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# Joint Select Committee on Social Media and Australian Society

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Second interim report: digital platforms and the traditional  
news media

October 2024

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# Terms of reference

- (a) the use of age verification to protect Australian children from social media;
- (b) the decision of Meta to abandon deals under the News Media Bargaining Code;
- (c) the important role of Australian journalism, news and public interest media in countering mis and disinformation on digital platforms;
- (d) the algorithms, recommender systems and corporate decision making of digital platforms in influencing what Australians see, and the impacts of this on mental health;
- (e) other issues in relation to harmful or illegal content disseminated over social media, including scams, age-restricted content, child sexual abuse and violent extremist material; and
- (f) any related matters.



# List of recommendations

## **Interim report recommendations**

- 3.159 Recognising the scope of this interim report, the recommendations below focus on the decision of Meta to abandon deals under the Code and the important role of Australian journalism, news and public interest media on a healthy democracy in countering mis- and disinformation.
- 3.160 The committee's final report will consider issues relating to online safety; algorithms and recommender systems; the impacts of the mental health of users; lack of accountability of social media platforms; and age verification.

## **Recommendation 1**

- 3.161 **The committee recommends that the Australian Government establish a Digital Affairs Ministry with overarching responsibility for the coordination of regulation to address the challenges and risks presented by digital platforms. The Ministry could also play a role in coordinating monitoring and research activities to assess the ongoing impact of digital platforms on Australian society, as well as the effectiveness of existing and future regulation. Because matters relating to the regulation of social media are broad, the new Digital Affairs Ministry should be given an equally broad remit so that it can regulate matters such as, but not limited to, privacy and consumer protection, competition, online safety, and scams.**

## **Recommendation 2**

- 3.162 **The committee recommends that, acknowledging the limitations of the News Media Bargaining Code, the Australian Government explore alternative revenue mechanisms to supplement the Code, and contribute to systems oversight, such as a digital platform levy. Exploration should include consideration for preserving current and future commercial deals to sustain public interest journalism over the longer term, and to support digital media literacy initiatives.**

## **Recommendation 3**

- 3.163 **The committee recommends that the Australian Government develop an appropriate mechanism and protocols to guide the fair and transparent distribution of revenue arising from any new revenue mechanisms. This work could have reference to relevant research and should include protocols aimed at ensuring the sustainability of small, independent and digital only publishers, as well as those operating in underserved communities and rural, regional and remote areas. Consideration should also be given for a portion of any revenue raised through such mechanisms to be used for funding an independent body to oversee systems, accredit researchers to access data and other related functions.**

#### **Recommendation 4**

**3.164** If the News Media Bargaining Code is to be redesigned, the committee recommends that the Australian Government revisit the tests for registration of news businesses under the News Media Bargaining Code to ensure their design does not present an unreasonable barrier to registration for small, independent or digital only publishers.

#### **Recommendation 5**

**3.165** Given Meta's decision not to renew deals under the News Media Bargaining Code, and the de-prioritisation of news on Meta platforms, the committee recommends that the Australian Government establish a short-term transition fund to help news media businesses to diversify and strengthen alternative income streams and news product offerings. The fund should have a particular focus on supporting small, independent and digital only publishers, as well as those operating in underserved communities and rural, regional and remote areas.

#### **Recommendation 6**

**3.166** The committee recommends that the Australian Government investigate the viability and effectiveness of 'must carry' requirements for digital platforms in relation to Australian news content from large and small news providers, including an assessment of the legal pathways and barriers to such requirements.

#### **Recommendation 7**

**3.167** The committee recommends that the Australian Government establish a Digital Media Competency Fund (to be funded via alternative revenue mechanisms to be explored at Recommendation 2). While this fund should have a strong focus on the digital media literacy of young Australians, it should also fund initiatives aimed at improving the digital media literacy of other groups at risk of being taken in by mis- and disinformation, including older Australians and those in regional areas.

#### **Recommendation 8**

**3.168** The committee supports the need for legislation to combat mis- and disinformation.

#### **Recommendation 9**

**3.169** To improve transparency around digital platforms' systems and processes use, the committee recommends that the Australian Government adopt transparency requirements similar to the measures in the European Union's Digital Services Act, which includes transparency around recommender systems, as well as mandatory access to platform data and algorithms to facilitate research. This should also include measures to require digital

platforms to provide notice of changes to algorithms and the rationale for those changes.

**Recommendation 10**

**3.170** The committee recommends that the Australian Government examine options to respond to the use of algorithms and recommender systems to deprecate news by digital platforms with significant power.

**Recommendation 11**

**3.171** The committee recommends that the Australian Government review the effectiveness of the industry co-regulation model for digital platforms in Australia.



# Chapter 1

## Introduction

- 1.1 The Joint Select Committee on Social Media and Australian Society (committee) was appointed by resolution of the Senate on 15 May 2024 and resolution of the House of Representatives on 16 May 2024, to inquire into and report on the influence and impacts of social media on Australian society, with reference to:
- (a) the use of age verification to protect Australian children from social media;
  - (b) the decision of Meta to abandon deals under the News Media Bargaining Code;
  - (c) the important role of Australian journalism, news and public interest media in countering mis- and disinformation on digital platforms;
  - (d) the algorithms, recommender systems and corporate decision making of digital platforms in influencing what Australians see, and the impacts of this on mental health;
  - (e) other issues in relation to harmful or illegal content disseminated over social media, including scams, age-restricted content, child sexual abuse and violent extremist material; and
  - (f) any related matters.<sup>1</sup>

### **Conduct of the committee's inquiry**

- 1.2 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties inviting them to make a written submission by 28 June 2024.
- 1.3 The committee received 217 submissions, as well as additional information and answers to questions on notice.
- 1.4 At the time of reporting, the committee had held nine public hearings in Canberra:
- Friday, 21 June 2024;
  - Tuesday, 25 June 2024;
  - Friday, 28 June 2024;
  - Tuesday, 2 July 2024;
  - Wednesday, 10 July 2024;
  - Wednesday, 4 September 2024;
  - Monday, 30 September 2024;
  - Tuesday, 1 October 2024; and
  - Wednesday, 2 October 2024.

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<sup>1</sup> *Journals of the Senate*, No. 110, 15 May 2024, pp. 3357–3359; House of Representatives, *Votes and Proceedings*, No. 119, 16 May 2024, pp. 1530–1531.

- 1.5 Links to public submissions, hearing programs (including witnesses), *Hansard* transcripts of evidence, answers to questions on notice, and other additional documents published by the committee are available on the committee [website](#).

### **Acknowledgements and references**

- 1.6 The committee thanks those individuals and organisations who contributed to the inquiry by providing written submissions and giving evidence at public hearings. In particular, the committee would like to thank those individuals who shared their personal experiences with the committee. These important testimonies have helped to inform the findings of this report.
- 1.7 References in this report to the *Hansard* transcripts of public hearings are to the proof *Hansard* transcripts. Page numbers may vary between the proof and official *Hansard* transcripts.

### **Scope of this report**

- 1.8 This report is an interim report that will focus on the decision of Meta to abandon deals under the News Media and Digital Platforms Mandatory Bargaining Code (Code) and the important role of Australian journalism, news and public interest media on a healthy democracy in countering mis- and disinformation on digital platforms.
- 1.9 The report comprises three chapters, including this introductory and background chapter, with the remaining chapters as follows:
- Chapter 2 looks at the impact of social media on the Australian media landscape, the rise of mis- and disinformation on digital platforms, the importance of public interest journalism, and the effectiveness of current approaches to the regulation of digital platforms.
  - Chapter 3 examines the operation of the Code and the impact of Meta's decision to abandon deals under the Code, and outlines the committee view and recommendations.
- 1.10 While the focus of this interim report is on the Code, the committee did hear evidence in its initial tranche of hearings from many witnesses on the broader aspects of the committee's terms of reference.
- 1.11 These issues included age verification; online safety; algorithms and recommender systems; the impacts of the mental health of users; lack of accountability of social media platforms; the privacy and data issues inherent in using social media; and the complexity of addressing the issues.
- 1.12 While this report provides some consideration of algorithms and recommender systems, these will be explored further in the committee's final report looking at how social media operates, the impacts that social media has on various cohorts across Australian society, and ways in which the potential harms can be mitigated or prevented.

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## Operation of digital platforms in Australia

1.13 This section provides background on social media services in Australia, including the key Australian regulatory schemes, as well as recent examples of international jurisdictions that have taken steps to strengthen the effectiveness of their regulatory frameworks.

### What are digital platforms?

1.14 Digital platforms refer to online systems that facilitate the creation, exchange and consumption of digital content and services. This includes, but is not limited to, internet search engines, digital content aggregators, social media services, private messaging services, media referral services and electronic marketplaces.<sup>2</sup>

1.15 These platforms can take various forms and serve diverse purposes—such as enabling social connections, providing access to information and entertainment, the ability to conduct business, or for people to buy goods and services.<sup>3</sup>

1.16 Australians rely on digital platforms for many of these services, which are provided by a small group of global companies. The five largest digital platforms are Apple, Microsoft, Google, Amazon and Meta.<sup>4</sup> These companies own and operate multiple digital platforms—for example, Meta owns Facebook, Instagram and WhatsApp, and Google owns YouTube.<sup>5</sup>

1.17 Social media services are a component of digital platforms that enable user-to-user type interactions and/or the sharing of user-generated content.<sup>6</sup> These services can include e-commerce as well as 'purely social networking services, as well as professional networking, dating, chat, messaging, social gaming, and user generated content-sharing services, among others'.<sup>7</sup>

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<sup>2</sup> Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), *Submission 12*, p. 3.

<sup>3</sup> Australian Competition and Consumer Commission (ACCC), [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023.

<sup>4</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 7 – Expanding digital platform ecosystems](#), September 2023, p. 26.

<sup>5</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023.

<sup>6</sup> DITRDCA, *Submission 12*, p. 3.

<sup>7</sup> DITRDCA, *Submission 12*, p. 3. Section 13 of the *Online Safety Act 2021* (Cth) defines the term 'social media service' in relatively broad terms. The powers in the Act apply in relation to social media services and relevant electronic services, covering a wide range of digital interaction methods.

- 1.18 Digital platforms generate their revenue primarily from advertising, generally through collecting and harnessing user data and capturing user attention.<sup>8</sup> The Australian Competition and Consumer Commission (ACCC) has noted that 'the monetisation of user attention and data through selling digital advertising is essential to the business model of social media platforms'.<sup>9</sup> The business model used by some of the larger platforms is discussed in more detail below.

### **Australian regulation of digital platforms**

- 1.19 There are a range of laws and schemes in Australia covering online content, with responsibility for regulating digital platforms primarily shared between the Australian Communications and Media Authority (ACMA), the ACCC, the Office of the Australian Information Commissioner (OAIC), and the Office of the eSafety Commissioner (eSafety Commissioner). Together, these agencies comprise the Digital Platforms Regulators Forum (DP-REG).<sup>10</sup>
- 1.20 While not a decision-making body, DP-REG members share information about, and collaborate on, overlapping issues and activities involving the regulation of digital platforms. This includes consideration of how competition, consumer protection, privacy, online safety and data issues intersect.<sup>11</sup>
- 1.21 Several regulatory reforms have been announced and are in the process of being implemented or are currently before Australian parliaments.<sup>12</sup>

### ***Australian Communications and Media Authority***

- 1.22 ACMA oversees content regulation in Australia, including matters related to some online content, broadcasting standards and classification, radiocommunications and telecommunications. Digital platforms may be subject to obligations regarding harmful or illegal content, such as child exploitation material, violence, or hate speech.<sup>13</sup> The ACMA also oversees the Australian Code of Practice on Disinformation and Misinformation (CPDM) relating to targeting of a person with dis- and misinformation.<sup>14</sup>

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<sup>8</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023, pp. 26–28, 76–77.

<sup>9</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023. p. 77.

<sup>10</sup> The Digital Platform Regulators Forum (OP-REG), *Submission 35*, pp. 1–2. OP-REG is an initiative of Australian independent regulators to share information about and collaborate on cross-cutting issues and activities on the regulation of digital platforms.

<sup>11</sup> OP-REG, *Submission 35*, pp. 1–2.

<sup>12</sup> DITRDCA, *Submission 12*, pp. 8–13.

<sup>13</sup> Australian Communications and Media Authority, *Submission 52*, pp. 5–10.

<sup>14</sup> Australian Communications and Media Authority, *Submission 52*, pp. 5–6.

1.23 The Commonwealth Government (government) is currently considering amendments to an exposure draft of its Communications Legislation Amendment. (Combating Misinformation and Disinformation) Bill 2023. The proposed bill would enable the ACMA to better monitor and assess the effectiveness of platform moderation activities, while incentivising greater participation and performance by industry under the existing CPDM.<sup>15</sup>

#### *Australian Competition and Consumer Commission*

1.24 The ACCC conducts inquiries and law enforcement cases in relation to Australian Consumer Law and anti-competitive behaviour by digital platforms. The ACCC has an ongoing 5-year inquiry into the supply of digital platform services, including digital advertising and data collection, storage, supply, processing and analysis services by digital platforms.<sup>16</sup> The ACCC also operates the National Anti-Scam Centre and is engaging with the government to support the development of mandatory industry codes on scams.<sup>17</sup>

1.25 In response to the recommendations of the ACCC's fifth interim report for its Digital Platform Services Inquiry, the government has written to digital platforms requesting that they develop a voluntary international dispute resolution code by July 2024.<sup>18</sup>

#### *Office of the Australian Information Commissioner*

1.26 The OAIC has three main functions, including protecting the privacy of individuals under the *Privacy Act 1988* (the Act) and other legislation, access to information held by the government in accordance with the *Freedom of Information Act 1982*, and information management as set out in the *Australian Information Commissioner Act 2010*.<sup>19</sup>

1.27 In its interim response to the Privacy Act Review, the government concluded that it was necessary to overhaul Australia's privacy laws to ensure they remain fit-for-purpose in the digital age.<sup>20</sup> The government agreed with several of the report's proposals including:

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<sup>15</sup> Australian Communications and Media Authority, *Submission 52*, p. 7. See also, DITRDCA, *Submission 12*, pp. 10–11.

