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Select Committee on Social Media and Online Safety  
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Dear Secretary

### **ACMA submission: Select Committee on Social Media and Online Safety**

The Australian Communications and Media Authority (ACMA) is the independent statutory authority responsible for the regulation of broadcasting, radiocommunications and telecommunications in Australia. Our regulatory remit also covers some aspects of online content which is relevant to this Inquiry.

This submission outlines the ACMA's role in relation to protecting Australians from online harms as it pertains to the Committee's terms of reference, specifically in relation to mis- and disinformation on digital platforms, illegal interactive gambling and spam.

The Committee will be aware that the ACMA makes staff available to support the work of the eSafety Commissioner. However, the Commissioner is an independent statutory officer and, consequently, the important online safety work of the Commissioner's Office is not included in this submission.

### ***Cross-agency actions to keep Australians safe online***

The challenge of protecting Australians from online harms, both on social media and across the internet more generally, is complex and multi-faceted. This topic touches on a range of interconnecting issues and regulatory frameworks including privacy, data protection, defamation, consumer protection, online safety, and the broader online information environment.

Accordingly, there are a wide range of interventions underway across the Australian Government, including in response to the findings of the Australian Competition and Consumer Commission (ACCC) in its 2019 Digital Platforms Inquiry, and as part of recent legislative reforms to strengthen Australia's online safety regime.

The ACMA works closely with several government agencies on online harms issues, including the Department of Home Affairs (DHA), the Department of Foreign Affairs and Trade (DFAT), the Australian Electoral Commission (AEC) and our portfolio agency, the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC).

The ACMA, along with the ACCC, the Office of the Australian Information Commissioner (OAIC) and the Office of the eSafety Commissioner, also regularly meet as a group to share information and collaborate on cross-cutting issues and activities relating to the regulation of digital platforms. This has become an increasingly important forum as work has progressed to implement cohesive and proportionate regulation to address online harms.

This coordinated collaboration across government has greatly assisted the ACMA with its work to date in relation to online harms. Continued collaboration, including with industry and civil society, will be critical in meeting the ongoing challenge of protecting Australians online in the coming years.

### ***Misinformation and disinformation on digital platforms***

As has become increasingly evident in recent years, the propagation of falsehoods and conspiracies online can result in serious real-world harm – to individuals, businesses, public institutions, and broader society. Misinformation and disinformation can actively undermine trust in democratic processes and institutions, weaken the effectiveness of public health efforts to combat COVID-19, place undue financial burden on targeted businesses or organisations, and in some cases, incite individuals to carry out acts of vandalism or violence.

University of Canberra research from 2021 found that around half of Australians regularly access news on social media, but 64 per cent remain concerned about what is real or fake on the internet.<sup>1</sup> Further, 4-in-10 Australians had experienced false or misleading information about COVID-19 in the previous week, which was the leading topic for misinformation in Australia.<sup>2</sup>

In December 2019, the ACMA was asked by the Australian Government to oversee the development of an industry code to address disinformation and news quality on major digital platforms operating in Australia. Following a 12-month process, which included the publication by the ACMA of a [position paper](#) to guide code development, the [Australian Code of Practice on Disinformation and Misinformation](#) commenced in February 2021.

This code requires all signatories to develop and implement measures that reduce the propagation of, and potential exposure of Australian users to, harmful dis- and misinformation. The code adopts an outcomes-based model rather than establish a series of prescriptive common rules. This provides individual platforms with flexibility on how they will achieve the code's objectives, while also improving levels of transparency and accountability across the digital industry without, for example, needing to regulate the operation of disparate, technically complex and dynamic platform algorithms.

Under the code, all signatories are required to publish [annual transparency reports](#) that demonstrate how they have achieved the agreed outcomes and objectives of the code. The first tranche of reports was published in May 2021 and reported on the diverse set of measures platforms are taking to combat mis- and disinformation. This includes financial support for media literacy initiatives, adding fact-checking labels to posts, introducing 'friction' to counter the virality of content and increasing efforts to detect and take action against networks spreading high volumes of mis- and disinformation. The next tranche of reports is due in May 2022.

At present, this code has 8 signatories, representing most of the major digital platforms operating in Australia: Adobe, Apple, Facebook, Google, Microsoft, Redbubble, TikTok and Twitter.

As requested, the ACMA also delivered a report to the government in June 2021 that examined the state of online mis- and disinformation in Australia and

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<sup>1</sup> S Park et al., [Digital News Report: Australia 2021](#), News and Media Research Centre, University of Canberra, 2021.

<sup>2</sup> S Park et al., [Digital News Report: Australia 2021](#), News and Media Research Centre, University of Canberra, 2021.

assessed the adequacy of platform measures to address this problem. This report will inform government considerations on whether the voluntary code is sufficient to mitigate the problems of disinformation and news quality online, or if further action is required. The ACMA's report is under consideration by the government.

While the findings and recommendations of the ACMA remain under government consideration, the ACMA is continuing to monitor the operation of the code and the activities of signatories. In October 2021, DIGI, the code administrator, announced additional public accountability measures under the code, including a [public complaints handling facility](#).

DIGI is also scheduled to start a review of the code in February 2022, which will provide an opportunity for industry to address any outstanding issues or concerns with the code. The development of more detailed reporting guidelines for signatories and the operation of the code's complaints facility, including DIGI's public reporting of complaints, will be areas of ongoing interest to the ACMA throughout 2022.

