of complaints are published on the DIGI website and also in DIGI's Annual Report on the ACPDM.

The ACMA has recommended greater clarity for the effective functioning of the complaints facility, so that members of the public can easily reference signatories' commitments to help inform their decision to make a complaint.<sup>38</sup>

We are interested in hearing views about how the complaints process can be improved for members of the public, including:

- Eligibility: Can the eligibility criteria or complaints be better explained to users of the complaints portal
- Signatory Obligations: How can individual signatory's obligations under the code be more easily and practically explained, so as to facilitate the making of complaints?
- User-friendly: Can the complaints portal be made easier to use?

#### Issue 4: The role, membership and remit of the Administration Committee in overseeing the Code in the light of emerging best practice approaches for advisory committees.

The Administration Committee currently consists of three independent representatives from the Complaints Sub-Committee, alongside four signatories of the ACPDM. This Committee monitors the various actions taken by signatories to meet their obligations under the Code, such as the operation of the complaints facility. The role of the Administration Committee is set out in Terms of Reference and includes the following functions:

- a) Monitoring the actions taken by Signatories to meet their obligations under the Code including any material changes that have occurred since the publication of their most recent transparency reports;
- b) Reviewing the operation and effectiveness of the Code Complaints Facility including the number of ineligible and eligible complaints;
- c) Reviewing whether DIGI's handling of complaints is consistent, fair and effective;
- d) Reviewing and reporting on Signatories responses to any systemic issues that are brought to its attention by the Complaints Sub-committee;
- e) Reviewing and reporting on the effectiveness of the independent review of transparency reports.
- f) Reporting on progress of relevant research initiatives by Signatories and other researchers on misinformation and disinformation;

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<sup>38</sup> ACMA Third Report, see page 26.

- g) Reviewing the annual report produced by DIGI on Code administration, that will be published on the DIGI website.

ACMA has encouraged increased transparency by DIGI in reporting on the operation of the Administration Committee in its Annual Report on the ACPDM<sup>39</sup> The most recent Annual Report outlined the activities of the Committee in 2024. Additionally, emerging best practices for governance of advisory boards can provide a reference point for understanding how the functions of the Administrative Committee might be improved. For example, the Advisory Board Centre's Best Practice Framework sets out principles for creating strong governance structures within organisations.<sup>40</sup>

Drawing on this Framework, signatories would appreciate input from this review on:

- **Membership:** Should the committee membership be limited to independent advisors (non-members of the Complaints Committee) and what should be the attributes of the independent members?
- **Responsibilities:** Should the role of the Committee be more advisory in focus and include for example input from academic experts on emerging trends and research?
- **Reporting:** Should the Administrative Committee report on their work and what should it be required to report on?
- **Meetings:** What standing items should be on the Committee's agenda?

## Next steps

Once submissions have closed, submissions will be closely reviewed and DIGI will provide updates to stakeholders.

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<sup>39</sup> ACMA *Third Report*, see pages 1 and 2.

<sup>40</sup> Advisory Board Centre, *Best Practice Framework* (Report, 2024), <<https://www.advisoryboardcentre.com/wp-content/uploads/2024/06/Advisory-Board-Centre-%E2%80%93-ABF101-Best-Practice-Framework-%E2%80%93-2024-2026.pdf>>.