<sup>16</sup> The ACCC must provide the Minister an interim report every six months until the inquiry concludes, with a final report to be provided to the Minister by 31 March 2025.

<sup>17</sup> OP-REG, *Submission 35*, p. 3.

<sup>18</sup> Government Response to ACCC Digital Platform Services Inquiry, Government Response to ACCC Digital Platform Services Inquiry, 2023. See also, DITRDCA, *Submission 12*, pp. 11–12.

<sup>19</sup> Office of the Australian Information Commissioner, *Annual report 2022–23*, p. 7.

<sup>20</sup> Australian Government, Attorney-General's Department, [Privacy Act Review Report 2022](#), 16 February 2023. The Privacy Act Review originated out of the recommendations of the ACCC's 2019 Digital Platforms Inquiry final report.

- updating and clarifying the definition of 'personal information' to ensure that it includes technical and inferred information where this can be used to identify individuals;
- requiring that the collection, use and disclosure of personal information must be fair and reasonable in the circumstances; and
- introducing a Children's Online Privacy Code that applies to online services that are likely to be accessed by children.<sup>21</sup>

### *eSafety Commissioner*

1.28 The eSafety Commissioner is the primary agency tasked with regulating online safety and its legislative functions are set out in the *Online Safety Act 2021 (OSA)*. This includes administering complaints and investigation schemes for four types of online harms—cyberbullying of children, cyber abuse of adults, the non-consensual sharing of intimate images, and illegal or restricted online content.<sup>22</sup>

1.29 The OSA also provides the eSafety Commissioner with a mechanism to request or require the blocking of material that promotes, incites, instructs in or depicts abhorrent violent conduct if the material is likely to cause significant harm in the Australian community.<sup>23</sup>

1.30 On 31 May 2024, the Online Safety (Basic Online Safety Expectations) Amendment Determination 2024 came into effect, which includes new core expectations that service providers:

- take reasonable steps to proactively minimise material or activity that is unlawful or harmful, and ensuring users can use a service in a safe manner
- protecting children from content that is not age appropriate like pornography
- taking reasonable steps to prevent harmful use of anonymous and encrypted services
- putting in place user-reporting mechanisms, and clearly outlining their terms of service and enforcing penalties for people who breach these terms
- cooperating with other service providers
- responding to requests for information from the eSafety Commissioner.<sup>24</sup>

1.31 As part of the 2024–25 Budget, the government announced funding for the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) to conduct a trial of age assurance technology to protect children from age-restricted online content. The trial will

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<sup>21</sup> [Government Response to the Privacy Act Review Report](#), 28 September 2023, pp. 21–38.

<sup>22</sup> Office of the eSafety Commissioner, *Submission 1*, pp. 2–3.

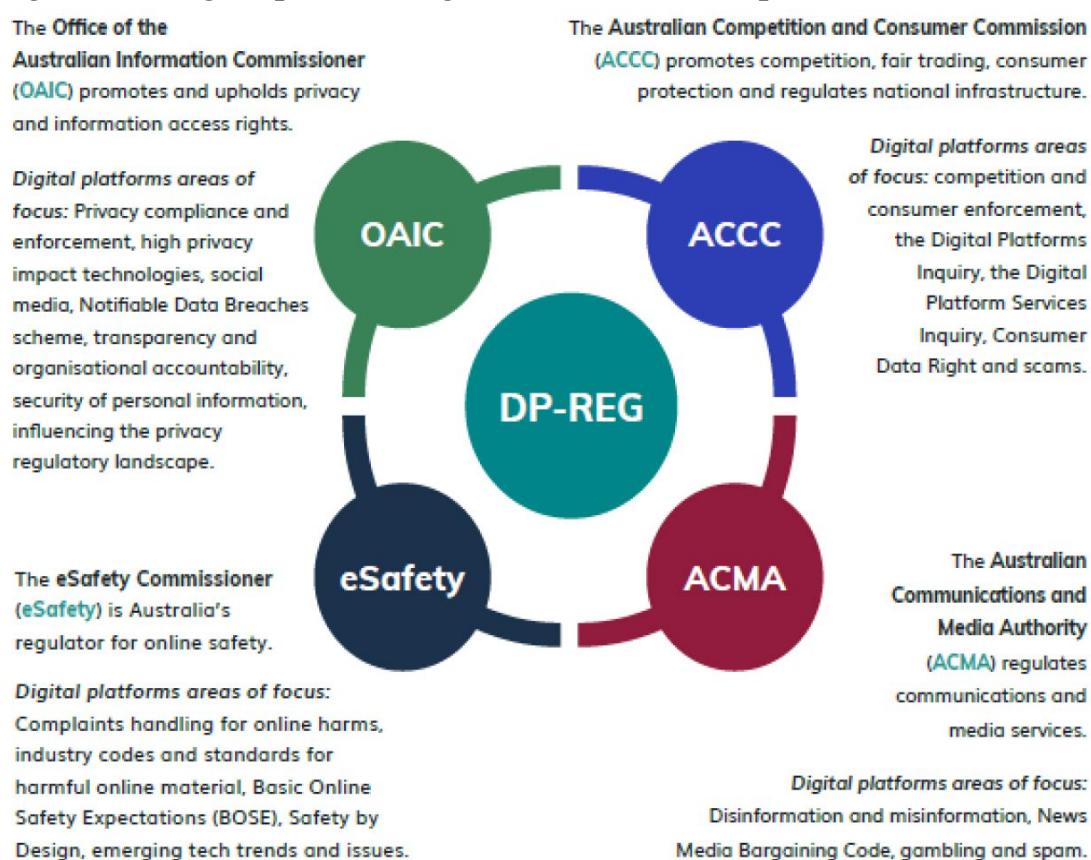
<sup>23</sup> Office of the eSafety Commissioner, *Submission 1*, pp. 2–3.

<sup>24</sup> Office of the eSafety Commissioner, *Submission 1*, pp. 4–5.

complement the eSafety Commissioner's development of Phase 2 industry codes.<sup>25</sup>

- 1.32 The government is also conducting an independent statutory review of the OSA, which will consider whether additional protections are needed for harmful online material such as hate speech and image-based abuse.<sup>26</sup> A report is due to be provided to the government by 31 October 2024.
- 1.33 A summary of each agency's responsibilities in relation to digital platforms is shown in Figure 1.1 below.

**Figure 1.1 Digital platform regulators' roles and responsibilities**



Source: *The Digital Platform Regulators Forum, Submission 35, p. 9.*

### International regulatory frameworks

- 1.34 Several international jurisdictions have taken steps to strengthen the effectiveness of their regulatory frameworks, with the European Union, United Kingdom and Canada seeking to address the harms associated with online platforms and the need to increase their accountability and responsibility to consumers.

<sup>25</sup> Office of the eSafety Commissioner, *Submission 1*, p. 14. DITRDCA, *Submission 12*, p. 10.

<sup>26</sup> The Hon Michelle Rowland MP, Minister for Communications, '[Ensuring our online safety laws keep Australians safe](#)', *Media Release*, 13 February 2024.

### **European Union (EU)**

- 1.35 The EU have recently introduced a new regulatory regime, including the Digital Services Act (DSA) and the Digital Markets Act (DMA).<sup>27</sup> The DSA regulates online intermediaries and platforms, including online marketplaces, social networks, content-sharing platforms, app stores, and online travel and accommodation platforms.<sup>28</sup> It also provides for additional, stricter obligations for Very Large Online Platforms (VLOPs) and search engines.<sup>29</sup>
- 1.36 Under the DSA, VLOPs are required to undertake annual risk assessments to identify any significant systemic risks arising from the functioning and use of their services, including their algorithms, recommender systems, content moderation systems, user terms and conditions, advertising systems and data-related practices.<sup>30</sup>
- 1.37 Similarly, the DMA establishes specific designated 'gatekeeper' platforms.<sup>31</sup> Gatekeeper platforms are digital platforms with a systemic role in the internal market that function as bottlenecks between businesses and consumers for important online services, such as for example online search engines, app stores, messenger services.<sup>32</sup>
- 1.38 On 6 September 2023, the European Commission designated six digital platform providers as gatekeepers under the DMA. Alphabet (Google's parent company), Amazon, Byte Dance, Meta and Microsoft were required to make their combined 22 core platform services compliant with the DMA by March 2024.<sup>33</sup>

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<sup>27</sup> EU 2022 *Digital Services Act*, <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>; EU 2022 *Digital Markets Act*, [https://digital-markets-act.ec.europa.eu/index\\_en](https://digital-markets-act.ec.europa.eu/index_en) (accessed 23 July 2024). See also, DITRDCA, *Submission 12*, pp. 13–14; Australian Gaming and Screens Alliance, *Submission 59*, p. 12; CHOICE, *Submission 51*, pp. 14–15.

<sup>28</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en)

<sup>29</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en) See also, Reset.Tech EU, *Submission 137*, pp. 4–5.

<sup>30</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en)

<sup>31</sup> DITRDCA, *Submission 12*, p. 14.

<sup>32</sup> DITRDCA, *Submission 12*, p. 14.

<sup>33</sup> DITRDCA, *Submission 12*, p. 14. On 29 April 2024, the European Commission designated Apple with respect to its iPadOS, its operating system for tablets, as a gatekeeper under the DMA. On 13 May 2024, the Commission also designated under the DMA, Booking as a gatekeeper for its online intermediation service Booking.com. In total, 24 core platform services provided by those gatekeepers have been designated.

### ***United Kingdom (UK)***

- 1.39 The UK Online Safety Act (UK OSA) addresses illegal content and content harmful to children online.<sup>34</sup> The UK OSA became law in October 2023 and established the Office of Communications (Ofcom) as the regulator for online safety, with appropriate enforcement, oversight and designation responsibilities.<sup>35</sup>
- 1.40 The UK OSA also established requirements to scan for child sexual exploitation and abuse material, and to report such material to the UK National Crime Agency, and duty of care obligations, requiring platform providers to act against a range of illegal and harmful online material.<sup>36</sup>

### ***Canada***

- 1.41 The Online News Act in Canada establishes a framework for digital news intermediary operators and news businesses to enter into agreements to make available news content on digital platform services.<sup>37</sup>
- 1.42 On 26 February 2024, the Canadian government also tabled the landmark Bill C-63, which seeks to enact the Online Harms Act.<sup>38</sup> If passed, it will set in place a legislative scheme to hold a wide range of services accountable for reducing the risk of harmful content online. This would include:
- requirements for online platforms to monitor and remove seven categories of harmful content;
  - the establishment of three new regulatory bodies, such as a Digital Safety Commission, to monitor and order removal of content;
  - new offences under the Criminal Code of Canada, to address hate speech content and messaging; and
  - new powers to impose cost recovery charges on social media service providers, to fund the operation of the regulations.<sup>39</sup>

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<sup>34</sup> UK 2023 *Online Safety Act 2023* <https://www.legislation.gov.uk/ukpga/2023/50/enacted>. Under the UK OSA, with the agreement of the courts, Ofcom can require payment providers, advertisers and internet service providers to stop working with a site, preventing it from generating revenue or being accessed from the UK. See also, Australian Human Rights Commission, *Submission 79*, p. 6; DITRDCA, *Submission 12*, p. 14.

<sup>35</sup> Government of the United Kingdom, '[UK children and adults to be safer online as world-leading bill becomes law](#)', *Media Release*, 26 October 2023. See also, DITRDCA, *Submission 12*, p. 14.

<sup>36</sup> Government of the United Kingdom, '[UK children and adults to be safer online as world-leading bill becomes law](#)', *Media Release*, 26 October 2023. See also, Reset.Tech Australia, *Submission 16*, p. 1; DITRDCA, *Submission 12*, p. 14.

<sup>37</sup> DITRDCA, *Submission 12*, p. 15.