### ***Online gambling***

Online gambling is the fastest growing segment in the gambling market and therefore presents a substantial and increasing risk of harm to the Australian community.

The [Second National Study of Interactive Gambling in Australia](#) (2019-2020), commissioned by Gambling Research Australia, examined changes in interactive gambling since the first national study published in 2014. It found that the estimated prevalence of interactive gambling in the Australian adult population has doubled from 8.1% to 17.5%<sup>3</sup>. It also found that interactive gamblers are nearly 3 times more likely to be problem gamblers than non-interactive gamblers and about twice as likely to be at-risk gamblers.

Similarly, the [National Consumer Protection Framework for Online Wagering: Baseline Study \(Final report, June 2019\)](#) found around half of the study's 5,076 participants were classified as being at risk of, or already experiencing, gambling-related harm. Over 7% of participants (393) reported they had suffered increased credit card debt because of online gambling.

In contrast to licensed wagering services, illegal online gambling services pose additional risk to consumers as standard consumer protections are often absent. This is particularly the case where the operators of those illegal services are based offshore.

The ACMA administers the *Interactive Gambling Act 2001* (the IGA) which has the objective of minimising harm to problem gamblers, or those at risk of problem gambling. The IGA:

- prohibits certain interactive gambling services from being provided or advertised to Australians
- prohibits credit being provided by certain licensed wagering operators
- establishes the National Self Exclusion Register (NSER).

We also publish [quarterly reports](#) of our activities on interactive gambling.

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<sup>3</sup> Based on comparative National Telephone Surveys in 2010/11 and 2019.

The ACMA investigates potential breaches of the IGA and takes enforcement action where appropriate. In 2020-21, the ACMA managed over 500 gambling complaints and finalised over 180 investigations.

The ACMA has a range of enforcement actions available where we find breaches of the IGA. These include formal warnings, infringement notices and pursuing civil penalties through the courts. We also have the option of referring directors and principals of offending companies to the Department of Home Affairs for inclusion on the Movement Alert List which is used in deciding whether a person should be allowed to enter Australia.

However, there are often both jurisdictional and practical challenges to taking enforcement action in this digital environment where operators are typically based offshore and often take steps to mask their identity. As a result, the ACMA also uses measures to disrupt the services from being provided into the Australian market including engagement with third party providers and requesting Internet Service Providers (ISPs) to block gambling websites which have been found to be in contravention of the IGA. The ACMA also refers non-compliant sites to family friendly filter providers, which allows users to limit access to certain types of content on the internet.

In 2020-21, over 160 ACMA investigations resulted in breach findings, finding over 260 separate contraventions of the IGA. In response, we issued 28 formal warnings, referred 206 websites to ISPs for blocking and reported 230 URLs to family friendly filter providers.

Over 150 illegal gambling sites have withdrawn from the Australian market since the ACMA started enforcing illegal offshore gambling rules in 2017. Since we started referring websites for blocking in November 2019, 375 websites have been blocked at the ACMA's request.

Each year, the ACMA sets compliance priorities. In 2020-21, one of the ACMA's compliance priorities was to focus investigations on illegal online casinos that target Australians. We have also published a [report on our activities and achievements against that priority](#).

In our [compliance priorities for 2021-22](#), we are targeting investigations into affiliate marketing services that advertise and facilitate access to illegal gambling services through websites and also streaming services on platforms such as Facebook, YouTube and Twitch. The ACMA continues to engage with platforms including Facebook, Google and Twitter about the advertising and conduct of illegal gambling services on their platforms and their processes for review and removal.

The ACMA also has a role in raising consumer awareness of illegal gambling services and the risks of using them which we do through regular social media campaigns.

#### *National Self-Exclusion Register*

The ACMA is also responsible for implementing the National Self-Exclusion Register (the Register). The Register is a key consumer safeguard measure of the National Consumer Protection Framework for Online Wagering.

The Register will allow consumers—for the first time in Australia—to self-exclude from all licensed online and phone wagering providers in Australia in a single process. Self-excluded individuals will not be able to place a bet or open a new account with a licensed interactive wagering provider. Providers will also be prevented from directly marketing to self-excluded individuals.

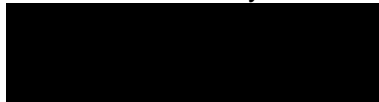
The ACMA has contracted a provider to develop and operate the Register. The ACMA and the Register operator are engaging with consumers and advocacy groups to inform the design and implementation of the Register. The ACMA is continuing to liaise with Commonwealth, State and Territory governments in relation to identify and age verification matters for the Register. Implementation is currently underway, with the Register expected to commence operation in mid-2022. Following commencement, the ACMA will also be responsible for monitoring compliance of licensed wagering operators with the requirements for dealing with self-excluded individuals as set out in the IGA.


### ***Spam and scams***


The ACMA also has responsibility for enforcing compliance with the *Spam Act 2003*, which regulates marketing emails or messages sent by Australian businesses and prohibits the sending of unsolicited commercial electronic messages. We also work closely with our colleagues in other government agencies such as the ACCC and international regulators on scam related issues, however our remit is primarily limited to phone scams.

I hope this information is of assistance and the ACMA can provide additional information to the Committee if required.

Yours sincerely



Nerida  Loughlin PSM

 January 2022