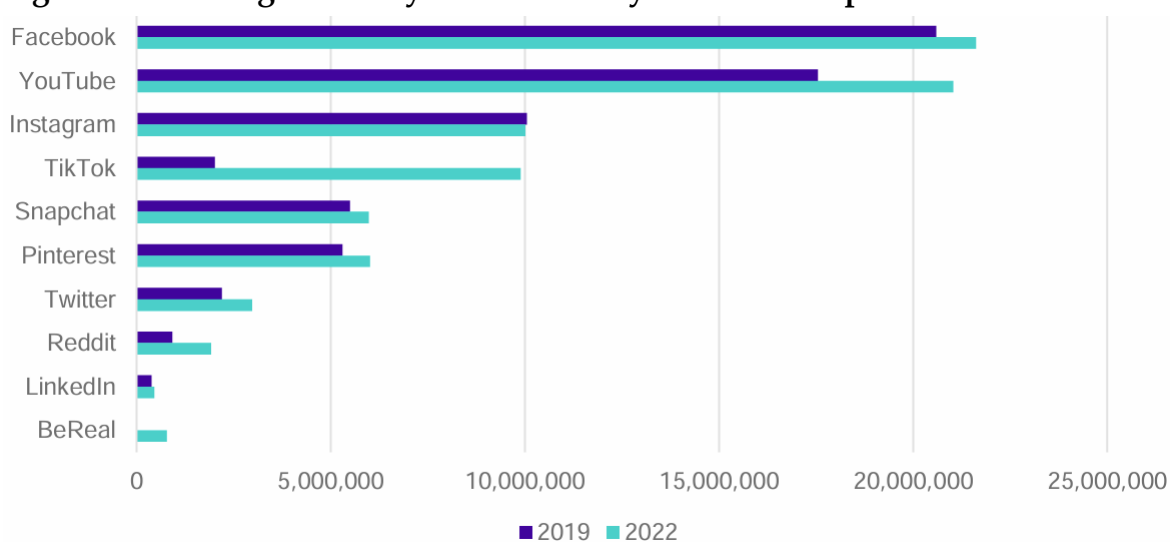
<sup>38</sup> Canada 2024 Online Harms Bill 2024 <https://www.parl.ca/LegisInfo/en/bill/44-1/c-63>. See also, DITRDCA, *Submission 12*, p. 15.

<sup>39</sup> DITRDCA, *Submission 12*, p. 15.

## Influence of social media platforms in Australia

1.43 Digital platforms have become a part of daily life for many Australians. The ACCC has noted that as of January 2023, there were 21.3 million active users of social media platforms—representing 81 per cent of the total Australian population.<sup>40</sup> The average monthly active users by social media platforms between 2019 and 2022 is shown in Figure 1.2.

**Figure 1.2 Average monthly active users by social media platforms 2019–22**



Source: ACCC analysis of Sensor Tower data. This chart reflects the yearly average of Australian monthly active users of social media platforms in 2019 and 2022. Extracted from the ACCC, *Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia*, March 2024, p. 32.

### How Australians use social media

1.44 Australians use social media services for significant amounts of time each month. For example, the time spent on Facebook and Instagram by Australian monthly users increased from 16.9 to 17.2 hours per month on Facebook, and 9.8 to 9.9 hours per month on Instagram.<sup>41</sup>

1.45 Similarly, between 2020 and 2022 the average Australian adult's time spent on YouTube's mobile apps increased from 21.5 to 22.6 hours per month. TikTok had the greatest increase in total time spent on its mobile app, with the average adult's time spent on TikTok increasing from 6.5 hours per month in 2020 to 13.1 hours per month in 2022.<sup>42</sup>

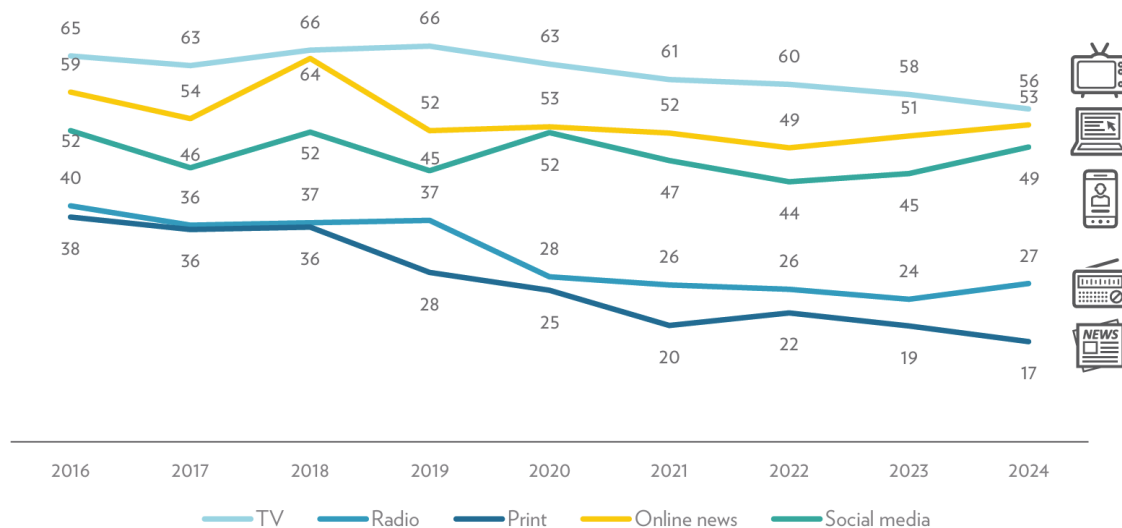
<sup>40</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023, p. 24.

<sup>41</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023, p. 66.

<sup>42</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023, p. 66.

1.46 According to the University of Canberra's latest *Digital News Report: Australia*, Australians are also increasingly relying on social media to get their news, with one in two Australians using social media as a general source of news, and 25 per cent using it as their main source (See Figure 1.3).<sup>43</sup> The study also noted that 60 per cent of Gen Z audiences rely on social media as their main source of news and Instagram was their top news source among social media platforms.<sup>44</sup>

**Figure 1.3 General sources of news 2016–24 (%)**



Source: *Digital News Report: Australia 2024*. Canberra: News and Media Research Centre, University of Canberra, p. 81.

### Operational/business models

1.47 The business models used by some of the larger consumer facing digital platforms, has been to charge a zero monetary price to consumers in return for their attention, the collection of their data, and the subsequent ability to sell targeted advertising opportunities.<sup>45</sup>

1.48 Digital platforms use this data to understand their user's interests, activities, interests, location, and demographics, and in turn monetise this data by allowing advertisers to target certain types of users based on this data.<sup>46</sup> The relationships between digital platforms, consumers, and businesses are illustrated in Figure 1.4 below.

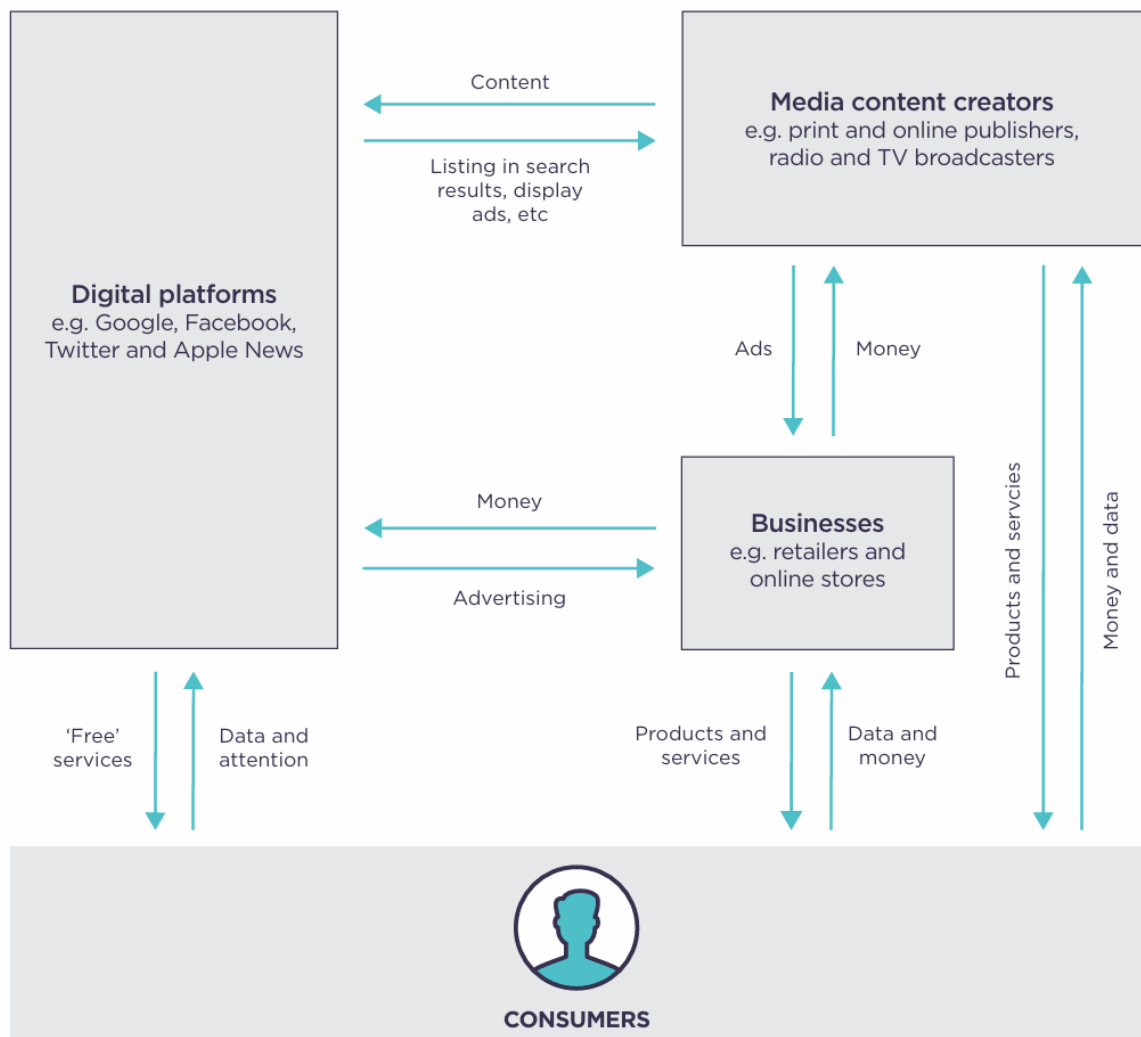
<sup>43</sup> News and Media Research Centre, University of Canberra, *Submission 47*, p. 2.

<sup>44</sup> Park, S., Fisher, C., McGuinness, K., Lee, J., McCallum, K., Cai, X., Chatskin, M., Mardjianto, L. & Yao, P. (2024). *Digital News Report: Australia 2024*. Canberra: News and Media Research Centre, University of Canberra, p. 81.

<sup>45</sup> ACCC, [Digital Platforms Inquiry Final Report](#), 26 July 2019, p 11.

<sup>46</sup> ACCC, [Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia](#), March 2023, pp. 74–85.

**Figure 1.4 Relationships between digital platforms, consumers, businesses and media content creators**



Source: Extracted from the ACCC's *Digital Platforms Inquiry – Final Report*, June 2019, p. 61.

### Algorithms and recommender systems

1.49 The way digital platforms collect and present content to their users has changed over time and the processes they have used for doing so have in part driven their growth. Many platforms initially presented content in chronological order, but as technology advanced, they began to use algorithms to distribute content to their users in a more personalised manner.<sup>47</sup> Algorithms are used to target advertisements to specific groups of users, making display advertising opportunities highly effective at reaching their desired audience.<sup>48</sup>

<sup>47</sup> See, for example, Meta, *Submission 46*, p. 45; Office of the eSafety Commissioner, [Recommender systems and algorithms position statement](#), December 2022, p 1.

<sup>48</sup> ACCC, *Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia*, March 2023, p. 7.

- 1.50 Algorithms facilitate a level of personalisation, and help users navigate online material to discover content of relevance and interest. They are also used by some digital platforms to assist with content moderation, identification of harmful material as well as for targeted advertising.<sup>49</sup>

**Box 1.1 What are algorithms?**

An algorithm is a coded sequence of instructions that is often used by online service providers to prioritise content a user will see.

These instructions are determined by platforms based on many factors, such as user attributes and patterns, and can involve personalised suggestions to achieve a particular goal, such as discovering new artists, friends, products, activities, and ideas, as well as helping business and creators efficiently reach a target audience.

For these reasons, algorithms are used by almost all digital platforms to amplify, prioritise and recommend content and accounts to their users. Their use and sophistication continue to grow, with multiple algorithms typically being active within a platform at any given time, all completing different tasks with different outcomes.<sup>50</sup>

- 1.51 While the specific process by which content is prioritised can be called a 'recommender algorithm', large social media platforms do not use a single algorithm to sort content. Most platforms have complex and interlocking algorithmic systems that use varying kinds of algorithms for a range of purposes—including but not limited to content recommendation.
- 1.52 A set of algorithms that prioritise content or make personalised content suggestions on online services are referred to as 'recommender systems' or 'content curation systems'.<sup>51</sup> Not all social media content is driven by recommender algorithms, but their use has significantly increased over time because of how effective the algorithms are in driving user engagement and, therefore, profit.<sup>52</sup>
- 1.53 Where used, recommendation algorithms seek to increase engagement with platform content (such that users stay on the platform longer).<sup>53</sup>

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<sup>49</sup> Office of the eSafety Commissioner, [Recommender systems and algorithms position statement](#), December 2022, p 1.

<sup>50</sup> Office of the eSafety Commissioner, *Submission 1*, p. 15.

<sup>51</sup> Office of the eSafety Commissioner, [Recommender systems and algorithms position statement](#), December 2022, p 1.

<sup>52</sup> Office of the eSafety Commissioner, [Recommender systems and algorithms position statement](#), December 2022, p. 1.

<sup>53</sup> Office of the eSafety Commissioner, [Recommender systems and algorithms position statement](#), December 2022, p 1.

### *Concerns about algorithm use*

1.54 There are significant concerns that algorithms used by digital platforms do not operate in a way that adequately supports community values, such as fairness, accuracy, privacy and user safety.<sup>54</sup> These concerns are discussed in more detail in Chapter 2 of this report.

### **The Bargaining Code**

1.55 The Code commenced in March 2021 following the passage through the Parliament of the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021*.<sup>55</sup>

1.56 The Code aims to govern commercial relationships between Australian news businesses and 'designated' digital platforms who benefit from a significant bargaining power imbalance.<sup>56</sup> It allows eligible registered news media businesses to bargain individually or collectively with digital platforms over payment for the inclusion of news on these platforms and services.<sup>57</sup>

1.57 News media businesses can be registered by ACMA if they satisfy tests relating to annual revenue, the type of news content published, professional and editorial standards, and having a predominantly Australian audience.<sup>58</sup> Currently, the revenue test for corporations is set at \$150 000 per annum (either in the most recent year for which there are accounts, or in three of the five most recent years for which there are accounts).<sup>59</sup>

1.58 The Code was developed by the ACCC at the direction of the former Australian Government in response to the ACCC's Digital Platforms Inquiry Final Report. The report identified a significant power imbalance between Australian news organisations and two digital platforms, namely Google and Facebook.<sup>60</sup>

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<sup>54</sup> ACCC, *Digital Platform Services Inquiry Interim Report No. 6 – Social media services in Australia*, March 2023, pp. 156–157.

<sup>55</sup> The Hon Josh Frydenberg MP, Treasurer, and the Hon Paul Fletcher MP, Minister for Communications, Urban Infrastructure, Cities and the Arts, '[Parliament passes News Media and Digital Platforms Mandatory Bargaining Code](#)', *Media Release*, 25 February 2021.

<sup>56</sup> Australian Government, the Treasury, *Review of the News Media and Digital Platforms Mandatory Bargaining Code* (Consultation Paper, 1 April 2022).

<sup>57</sup> Australian Government, the Treasury, *Review of the News Media and Digital Platforms Mandatory Bargaining Code* (Consultation Paper, 1 April 2022).

<sup>58</sup> Australian Government, the Treasury, *Review of the News Media and Digital Platforms Mandatory Bargaining Code* (Consultation Paper, 1 April 2022).

<sup>59</sup> Australian Communications and Media Authority, *News media bargaining code: Eligibility guidelines*, July 2022, p. 5.

<sup>60</sup> ACCC, [Treasury Laws Amendment \(News Media and Digital Platforms Mandatory Bargaining Code\) Bill 2020 – Exposure Draft Explanatory Materials](#), p. 3.

While the digital platforms clearly value the news media content that they are able to display to their users, Google and Facebook each appear to be more important to the major news media businesses than any one news media business is to Google or Facebook. As set out above, this provides each of Google and Facebook with substantial bargaining power in relation to many news media businesses.<sup>61</sup>

1.59 This imbalance, coupled with the reliance of news organisations on traffic from Google and Facebook, had led to news organisations 'accepting commercial deals with these platforms that are less favourable than they would otherwise agree to'. It was also seen to be 'undermining the ability and incentives for Australian news businesses to produce news content'.<sup>62</sup>

1.60 The ACCC inquiry heard particular concerns about:

- the lack of warning provided by digital platforms to news media businesses of changes to key algorithms relating to the display of news content or news referral links;
- the implementation of policies and formats that may have a significant and adverse impact on the ability of news media businesses to monetise their content and/or to build or sustain a brand and therefore an audience;
- the impact of such policies on the incentives for news and journalistic content creation, particularly where significant effort is expended to research and produce original content.<sup>63</sup>

1.61 Government intervention in the relationship between news organisations and digital platforms was considered necessary due to the 'public benefit provided by the production and dissemination of news and the importance of a strong independent media in a well-functioning democracy'.<sup>64</sup>

### **Operation of the Code**

1.62 Following the introduction of the Code, Google and Meta reached voluntary commercial agreements with many news media organisations.<sup>65</sup> The ACCC has separately authorised both Country Press Australia and Commercial Radio Australia to collectively bargain with Google and Facebook for remuneration

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<sup>61</sup> ACCC, *Digital Platforms Inquiry Final Report*, June 2019, p. 16.

<sup>62</sup> ACCC, [Treasury Laws Amendment \(News Media and Digital Platforms Mandatory Bargaining Code\) Bill 2020 – Exposure Draft Explanatory Materials](#), p. 3.

<sup>63</sup> ACCC, *Digital Platforms Inquiry Final Report*, June 2019, p. 16.

<sup>64</sup> ACCC, [Treasury Laws Amendment \(News Media and Digital Platforms Mandatory Bargaining Code\) Bill 2020 – Exposure Draft Explanatory Materials](#), p. 3.

<sup>65</sup> Australian Government, the Treasury, *Review of the News Media and Digital Platforms Mandatory Bargaining Code* (Consultation Paper, 1 April 2022).

for news content featured on those platforms without breaching Australian competition laws.<sup>66</sup>

- 1.63 The ACCC has similarly published two collective bargaining class exemption notices lodged by the Minderoo Foundation on behalf of 23 small publishers which allows them to collectively bargain with Google and Meta for remuneration for news content featured on those platforms without breaching Australian competition laws.<sup>67</sup>
- 1.64 According to the Treasury, as at the end of 2021, Google had entered into 20 agreements with news organisations and Meta had entered into 14 agreements.<sup>68</sup> While the details of these agreements remain confidential, it is estimated that the total funding secured by news organisations following introduction of the Code exceeds \$200 million.<sup>69</sup>
- 1.65 Under the Code, the Minister may designate a digital platform corporation and its digital platform services to participate in the Code.<sup>70</sup> At the time of writing, no digital platforms have yet been designated.<sup>71</sup>
- 1.66 In deciding whether to designate a digital platform, the Minister must consider whether there is a significant bargaining power imbalance between the platform and Australian news businesses, and whether the platform has made a significant contribution to the sustainability of the Australian news industry, including through agreements to remunerate those businesses for their news content.<sup>72</sup>
- 1.67 On 29 February 2024, Meta announced on its website that it would be discontinuing Facebook News—a dedicated tab for news content—in the United

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<sup>66</sup> Australian Government, the Treasury, Review of the News Media and Digital Platforms Mandatory Bargaining Code (Consultation Paper, 1 April 2022).

<sup>67</sup> Australian Government, the Treasury, Review of the News Media and Digital Platforms Mandatory Bargaining Code (Consultation Paper, 1 April 2022).

<sup>68</sup> Australian Government, the Treasury, Review of the News Media and Digital Platforms Mandatory Bargaining Code (Consultation Paper, 1 April 2022).

<sup>69</sup> Media, Entertainment and Arts Alliance, *Submission 53*, [p. 5]. See also, Mr Terry Flew, Professor of Digital Communication and Culture, The University of Sydney, *Proof Committee Hansard*, 28 June 2024, p. 50.

<sup>70</sup> Australian Government, the Treasury, Review of the News Media and Digital Platforms Mandatory Bargaining Code (Consultation Paper, 1 April 2022).

<sup>71</sup> Australian Communications and Media Authority, *Submission 52*, p. 2.

<sup>72</sup> Australian Government, the Treasury, Review of the News Media and Digital Platforms Mandatory Bargaining Code (Consultation Paper, 1 April 2022).

States and Australia.<sup>73</sup> A similar announcement to discontinue Facebook News in the UK, France, Germany and Canada was announced in 2023.<sup>74</sup>

- 1.68 As part of the announcement, Meta stated that it had decided not to enter or renew commercial deals for news content in Australia and that no new Facebook products would be offered for news publishers in the future.<sup>75</sup>
- 1.69 Further discussion on the impact of Meta's decision to abandon deals under the Code in Australia is provided in Chapter 3.

### *Review of the Code*

- 1.70 In November 2022, the Department of the Treasury published the report of its review of the Code.<sup>76</sup> The review considered it 'reasonable to conclude that the Bargaining Code has been a success to date'.<sup>77</sup> It also noted that over '30 commercial agreements had been struck, agreements that were highly unlikely to have been made without the Bargaining Code'.<sup>78</sup>
- 1.71 The review made several recommendations for improving the future operation of the Code, including that the government consider:
- directing the ACCC to prepare periodic reports on extending the Code to other platforms;
  - the need for additional ACCC information gathering powers in relation to agreements between platforms and news businesses, in the context of its response to the ACCC's proposed major digital platforms reforms; and
  - commissioning another review of the Code after it has operated for four years.<sup>79</sup>
- 1.72 The government response to the Treasury review indicated support for all five of its recommendations.

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<sup>73</sup> Meta, '[An update on Facebook news](#)', *Newsroom*, 29 February 2024.

<sup>74</sup> Meta, '[An Update on Facebook News in Europe](#)', *Newsroom*, 5 September 2024.

<sup>75</sup> Meta, '[An update on Facebook news](#)', *Newsroom*, 29 February 2024.

<sup>76</sup> Australian Government, the Treasury, [News Media and Digital Platforms Mandatory Bargaining Code, The Code's first year of operation](#), November 2022.

<sup>77</sup> Australian Government, the Treasury, [News Media and Digital Platforms Mandatory Bargaining Code, The Code's first year of operation](#), November 2022, p. 9.

<sup>78</sup> Australian Government, the Treasury, [News Media and Digital Platforms Mandatory Bargaining Code, The Code's first year of operation](#), November 2022, p. 9.

<sup>79</sup> Australian Government, the Treasury, [News Media and Digital Platforms Mandatory Bargaining Code, The Code's first year of operation](#), November 2022, p. 2.



# Chapter 2

## The changing media landscape in Australia

### Overview

- 2.1 Evidence presented to the inquiry pointed to a complex relationship between digital platforms and the traditional news media.
- 2.2 With audiences moving increasingly online for news and information, digital platforms have become 'unavoidable trading partners' for traditional media organisations. The ability of digital platforms to harness user data to sell highly targeted advertising, has seen advertising revenue diverted from traditional media organisations to the platforms. This shift has altered the media landscape in Australia, with serious consequences for the sustainability of traditional news outlets.
- 2.3 At the same time, the committee heard that digital platforms have evolved into online gatekeepers<sup>1</sup>—wielding significant control over the news content seen by users—but without any of the transparency, accountability and oversight applying to traditional publishers.
- 2.4 The lack of transparency and accountability of digital platforms was a common theme emerging from the inquiry. There was also a sense that existing regulation has not kept pace with the evolving role of digital platforms, or the challenges posed by both social and technological developments, including the manipulation of algorithms as part of online disinformation campaigns, as well as the widespread use of generative Artificial Intelligence (AI).
- 2.5 In addition, while there was near universal agreement about the importance of public interest journalism as a bulwark against mis- and disinformation, questions were raised about its ability to fulfil this function in the face of falling advertising revenues, declining trust in journalism, increasing news avoidance, and the sheer volume of misleading and false material circulating online.
- 2.6 The remainder of this chapter focuses on the impact of digital platforms on the Australian media landscape, the proliferation of mis- and disinformation on digital platforms, the importance of public interest journalism in countering 'fake news', and the effectiveness of current approaches to the regulation of digital platforms.

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<sup>1</sup> The University of Technology Sydney (UTS) report, [\*The Impact of Digital Platforms on News and Journalistic Content\*](#), published in October 2018, described how (as opposed to their early incarnation as content distribution platforms), digital platforms now perform a hybrid role that includes shaping the news agenda by distributing news and deciding what is and isn't acceptable content. They are, therefore, 'less than content producers, but more than mere intermediaries'.

## **The impact of digital platforms on the Australian media landscape**

- 2.7 The Australian media landscape has changed rapidly since the advent of the internet and the emergence of digital platforms, particularly social media platforms.
- 2.8 Prior to the digital era, print, television and radio news media funded their journalism through advertising revenue, with print outlets reaching audiences via the direct sale of newspapers and magazines.<sup>2</sup>
- 2.9 However, as noted by the Media, Entertainment and Arts Alliance (MEAA), the rise of digital platforms 'fundamentally upended the way the news media interacts with the community', 'opened up greater choice for users to seek different sources of information' and 'given consumers power over what news is covered and how'.<sup>3</sup>
- 2.10 While these changes were initially seen in a positive light for both news producers and consumers, the MEAA went on to argue that:

This "democratisation" of the media was initially hailed as a boon for news producers and consumers. But consolidation of platforms, search engines, e-commerce sites, and other online services has given those companies that are still standing incredible power. There are now a small number of giant multi-national companies controlling how people access information and interact with each other online.<sup>4</sup>

## **The use of digital platforms to access news and information**

- 2.11 Overall, television is still the most frequently accessed news source in Australia. However, Australians are turning increasingly to digital platforms for news and information. This is particularly true for younger Australians.
- 2.12 Ms Nerida O'Loughlin of the Australian Communications and Media Authority (ACMA) told the committee that 53 per cent of Australian adults access news via free-to-air television, with 48 per cent accessing news via social media. For 20 per cent of Australian adults, social media communications and websites are their main source of news.<sup>5</sup>
- 2.13 ACMA's findings are borne out by the University of Canberra's *Digital News Report: Australia*, which found social media is closing in on television as the primary source of news for Australians and has become the main source of news for Gen Z Australians:

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<sup>2</sup> Media, Entertainment and Arts Alliance (MEAA), *Submission 53*, [p. 4].

<sup>3</sup> MEAA, *Submission 53*, [p. 3].

<sup>4</sup> MEAA, *Submission 53*, [p. 3].

<sup>5</sup> Ms Nerida O'Loughlin, Chair and Agency Head, Australian Communications and Media Authority (ACMA), *Proof Committee Hansard*, 21 June 2024, p. 47.

Although television remains the most popular news source, its popularity declined to 56% (-2pp). Almost half of Australians (49%) use social media to access news, marking a 4-percentage point increase since last year. Nearly two thirds of Gen Z (60%) rely on social media as their main news source, which is a significant increase of 17 percentage points from last year. This year Gen Z's use of Instagram for news increased by 8pp and the platform is now the top social media platform for news among this generation (34%).<sup>6</sup>

- 2.14 Of the Australian adults who had accessed social media in the preceding seven days, ACMA's survey found that 68 per cent accessed professionally produced media, 43 per cent accessed official/reputable sources of information, and 38 per cent accessed information via community or special interest groups.<sup>7</sup>
- 2.15 Free TV Australia (Free TV) drew particular attention to ACMA's findings that younger Australians rely more on celebrities and influencers (31 per cent) and unknown sources (33 per cent) for news content.<sup>8</sup> SBS also pointed out social media usage is higher among multilingual Australians and First Nations communities.<sup>9</sup>

### Digital platforms as 'unavoidable trading partners' for news media outlets

- 2.16 The committee heard repeatedly that digital platforms have become 'unavoidable trading partners' for news media outlets.<sup>10</sup> For example, Mr Tim Duggan of the Digital Publishers Alliance (DPA) highlighted publishers' reliance on digital platforms to reach their audiences:

Meta has been, and can be, considered an unavoidable trading partner. The truth is that, if you want to build a modern media business, you need to go

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<sup>6</sup> Park, S., Fisher, C., McGuinness, K., Lee, J., McCallum, K., Cai, X., Chatskin, M., Mardjianto, L. & Yao, P. (2024). [Digital News Report: Australia 2024](#). Canberra: News and Media Research Centre, University of Canberra, p. 10. This report was cited by multiple inquiry participants, including SBS, *Submission 45*, pp. 2 and 3; Schwartz Media, *Submission 36*, p. 3; The Daily Aus, *Submission 43*, [p. 7]; Australian Broadcasting Corporation (ABC), *Submission 65*, p. 3; Nine Entertainment, *Submission 159*, [p. 2]; Country Press Australia (CPA), *Submission 196*, p. 3; ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S), *Submission 120*, p. 7.

<sup>7</sup> ACMA, *Submission 52*, p. 8.

<sup>8</sup> Free TV Australia (Free TV), *Submission 54*, p. 18.

<sup>9</sup> SBS, *Submission 45*, p. 5. Multilingual Australians are more likely to use Facebook than the total population or English-only speakers. First Nations communities have higher rates of social media usage compared to non-Indigenous Australians.

<sup>10</sup> See, for example, Free TV, *Submission 54*, pp. 3 and 27; Public Interest Journalism Initiative (PIJI), *Submission 158*, p. 23; Schwartz Media, *Submission 36*, p. 3; Mr Jeffrey Howard, Managing Director and Chief Executive Officer, Seven West Media; *Proof Committee Hansard*, 21 June 2024, p. 2; Mr Michael Miller, Executive Chairman, News Corp Australasia, *Proof Committee Hansard*, 21 June 2024, p. 11; Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 4.

where your audiences are. Many of them are on social media, particularly Facebook and Instagram.<sup>11</sup>

2.17 This point was reinforced by Ms Catriona Lowe of the Australian Competition and Consumer Commission (ACCC), who spoke about the market share built by digital platforms as they evolved into the 'unavoidable gatekeepers between Australian consumers and businesses'.<sup>12</sup>

2.18 The Local & Independent News Association (LINA) highlighted the positive aspects of this relationship and noted that digital platforms provide new ways to engage with target audiences, reach particular communities more quickly, and gather story leads and community feedback:

Facebook and Instagram therefore play a valuable role in supporting the visibility of publishers' content and helping to establish direct relationships with their audience, providing a platform for audience feedback and discussion, as well as promoting community engagement and the representation of diverse voices within media coverage.<sup>13</sup>

2.19 While recognising the symbiotic relationship between publishers and digital platforms, some participants suggested that platforms have exploited the content and credibility of news media organisations to build their market share and create dependency. For example, Mr Anthony Kendall of Australian Community Media (ACM) explained:

As a business we have participated in social media to help grow our audience and because we believe users of those platforms deserve access to credible local news and information. But the platforms have used our content and our brand equity to build their profits to the point where they are now monopolies.<sup>14</sup>

2.20 This sentiment was reflected in evidence from Mr Mike Sneesby of Nine Entertainment, who argued that:

... over a number of years, Meta has used the content from media organisations to build a scale audience reaching most of the Australian population, creating that unavoidable business partner and a dependency on that distribution channel by media businesses.<sup>15</sup>

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<sup>11</sup> Mr Tim Duggan, Chair, Digital Publishers' Alliance (DPA), *Proof Committee Hansard*, 21 June 2024, p. 36.

<sup>12</sup> Ms Catriona Lowe, Deputy Chair, Australian Competition and Consumer Commission (ACCC), *Proof Committee Hansard*, 21 June 2024, p. 17.

<sup>13</sup> Local & Independent News Association (LINA), *Submission 44*, p. 4.

<sup>14</sup> Mr Anthony Kendall, Managing Director, Australian Community Media (ACM), *Proof Committee Hansard*, 21 June 2024, p. 26.

<sup>15</sup> Mr Mike Sneesby, Chief Executive Officer (CEO), Nine Entertainment, *Proof Committee Hansard*, 21 June 2024, p.10.

2.21 Participants also told the committee about being incentivised to build audiences on digital platforms, to the benefit of those platforms. For example, as the founder of digital media company, Junkee Media, Mr Duggan described being 'heavily incentivised and courted' to create content for Meta and Instagram:

... we were encouraged, incentivised—we were given training; we were given funding—to create products specifically for the digital platforms, specifically for Meta and Instagram. What that means is that we created content and we built audiences. We spent a lot of time building up these very large audiences on these platforms, to the benefit of the digital platforms. We would put our content onto Facebook and Instagram, and ads would be surrounding that content. Audiences would go towards there.<sup>16</sup>

2.22 However, after being encouraged to build their audience on digital platforms, publishers began to find their access to those audiences restricted as a result of algorithmic changes.<sup>17</sup> According to Mr Duggan, 'Meta are able to dial up and dial down what people see on their platforms, and what they have done progressively over time is to dial down the audience'.<sup>18</sup>

2.23 Ms Karen Percy of the MEAA labelled this tactic as a 'bait and switch':

You have this situation where the platforms have made news organisations dependent on the platforms. You have to go where the audience is, because they're not going to traditional platforms or traditional ways of getting it anymore. They have drawn us in and then done a bait-and-switch. You used to be able to promote your content at a low cost. It's much harder to find news content these days, though we know that people get their news that way. I think it's important to understand what the back end of these organisations [are] doing.<sup>19</sup>

2.24 Similarly, Mrs Natalie Harvey described Mamamia's experience of this for the committee:

Facebook encouraged publishers to go on the platform and create audiences that would help drive platform usage as well. So that benefits Facebook. It does also benefit the publishers, because you're creating these communities and you're having a very deeply engaged conversation with them. But, over time, it gets harder and harder to reach those audiences, because they change the algorithm so that your content is not appearing in an organic fashion and, therefore, you have to invest money to be able to reach those audiences. ... And, over time, it has got harder and harder to reach them.<sup>20</sup>

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<sup>16</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 37.

<sup>17</sup> See, for example, MEAA, *Submission 53*, [p. 9]; LINA, *Submission 44*, p. 5; Man of Many, *Submission 33*, p. 4.

<sup>18</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 38.

<sup>19</sup> Ms Karen Percy, Media Federal President, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 13.

<sup>20</sup> Mrs Natalie Harvey, CEO, Mamamia, *Proof Committee Hansard*, 10 July 2024, p. 15.

- 2.25 Likewise, Mr Nicholas Shelton of Broadsheet Media (Broadsheet) indicated that after initially courting Broadsheet, Meta slowly degraded its organic referral traffic—with a decline of 50 per cent in the last 12 months. Broadsheet now spends approximately \$500 000 annually to reach its audience.<sup>21</sup>
- 2.26 We Are Explorers likened this situation to having its audience 'effectively held hostage until payments are made',<sup>22</sup> while Mr Duggan described it as Meta 'basically overnight, breaking up with the news industry' after heavily courting them to build content and audiences for digital platforms.<sup>23</sup>

### **The impact of digital platforms on Australian news media sustainability**

- 2.27 While the reach of digital platforms—and the speed at which information can be disseminated on those platforms—expanded audiences for traditional media organisations, this has come at a heavy cost. According to the Australians for a Murdoch Royal Commission (AMRC), the rise of digital platforms has seen traditional media outlets lose control of content distribution, instead becoming reliant on web traffic and social media algorithms. At the same time, businesses began to move their advertising online.<sup>24</sup>
- 2.28 This shift was noted by the Human Technology Institute (HTI), which explained that the ability of digital platforms to offer highly personalised content (based on intensive data collection) resulted in advertising revenue being channelled away from traditional media and toward the platforms.<sup>25</sup>
- 2.29 According to Mr Shelton, this allowed platforms such as Meta to take control of the economics of internet content:
- They do that very effectively, and when you control the distribution you control the commerce and you control the economics. That's what they've done so effectively. Now they've decided they don't need us anymore, so they're happy to shut the door.<sup>26</sup>

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<sup>21</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 17.

<sup>22</sup> We Are Explorers, *Submission 116*, [pp. 1–2].

<sup>23</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 38.

<sup>24</sup> Australians for a Murdoch Royal Commission (AMRC), *Submission 188*, p. 3.

<sup>25</sup> Human Technology Institute (HTI), *Submission 146*, p. 13.

<sup>26</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 18.

- 2.30 The decline in advertising revenue for traditional media outlets was highlighted by numerous inquiry participants.<sup>27</sup> For example, the MEAA stated that print, television and radio outlets have lost a significant portion of the advertising revenue that previously sustained their operations.<sup>28</sup> Similarly, Mr Kendall reflected that the rise of digital platforms had 'decimated the ad revenues that funded quality journalism'.<sup>29</sup>
- 2.31 The scale of this loss was captured in a 2018 University of Technology Sydney report (UTS report) commissioned by the ACCC. The UTS report explained that 'between 2011 and 2015, Australian newspaper and magazine publishers lost \$1.5 billion and \$349 million respectively in print advertising revenue'. Over the same period, these publishers gained only \$54 million and \$44 million in digital advertising revenue. Further, by 2016, Google and Facebook were in receipt of three quarters of Australia's total online advertising expenditure.<sup>30</sup>
- 2.32 More recent research by the University of Sydney's Department of Media and Communications (USYD MECO) found that by 2022, online advertising was a \$14.7 billion industry in Australia—larger than the newspaper, broadcast television, radio, and online video service industries combined—with Google and Facebook accounting for 55.4 per cent and 16.6 per cent of the market share respectively.<sup>31</sup>
- 2.33 Further, Free TV submitted that while media organisations are struggling to sustain investments in public interest journalism, 'Meta's first quarter profits for 2024 more than doubled to USD 12.37 billion, suggested to be largely as a result of higher advertising revenue and increasing the cost of ad placement'.<sup>32</sup>
- 2.34 The MEAA contended that the downturn in revenue has led to significant redundancies across news organisations, 'damaged the media workforce' and 'left the Australian media greatly weakened'.<sup>33</sup> Likewise, the Australian

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<sup>27</sup> See, for example, ABC, *Submission 65*, pp. 3–4; AMRC, *Submission 188*, p 3; Mr James Chisholm, Deputy Secretary, Communications and Media Group, Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), *Proof Committee Hansard*, 2 July 2024, p. 3.

<sup>28</sup> MEAA, *Submission 53*, [p. 4].

<sup>29</sup> Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 26.

<sup>30</sup> UTS, [The Impact of Digital Platforms on News and Journalistic Content](#), October 2018, p. 12.

<sup>31</sup> University of Sydney Department of Media and Communications (USYD MECO), *Submission 154*, p. 16.

<sup>32</sup> Free TV, *Submission 54*, p. 21.

<sup>33</sup> MEAA, *Submission 53*, [p. 4]. According to the MEAA, there are now 4000 to 5000 fewer editorial roles in Australia than there were in 2010.

Broadcasting Corporation (ABC) pointed to its 'corrosive effect' on 'the quality, quantity, reach and impact of public interest journalism'.<sup>34</sup>

- 2.35 AMRC argued that the loss of advertising revenue was 'the final blow' for many independent and community news outlets:

Across regional and metropolitan Australia, local newspapers and radio programs either closed down, reduced their frequency, merged with neighbours, or were absorbed into the corporates like Murdoch, Fairfax, or Packer's media empires. Between 2014-2019 alone, 16,000 media jobs were lost. In 2020, 164 media businesses closed down. By 2024, over thirty Australian local government areas now exist without any access to a local news outlet in either print or digital form. Sub 188, p. 3.

- 2.36 More broadly, the Public Interest Journalism Initiative (PIJI) warned that 'news market failure is becoming a more likely prospect across the country' as the producers of public interest journalism face the overlapping challenges of declining advertising revenue and an increasing reliance on digital platforms for referral traffic.<sup>35</sup>
- 2.37 PIJI's Australian News Data Report for March 2024 showed the stark impact of these challenges—particularly in non-metropolitan areas (see Box 2.1).

#### **Box 2.1 Australian News Data Report – March 2024<sup>36</sup>**

- 161 news outlets closed in the five years between January 2019 and March 2024:
  - this is a sharp acceleration from previous ACCC data showing 106 news outlet closures in the ten years from 2008 to 2018.
- Even where news outlets remained operational, there has been significant overall contraction in news production and availability:
  - between 2019 and 2024 there were 337 newsroom contractions and only 175 newsroom expansions.
- Regional areas, already underserved relative to metropolitan areas, have been the hardest hit by these closures and contractions:
  - while 90 new regional outlets opened between 2019 and 2024, that benefit was outweighed by the 109 regional outlets that closed, representing two-thirds of total closures nationally; and.
  - ninety-one per cent of the outlets across the country that experienced a contraction in services were also in regional areas.

<sup>34</sup> ABC, *Submission 65*, p. 3.

<sup>35</sup> PIJI, *Submission 158*, p. 2.

<sup>36</sup> PIJI, *Submission 158*, p. 3.

- Eighty-eight per cent of the news outlets in Australia are local in scale, servicing a single Local Government Area (LGA) or cluster of LGAs.

- 2.38 However, LINA pointed to the expansion of digital newsrooms in the wake of these contractions and closures and suggested that its member businesses represented the 'green shoots' of the industry. LINA emphasised the role these publishers play 'in representing diverse and regional voices, providing public interest news services in areas where access to information has been significantly impacted by newsroom closures and the syndication of services'.<sup>37</sup>
- 2.39 Despite this, some participants cautioned that emerging technologies could worsen current challenges for publishers. For example, Mr James Chisholm of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) suggested that artificial intelligence (AI) has the potential to further concentrate user reliance on digital platforms at the expense of traditional media organisations:

We will see a situation whereby consumers will more and more just rely on platforms for their information and, as AI brings all that information together in such a way that you don't really have the incentives to click away from the ecosystem that you're in, that is going to make life incredibly difficult, even more difficult, for publishers than it is now.<sup>38</sup>

### **The rise of mis- and disinformation on digital platforms**

- 2.40 While online harms, including the spread of mis- and disinformation, are not a new phenomenon, they have been turbocharged by the rise of digital platforms. For example, Mr Peter Lewis of the Centre of the Public Square, Per Capita (CPS Per Capita) contended that:

We know there have always been lies in politics and in the media. What's different here is that lies drive more virality and more engagement.<sup>39</sup>

- 2.41 Mr Bill Calcutt PSM suggested that this has been enabled by social media's transformation of social participation, which allows people—many anonymously—'to have almost instant and largely unmoderated access to a global audience'.<sup>40</sup>

<sup>37</sup> LINA, *Submission 44*, p. 3.

<sup>38</sup> Mr James Chisholm, Deputy Secretary, Communications and Media Group, DITRDCA, *Proof Committee Hansard*, 2 July 2024, p. 9.

<sup>39</sup> Mr Peter Lewis, Founder, CPS Per Capita, *Proof Committee Hansard*, 10 July 2024, p. 6.

<sup>40</sup> Mr Bill Calcutt PSM, *Submission 22*, p. 3.

- 2.42 The 'hyper-connectivity' of digital platforms was also noted by DITRDCA, which observed the potential of social media to amplify online harms.<sup>41</sup> In addition, participants such as HTI and PIJI observed that the emergence of generative AI and the ability to rapidly create and disseminate content, has supercharged the challenge of separating fact from fiction on digital platforms.<sup>42</sup>
- 2.43 According to the Australian Human Rights Commission (AHRC), 'the Global Risks Report 2024 declared that misinformation and disinformation would be the "most severe global risk anticipated over the next two years"'. The AHRC noted that mis- and disinformation can have 'devastating effects on human rights, social cohesion and democratic processes. Indeed, this can be the very purpose intended by the release of disinformation'.<sup>43</sup>
- 2.44 This was reflected in evidence from the Department of Home Affairs, which noted that 'foreign actors are increasingly using disinformation campaigns in a bid to increase polarisation, reduce trust in government, and foment extremism in democratic societies'.<sup>44</sup>
- 2.45 Indeed, there was near universal concern among inquiry participants about the proliferation of mis- and disinformation on digital platforms.<sup>45</sup> For example, the ABC stated that the risk of malicious actors using digital platforms to 'share false or misleading information, now increasingly generated by AI, in order to manipulate public opinion is widely acknowledged'.<sup>46</sup>
- 2.46 Likewise, Reset.Tech Australia listed a 'deteriorating information environment, with upticks in "fringe" and palpably false content, including a rise in AI-generated content with unclear provenance' as a key digital challenge facing Australia.<sup>47</sup>
- 2.47 In a similar vein, the HTI noted that 'the rise of social media has been accompanied by a rise in mis- and disinformation' fuelled by uncertainty and heightened social anxiety. HTI further contended that generative AI

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<sup>41</sup> DITRDCA, *Submission 12*, p. 4.

<sup>42</sup> HTI, *Submission 146*, p. 14 and PIJI, *Submission 158*, p. 2.

<sup>43</sup> Australian Human Rights Commission, *Submission 79*, p. 7.

<sup>44</sup> Department of Home Affairs, *Submission 41*, p. 5.

<sup>45</sup> See, for example, Media.com, *Submission 148*, pp. 1 and 2; Free TV, *Submission 54*, p. 14; Australian Experts to the International Holocaust Remembrance Alliance; *Submission 135*, p. 1; Mr Adrian McMahon, *Submission 75*, p. 1; Mrs Christy Hutt, Ms Dani Phelan, Ms Anne Hibbert and Ms Jayne Aguiar, *Submission 74*, [p. 2]; Dr Keith Heggart, Dr Damian Maher, and Associate Professor Bhuvu Narayan, *Submission 83*, p. 4; LINA, *Submission 44*, p. 6; Mr Luke Arnold, *Submission 34*, p. 1.

<sup>46</sup> ABC, *Submission 65*, p. 5.

<sup>47</sup> Reset.Tech Australia, *Submission 16*, p. 2.

applications have 'provided new avenues to create and spread mis- and disinformation'.<sup>48</sup>

- 2.48 Ms Elizabeth O'Shea of DRW told the committee that digital platforms have incentivised the creation of mis- and disinformation, resulting in the pollution of the information ecosystem by 'content that is at best low quality and at worst deceptive and extremist'.<sup>49</sup>
- 2.49 Further, the MEAA asserted that digital platforms are threatening news media sustainability 'and distorting public discourse by failing to control misinformation and disinformation on their platforms'. It argued that the reduction in news on Meta's platforms had already resulted in an increase in mis- and disinformation:

One researcher, for example, found that when news was removed from the platform, it was replaced by 'viral content producers' who produced 'misleading or false' information.<sup>50</sup>

### **Wider community concerns**

- 2.50 In addition to concerns raised by publishers, submitters such as SBS pointed to research showing that concerns about mis- and disinformation are shared by the wider Australian community.<sup>51</sup> For example, both LINA and ACMA referred to the University of Canberra's *Digital News Report: Australia*, which found that concern about mis- and disinformation in Australia is among the highest in the world,<sup>52</sup> with 75 per cent of Australians concerned about misinformation in 2024. This is an increase of 11 per cent since 2022 and is far higher than the global average of 58 per cent.<sup>53</sup>
- 2.51 While the *Digital News Report: Australia* found that this increase had occurred across all demographics, it was particularly noticeable among medium and highly educated participants, those living in cities, and among Generations Z and X (since 2022).<sup>54</sup>

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<sup>48</sup> HTI, *Submission 36*, p. 13.

<sup>49</sup> Ms Elizabeth O'Shea, Chair, DRW, *Proof Committee Hansard*, 10 July 2024, p. 2.

<sup>50</sup> MEAA, *Submission 53*, [pp. 2 and 8].

<sup>51</sup> SBS, *Submission 45*, p. 3.

<sup>52</sup> LINA, *Submission 44*, p. 8. See also, ACMA, *Submission 52*, p. 5.

<sup>53</sup> University of Canberra News and Media Research Centre, *Submission 47*, p. 2.

<sup>54</sup> Park, S., Fisher, C., McGuinness, K., Lee, J., McCallum, K., Cai, X., Chatskin, M., Mardjianto, L. & Yao, P. (2024). [Digital News Report: Australia 2024](#). Canberra: News and Media Research Centre, University of Canberra, p. 126.

- 2.52 Likewise, a 2022 survey by ACMA found that 78 per cent of respondents 'agreed or strongly agreed that misinformation is prevalent in Australia', with 'over half of all Australians wanting the government to play a more active role in addressing harmful content'.<sup>55</sup>
- 2.53 In addition, a June 2024 survey by Squiz Kids found that 98 per cent of parents identified 'exposure to misinformation, deep fakes and biased media as their number one concern for their kids when online'. This was higher than exposure to pornography (76 per cent), and meeting strangers online (55 per cent).<sup>56</sup>

### **The role of algorithmic recommender systems in promoting mis- and disinformation**

- 2.54 According to Reset.Tech EU, content on digital platforms is 'distributed and presented through algorithmic recommender systems, which usually rely on engagement-based ranking'.<sup>57</sup> As noted by the Department of Home Affairs, these systems 'significantly shape our information environment' by 'determining the content that is served to users'.<sup>58</sup>
- 2.55 Accordingly, numerous participants pointed to algorithmic recommender systems as key drivers of mis- and disinformation.<sup>59</sup> For example, SBS argued that the exponential growth in online mis- and disinformation was being 'fuelled by algorithms which favour polarisation' and the impact of AI, which 'can generate and publish misleading information and/or content from extreme viewpoints'.<sup>60</sup>
- 2.56 The Department of Home Affairs also noted how malicious actors can 'use a network of fictitious personas' to manipulate recommender algorithms, with disinformation often featuring in such campaigns.
- 2.57 AMRC emphasised the 'systematic bias' of digital platforms 'towards content that prompts an intensely negative emotional experience'—noting that the strong affective impact of misinformation means that it spreads six times faster than factual content.<sup>61</sup>

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<sup>55</sup> ACMA, *Submission 52*, p. 5.

<sup>56</sup> Squiz Kids, *Submission 114*, [p. 2]. Squiz Kids surveyed more than 1000 people, with the majority being teachers and parents of school-aged children.

<sup>57</sup> Reset.Tech EU, *Submission 137*, p. 3.

<sup>58</sup> Department of Home Affairs, *Submission 41*, p. 5.

<sup>59</sup> See, for example, ACMA, *Submission 52*, p. 11; Broadsheet Media, *Submission 198*, p. 1; Public Interest Publishers Alliance, *Submission 133*, [p. 1]; Digital Rights Watch (DRW), *Submission 17*, p. 13; We Are Explorers, *Submission 116*, [p. 3]; Mr Adrian McMahon, *Submission 75*, p. 1.

<sup>60</sup> SBS, *Submission 45*, p. 1.

<sup>61</sup> AMRC, *Submission 188*, p. 5.

2.58 Indeed, HTI concurred and explained how algorithms function to increase user engagement with content, meaning they often prioritise highly emotional, divisive or controversial content at the expense of factual information:

The algorithms that sort content on social media platforms tend to prioritise this kind of content and are capable of sharing it rapidly and at great scale with audiences, often at the expense of truthful content. As a result, factual, balanced reporting can be deprioritised or drowned out, while false or misleading news likely to illicit emotion is frequently bumped up and reshared.<sup>62</sup>

2.59 This de-prioritisation of reputable news sources was also highlighted by Man of Many, which noted its role in creating echo chambers, 'further entrenching misinformation and reducing critical engagement with diverse viewpoints'.<sup>63</sup>

2.60 As a result, the HTI argued that 'Australians today are less likely to benefit from a shared understanding of relevant public information which was more characteristic of the age of legacy media'.<sup>64</sup>

2.61 CPS Per Capita highlighted the commercial imperatives driving platforms' amplification of provocative and divisive content:

Digital platforms like YouTube, Facebook, X and TikTok are also underpinned by commercial models which, above all else, seek to monetise our attentions and interactions, trapping Australians in algorithmically-induced content 'holes' ...<sup>65</sup>

2.62 Further, Digital Rights Watch (DRW) highlighted the perversity of revenue sharing schemes that incentivise the creation and sharing of viral content, citing the example of users with Premium X accounts who made money sharing both Islamophobic and anti-Semitic misinformation in the wake of the Bondi Junction attack in April 2024.<sup>66</sup>

2.63 In addition, some submitters argued that the convergence of platforms' recommender systems and the growing use of AI could supercharge existing disinformation challenges. For example, DRW argued that:

The impact of personalised disinformation campaigns is likely to be exacerbated in the future by developments in generative AI, which promises to deliver increasingly granular forms of content customisation at scale.<sup>67</sup>

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<sup>62</sup> HTI, *Submission 146*, p. 14.

<sup>63</sup> Man of Many, *Submission 33*, p. 4.

<sup>64</sup> HTI, *Submission 146*, p. 14.

<sup>65</sup> CPS Per Capita, *Submission 50*, p. 2.

<sup>66</sup> DRW, *Submission 17*, p. 12.

<sup>67</sup> DRW, *Submission 17*, p. 13.

- 2.64 At the same time, the ABC contended that the integration of generative AI with internet search tools is 'likely to make it even more difficult for Australians to both identify the source of information and determine whether or not it is trustworthy'.<sup>68</sup>
- 2.65 In addition, Free TV stated that mis- and disinformation disseminated via social media platforms is also difficult for third parties—such as Australian regulators—to track, with it being near impossible for third parties to determine the identity of those behind misleading content.<sup>69</sup>
- 2.66 To this end, The Conversation noted that NewsGuard has to date identified 966 AI-generated news and information websites that rely on digital platforms to reach audiences but operate with little to no human oversight.<sup>70</sup>

*Lack of transparency around algorithm-based recommender systems*

- 2.67 Currently, the Australian Code of Practice on Disinformation and Misinformation (ACPDM) requires signatories to provide annual transparency reports about their efforts to address mis- and disinformation on their platforms. Seven of the nine signatories to the ACPDM have also opted in to Outcome 1e, which requires signatories to:
- ... provide transparency about the use of recommender systems and efforts to provide users with options that relate to content suggested by recommender systems.<sup>71</sup>
- 2.68 Despite this, the ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S) contended that 'there is very little systematic knowledge about how platforms' algorithms, recommender systems and business tactics influence what Australians see (and hear)'.<sup>72</sup>
- 2.69 Indeed, the committee heard significant concerns about the lack of transparency around algorithm-based recommender systems and the impact this has on our understanding of the role they play in promoting mis- and disinformation.<sup>73</sup>

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<sup>68</sup> ABC, *Submission 65*, p. 5.

<sup>69</sup> Free TV, *Submission 54*, p. 14.

<sup>70</sup> The Conversation, *Submission 6*, p. 2.

<sup>71</sup> ACMA, *Submission 52*, p. 11.

<sup>72</sup> ADM+S, *Submission 120*, p. 2.

<sup>73</sup> See, for example, USYD MECO, *Submission 154*, p. 22; Dr Rob Nicholls, Senior Research Associate, The University of Sydney, *Proof Committee Hansard*, 28 June 2024, p. 52.

2.70 For this reason, a number of participants, such as Children and Media Australia, argued for direct regulation of recommender systems, as well as greater transparency around the operation of platforms' algorithms.<sup>74</sup>

2.71 However, according to the eSafety Commissioner, Mrs Julie Inman Grant, the industry is becoming more opaque, rather than more transparent:

[The industry is] pushing back against transparency reports and the ability for third-party researchers, academics and regulators to be able to measure toxicity, for example, on their platforms through scraping and access to APIs and data hoses and the like.<sup>75</sup>

2.72 Similarly, USYD MECO described how research to understand the influence of recommender systems is currently 'hampered by limited access to the inner workings of these systems, relying on indirect methods such as observation, data donations and external experimentation, which can only provide a partial view'.<sup>76</sup>

2.73 To this end, Mrs Inman Grant suggested that Australia would likely need regulatory powers like those in the European Union's (EU) Digital Services Act in order to facilitate third-party research:

They've set up something called the ECAT in Spain, which is basically a group of data scientists and technology specialists who are looking under the hood. They're looking at how the algorithms and the recommender systems are working so that they can validate what the companies are telling them through their transparency reports. I think we're going to need to move in that direction, but we need to have the right people, processes and systems built to be able to do that effectively.<sup>77</sup>

2.74 However, Dr Rys Farthing from Reset.Tech Australia told the committee that the issue was less about the transparency of the algorithms being used but rather the complexity code and understanding its outcomes. Dr Farthing pointed to the importance of platforms being accountable and having a duty of care for their users, which should include detailed risk assessment requirements that:

... require platforms to identify their risks, whether it's the risk of persuasive design elements producing addictive-like behaviours, the risk in the way

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<sup>74</sup> Children and Media Australia, *Submission 140*, p. 4. See also, Business News Australia, *Submission 5*, p. 3; Mr Les Daniel, *Submission 10*, p. 1; Fremantle Herald, *Submission 204*, p. 7.

<sup>75</sup> Mrs Julie Inman Grant, Commissioner, eSafety Commissioner, *Proof Committee Hansard*, 21 June 2024, pp. 57 and 62. As examples, Mrs Inman Grant referred to Meta's deprecation of its public insights tool, CrowdTangle, and the decision by X to charge USD\$40 000 per month for access to its API.

<sup>76</sup> USYD MECO, *Submission 154*, p. 22.

<sup>77</sup> Mrs Julie Inman Grant, Commissioner, eSafety Commissioner, *Proof Committee Hansard*, 21 June 2024, p. 57.

they create their settings that create grooming risks for young people or the risks of misinformation for adults for electoral threats.<sup>78</sup>

2.75 According to Dr Farthing, risk assessment and mitigation frameworks in Europe have had some success in mitigating the risks of platforms' recommender systems. However, Dr Farthing also highlighted the need to look beyond algorithms and 'place safety expectations and ... requirements' around the broader suite of systems and processes used by platforms:

... I think it misses a trick to try and improve algorithms without also requiring similar improvements to all of the systems and processes that platforms deploy, whether it's content moderation systems, ad approval systems or the privacy systems underpinning the platform. I think the metaphor is like if you've got a busted road — fixing algorithms is like fixing the broken traffic lights but not looking at the potholes, the lack of lighting or the road markings. You need all of them to give you a safe drive.<sup>79</sup>

### **The impact of online mis- and disinformation**

2.76 According to DRW, research has shown the effectiveness of mis- and disinformation in 'entrenching and enhancing pre-existing beliefs'. This effect is amplified on digital platforms, where the design of algorithms — which promote content in which users have already shown interest — can exacerbate confirmation bias of online mis- and disinformation.<sup>80</sup>

2.77 Unsurprisingly, the committee heard widespread concern about the impact of online mis- and disinformation.<sup>81</sup> For example, Ms O'Loughlin told the committee that ACMA's 2023 survey had found 88 per cent of respondents 'either agreed or strongly agreed that misinformation is generally harmful to individuals, groups or society'.<sup>82</sup>

2.78 This was also reflected in evidence from the Cancer Council Australia (Cancer Council), which argued that online mis- and disinformation compounds health inequities 'by making it even harder for people, especially those with lower levels of health and media literacy, to make informed decisions'. The Cancer Council pointed to the 'devastating' consequences of misinformation on people

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<sup>78</sup> Dr Rys Farthing, Director of Research, Reset.Tech Australia, *Proof Committee Hansard*, 10 July 2024, p. 4. According to Dr Farthing, the algorithms used by X and TikTok are available to view.

<sup>79</sup> Dr Rys Farthing, Director of Research, Reset.Tech Australia, *Proof Committee Hansard*, 10 July 2024, p. 14.

<sup>80</sup> DRW, *Submission 17*, pp. 12–13.

<sup>81</sup> See, for example, Australian Human Rights Commission, *Submission 79*, pp. 8–9; LINA, *Submission 44*, p. 10; AMRC, *Submission 188*, p. 6; eSafeKids, *Submission 112*, p. 7; Man of Many, *Submission 33*, p. 4; Playhouse, *Submission 110*, [p. 4].

<sup>82</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 46.

with cancer who 'delay or refuse evidence-based treatment' or opt for alternative, unproven interventions. Worryingly, the Cancer Council reported:

Nearly one-third of popular social media cancer content contained misinformation and the majority (76.9%) of these contained harmful and incorrect information. Most concerning, among the most popular cancer articles on Facebook, articles containing misinformation and harmful information received statistically significantly more online engagement.<sup>83</sup>

2.79 More broadly, the PIJI cited research in the United States that concluded that the risks posed by mis- and disinformation are 'not primarily technological, but institutional and cultural, that is to say, political'.<sup>84</sup>

2.80 According to the PIJI, these risks are being exacerbated by market failure that is leaving a growing vacuum to be filled by 'destructive narratives' that impact on trust in institutions and governments:

As the number of producers of public interest journalism contract, the threat posed by online misinformation and disinformation increases; not simply because 'fake news' goes unchallenged by 'real news', but because as public interest journalism retreats, the narrative of strong institutions and accountable government that it supports retreats with it. Destructive narratives can fill that vacuum, motivated by vested interests and partisan political considerations. Those narratives provide the fertile ground in which misinformation and disinformation can take root.<sup>85</sup>

2.81 This was highlighted in evidence from ReachOut, Beyond Blue and the Black Dog Institute, which pointed to the role of algorithms, disinformation and harmful content in undermining social cohesion, and creating 'echo chambers that seed and reinforce attitudes that can deepen divisions in society'.<sup>86</sup>

2.82 At the most extreme level, this has the potential to result in 'deepening national security threats of ideologically motivated extremism, with intensifying links to content recommender systems'—which was identified by Reset.Tech Australia as one of the key digital challenges facing Australia.<sup>87</sup>

2.83 Further, several participants linked the spread of mis- and disinformation on digital platforms to an erosion of public trust and confidence in authoritative statements of fact, events and institutions.<sup>88</sup> According to DITRDCA, sowing distrust is the aim of much mis- and disinformation:

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<sup>83</sup> Cancer Council Australia (Cancer Council), *Submission 189*, p. 3 (citation omitted).

<sup>84</sup> PIJI, *Submission 158*, [p. 3].

<sup>85</sup> PIJI, *Submission 158*, p. 2.

<sup>86</sup> ReachOut, Beyond Blue and the Black Dog Institute, *Submission 168*, p. 7.

<sup>87</sup> Reset.Tech Australia, *Submission 16*, p. 2.

<sup>88</sup> See, for example, Department of Home Affairs, *Submission 41*, p. 5; Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 51; HTI,

The aim of spreading mis- and disinformation is to pollute the information environment and sow distrust in government and civil institutions, such as science, journalism and education, and, at its worst, discredit democratic processes. Globally, there are examples of how mis- and disinformation have caused extreme distress among sectors of a society and led to the breakdown of trust within communities, leading to social and public disorder.<sup>89</sup>

- 2.84 The HTI noted that this decline in trust has occurred even when these statements are 'supported by clear evidence, expertise or traditionally reliable sources'.<sup>90</sup>
- 2.85 According to Mr Lewis, the success of mis- and disinformation in sowing distrust was enhanced in situations where 'calculated attempts to undermine a fact base' interact with real community concerns.<sup>91</sup> For example, Mr Lewis pointed to the disinformation driving scepticism about the transition to renewable energy, which is attached to very real concerns about 'large-scale developments that are poorly planned, poorly managed and poorly communicated to communities'.<sup>92</sup>
- 2.86 Other submitters, such as Schwartz Media, also pointed to the role of mis- and disinformation in driving mistrust of legitimate news and fuelling news avoidance.<sup>93</sup>
- 2.87 A similar view was shared by AMRC, which noted that almost 70 per cent of Australians deliberately avoid engaging with news, with half of Australians believing that 'journalists are dividing Australian society'. AMRC also expressed concern that the loss of trust in news is greatest among those who 'need to believe in the press the most for democracy to function':

News avoidance is most pervasive in those communities in Australia most disconnected and affected. For example, 80% of Australians who report 'doing it tough' in the cost-of-living crisis report avoiding the news, compared to just 59% of those who are well-off. Without faith in traditional information structures, they are already turning to 'alternative' explanations for their social and material difficulties.<sup>94</sup>

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*Submission 146*, p. 13; ABC, *Submission 65*, p. 4; Man of Many, *Submission 33*, p. 5; Mr Luke Arnold, *Submission 34*, p. 1; Schwartz Media, *Submission 36*, p. 6; The Daily Aus, *Submission 43*, [p. 7].

<sup>89</sup> DITRDCA, *Submission 12*, p. 10.

<sup>90</sup> HTI, *Submission 146*, p. 13.

<sup>91</sup> Mr Peter Lewis, Founder, CPS Per Capita, *Proof Committee Hansard*, 10 July 2024, p. 7.

<sup>92</sup> Mr Peter Lewis, Founder, CPS Per Capita, *Proof Committee Hansard*, 10 July 2024, p. 8.

<sup>93</sup> Schwartz Media, *Submission 36*, p. 6.

<sup>94</sup> AMRC, *Submission 188*, p. 8.

2.88 Further, AMRC stressed that the rise of misinformation represents 'an expectation of manipulation—that is that there are such high levels of mistrust that people expect the news is going to manipulate them'. It went on to describe the impact of this as 'poisonous for democracy':

In a democracy, deliberation over public affairs occurs under the assumption that your counterparts are good-faith, rational actors with broadly accurate beliefs about the nature of reality. Where there is vast mistrust and expectation of manipulation, those who believe mis- and disinformation believe that they are not susceptible to false information. In turn, this shuts off political communication and civil debate. Polarisation and siloing become the norm ...<sup>95</sup>

2.89 The impact on democratic systems was also underlined by DRW, which noted that the business models of digital platforms—which incentivise and amplify mis- and disinformation—'undermine our capacity to empathise and compromise across social, political and cultural divides, which are essential features of a functioning democracy'.<sup>96</sup>

2.90 The HTI went on to warn that a failure to reverse this trend would likely lead to 'further erosion of the quality of our public discourse, and a loss of legitimacy for our democratic institutions'.<sup>97</sup>

**This means that digital platforms are 'not the right hosts of our civic lives'**

2.91 While some inquiry participants highlighted the role social media can play in fostering engagement and collaboration, and driving positive social change,<sup>98</sup> Dr Keith Heggart and others also highlighted its failure to deliver on its early 'democratic promise':

... while it is true that anyone with an internet connection and a device can now lay claim to being a journalist, rather than this democratising knowledge and improving the state of civil debate, it has instead proven to be fertile ground for the spread of misinformation and disinformation.<sup>99</sup>

2.92 Further, in response to claims that digital platforms operate as a virtual town square—allowing people to share news and engage in political debate and advocacy—the HTI argued that the commercial nature of the platforms and their lack of neutrality undermines access to verifiable information:

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<sup>95</sup> AMRC, *Submission 188*, p. 8.

<sup>96</sup> DRW, *Submission 17*, p. 13.

<sup>97</sup> HTI, *Submission 146*, p. 13.

<sup>98</sup> See, for example, Dr Keith Heggart, Dr Damian Maher, and Associate Professor Bhuvu Narayan, *Submission 83*, p. 1; Ms Kyla Raby, *Submission 76*, [p. 1]; Australian Publishers, *Submission 63*, [p. 2].

<sup>99</sup> Dr Keith Heggart, Dr Damian Maher, and Associate Professor Bhuvu Narayan, *Submission 83*, p. 4 (citation omitted).

... unlike the physical public square, digital platforms, in their current form, are not 'neutral' platforms. Their AI-based business model shapes our access to information, and the debates we have in new and sometimes insidious ways. Fundamentally, digital platforms have undermined public access to verifiable information about civil and political issues.<sup>100</sup>

- 2.93 A similar point was also made by Mr Lewis who stated that 'our public square has become a private mall', with digital platforms connecting users via a business model that centres on 'extracting and exploiting our attention'. Mr Lewis went on to describe this as 'a fundamental chink in the armour when building a society that is based around ... collective decisions and finding points of connection'.<sup>101</sup>
- 2.94 Mr Shelton of Broadsheet Media agreed and argued that unlike the locally governed town squares of old, digital platforms are instead 'unaccountable fiefdoms run by global corporations with obvious little regard for the health of Australian society and people'.<sup>102</sup> A similar view was expressed by Ms Lisa Watts of The Conversation, who described Facebook as 'an American company that is about making profit. They're not interested in social cohesion or public good'.<sup>103</sup>
- 2.95 Likewise, DRW emphasised that 'collective concerns such as the public interest, human rights, community responsibility and upholding democracy struggle to compete with the profit motive, and in practice are not prioritised by commercial social media platforms'.<sup>104</sup> A similar view was expressed by former Australian Senator, Mr Rex Patrick, who reflected that 'in the conflict between public good and money in [Facebook's] pocket, the conflict is always resolved in favour of money in their pocket'.<sup>105</sup>
- 2.96 For this reason, the CPS Per Capita argued that digital platforms are 'not the right hosts of our civic lives' and described their operational models as:
- ... the antithesis of what healthy civic participation requires – shared spaces to facilitate considered debate and deliberation, consensus and bridge building, respect and representation for all citizens, a healthy public square powered by facts, reason and truth.<sup>106</sup>

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<sup>100</sup> HTI, *Submission 146*, p. 13.

<sup>101</sup> Mr Peter Lewis, Founder, CPS Per Capita, *Proof Committee Hansard*, 10 July 2024, p. 6.

<sup>102</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 16.

<sup>103</sup> Ms Lisa Watts, CEO, The Conversation, *Proof Committee Hansard*, 10 July 2024, p. 17.

<sup>104</sup> DRW, *Submission 17*, p. 13.

<sup>105</sup> Mr Rex Patrick, *Submission 182*, [p. 4].

<sup>106</sup> CPS Per Capita, *Submission 57*, p. 2.

2.97 In response to the above, some participants called for a renewed focus on the responsibilities of digital platforms and their social licence to operate. For example, Mr Shelton expressed the view that Australia 'must insist on a social licence for digital platforms with a commitment to contribute positively to Australian society'.<sup>107</sup>

2.98 Likewise, Mr Miller floated the idea of a social licence tied to stronger regulation, including:

... a set of laws with both new, partly accelerated laws and existing laws. It'd cover things like algorithms, making the platforms liable for the content that is amplified, curated and controlled by their recommender engines; customer complaints so there is a recourse for the things that Australian telcos and banks have to meet minimum standards on; and a license fee for access to Australian people.<sup>108</sup>

2.99 Mr Schreyer went further in describing the responsibility of platforms like Meta to 'do what is right':

It is one thing to rip billions from our economy but the social, mental and physical damage caused by what is allowed to prosper on Meta's platforms takes things to another level. Meta long ago ceased to be just a provider of social media platforms. Once upon a time Facebook was a place for pet videos, holiday snaps, family updates and social banter but now the beast has evolved to a point where the US Surgeon General this week called for social media to have warnings attached to it over mental health concerns for users. It has evolved into an antisocial entity that has provided a haven for toxicity, fake news scams, blackmail, cyberbullying, doxing, revenge porn, trolling, deepfakes, political interference, surveillance capitalism, and the spread of mis- and disinformation. This has caused so much damage within our communities. The live streaming of massacres, images of unrealistic so-called beautiful people and conspiracies are also part and parcel of social media today. It is one of the great paradoxes of our time that, rather than tackle these unacceptable elements and accept responsibility for the damage they have caused by providing habitat for such a scornful matter, Meta has instead opted to diminish the presence of real news and of truth. As a corporate citizen Meta has a responsibility to do what is right, just as we publishers do.<sup>109</sup>

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<sup>107</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 16.

<sup>108</sup> Mr Michael Miller, Executive Chairman, News Corp Australasia, *Proof Committee Hansard*, 21 June 2024, p. 13.

<sup>109</sup> Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 27.

## The importance of public interest journalism in countering mis- and disinformation

2.100 According to the PIJI, one of the main barriers to be overcome is the Australian media's declining ability to 'produce sustainable, reliable public interest journalism that blunts the impact of misinformation and disinformation':

As the number of producers of public interest journalism contract, the threat posed by online misinformation and disinformation increases; not simply because 'fake news' goes unchallenged by 'real news', but because as public interest journalism retreats, the narrative of strong institutions and accountable government that it supports retreats with it. Destructive narratives can fill that vacuum, motivated by vested interests and partisan political considerations. Those narratives provide the fertile ground in which misinformation and disinformation can take root.<sup>110</sup>

2.101 PIJI has defined public interest journalism as 'original content that records, reports or investigates' issues of public significance for Australians, issues relevant to engaging Australians in public debate and informing democratic decision making, and content which relates to community and local events.<sup>111</sup>

2.102 The benefits of public interest journalism were captured in the *News Media Assistance Program Consultation Paper* published by the DITRDCA (see Box 2.2).

2.103 Numerous participants highlighted the importance of public interest journalism to building an informed population and a functioning democracy.<sup>112</sup> For example, in highlighting the importance of a sustainable news media sector, Free TV argued that:

Robust, accountable and independent public interest journalism educates and informs citizens, holds power to account and is an essential component of a well-functioning democracy.<sup>113</sup>

2.104 Similarly, PIJI underscored the reliance of liberal democracies on public interest journalism to provide 'a shared baseline of agreed facts about our society' and demand 'transparency and accountability from those in power'.<sup>114</sup>

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<sup>110</sup> PIJI, *Submission 158*, [p. 7].

<sup>111</sup> PIJI, *Submission 158*, [p. 4]. PIJI groups relevant issues into four pillars of public interest journalism: government, courts and crime, community, and public services (e.g. health, education and emergency).

<sup>112</sup> See, for example, ACMA, *Submission 52*, p. 9; PlayHouse, *Submission 110*, [p. 3]; HTI, *Submission 146*, p. 3; NSW Council for Civil Liberties, *Submission 147*, p. 5; AMRC, *Submission 188*, pp. 2–3; Business News Australia, *Submission 5*, p. 3

<sup>113</sup> Free TV, *Submission 54*, p. 8.

<sup>114</sup> PIJI, *Submission 158*, [p. 3].

2.105 The USYD MECO elaborated:

News media are critical to shaping the ideas, values and beliefs that shape a culture, and particularly the ideologies or 'mental maps' through which social reality is collectively perceived and acted upon. As communications scholar Michael Schudson has argued, 'The world will survive without a lot of the journalism we have today, but the absence of some kinds of journalism would be devastating to the prospects for building a good society, notably a good democratic political system'.<sup>115</sup>

2.106 Unsurprisingly, a range of participants, including the Australian Associated Press (AAP), described access to public interest journalism as a 'counterpoint to the mis- and disinformation narratives that seek to undermine social cohesion and democratic norms in Australia by targeting vulnerable demographics, institutions like science or medicine, or elements of democracy'.<sup>116</sup>

2.107 However, submitters such as the ABC were careful to differentiate between preventing the spread of mis- information and disinformation—which falls largely to platforms and government regulation—and reducing the effects of mis- and disinformation, which journalism is able to do.<sup>117</sup>

**Box 2.2 Benefits of public interest journalism<sup>118</sup>**

- **Informed democratic participation** – informed citizens contribute to proper functioning of democracy by improving the likelihood that outcomes will reflect community expectations and preferences, helping to dispel and discourage misleading practices, and better aligning expectations with outcomes.
- **Informed public administration and policy** – informed decision-makers are better able to respond to and reflect community expectations. News and journalism also provide citizens with a platform for advocacy to government and public activism.
- **Trusted and accountable institutions** – scrutiny and accountability deliver greater compliance and accountability for all sectors of society, and government that is fairer, more transparent and more responsive. In turn, this 'watchdog' function may also increase trust in democracy and public institutions.
- **Tested and shared ideas** – the sharing and testing of ideas can contribute to better informed decision-making and the selection of more robust ideas. In turn, respectful and informed debate may also

<sup>115</sup> USYD MECO, *Submission 154*, pp. 16–17.

<sup>116</sup> Australian Associated Press, *Submission 55*, p.2 See also, LINA, *Submission 44*, pp. 6–7; Department of Home Affairs, *Submission 41*, p. 4; PIJL, *Submission 158*, p. 2.

<sup>117</sup> ABC, *Submission 65*, p. 4.

<sup>118</sup> DITRDCA, News Media Assistance Program Consultation Paper, December 2023, pp. 9–10.

contribute to greater trust in democracy, public institutions and the media.

- **Greater inclusion and social welfare** – news and journalism can contribute to social welfare and cohesion through the portrayal or representation of diverse social groups, provision of information about social issues, advocacy for social or political causes, or the provision of a platform for advocacy by others.
- **Informed decision making by individuals** – news and journalism inform the private decisions made by individuals, including in relation to social, financial and health decisions.

2.108 While the importance of public interest journalism was not disputed, its ability to counter online mis- and disinformation was seen to depend to a large degree on its accessibility and quality, as well as the media literacy of audiences. Views were also mixed in relation to the role fact checking plays in countering mis- and disinformation.

### **Accessibility of public interest journalism**

2.109 As stated in the DITRDCA's *News Media Assistance Program Consultation Paper*, news content 'provides no benefit if Australians cannot access it, or otherwise glean its informational content'.<sup>119</sup>

2.110 As detailed earlier in this chapter, numerous inquiry participants commented on the high degree of control digital platforms exercise over the content seen on their platforms.<sup>120</sup>

2.111 In relation to news accessibility, Mr Shelton described how platforms amplify harmful content to maximise engagement, while 'legitimate journalism is deemed "complicated" and deliberately suppressed by the platforms'.<sup>121</sup>

2.112 This point was reinforced by the ABC, which noted that Meta 'has made no secret' about adjusting its algorithms to favour content that attracts interactions (such as comments) and to deprioritise politics-related content. According to the ABC, this reduced aggregate Facebook traffic to news and media properties by 48 per cent.<sup>122</sup>

<sup>119</sup> DITRDCA, *News Media Assistance Program Consultation Paper*, December 2023, p. 10.

<sup>120</sup> See, for example, Schwartz Media, *Submission 36*, p. 11; MEAA, *Submission 53*, [p. 4]; Mr Rex Patrick, *Submission 182*, [p. 4]; USYD MECO, *Submission 154*, p. 22.

<sup>121</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 16.

<sup>122</sup> ABC, *Submission 65*, p. 6.

- 2.113 Similarly, The Conversation described a 'significant' decline in traffic of 40 per cent following an algorithmic change by Meta in May 2024,<sup>123</sup> meaning that fewer Australians now see 'evidenced based, trusted news and analysis' on the digital platforms where they are spending considerable time.<sup>124</sup>
- 2.114 A number of submitters also highlighted the growing problem of 'news deserts', where there are no local media outlets.<sup>125</sup> For example, Dr Carson spoke about PIJI's mapping of news deserts in Australia, which found they are getting larger, with regional areas 'particularly hard hit'.<sup>126</sup>
- 2.115 The importance of local news in countering mis- and disinformation was noted by LINA, which referred to research showing that the loss of local news on Facebook—following its news ban—'had "profound consequences for Canadians" during wildfires that spread through Northern Canada', such as confusion and misinformation about evacuation centres, financial compensation and the progression of fires, all exacerbated by the absence of local news.<sup>127</sup>

### **Quality of public interest journalism**

- 2.116 The quality of public interest journalism was also considered important to its effectiveness in countering online misinformation. For example, the Department of Home Affairs pointed to the importance of 'quality and trustworthy media reporting' to 'building resilience to mis- and disinformation that can exacerbate community tensions and threaten social cohesion, especially during crises'.<sup>128</sup>
- 2.117 Various participants made a link between journalistic standards, media diversity and the quality of the news media in Australia.<sup>129</sup>

### ***Journalistic standards***

- 2.118 Many submitters noted the complex interplay between social media and traditional outlets in relation to media standards and the spread of and mis- and disinformation. For example, DRW argued that the spread of misinformation

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<sup>123</sup> Ms Lisa Watts, CEO, The Conversation, *Proof Committee Hansard*, 10 July 2024, p. 17.

<sup>124</sup> The Conversation, *Submission 6*, p. 2.

<sup>125</sup> See, for example, MEAA, *Submission 53*, [p. 8]; Mr Anthony Kendall, Managing Director, Australian Community Media, *Proof Committee Hansard*, 21 June 2024, p. 26; Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 55; ABC, *Submission 65*, p. 3.

<sup>126</sup> Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 55.

<sup>127</sup> LINA, *Submission 44*, p. 7.

<sup>128</sup> Department of Home Affairs, *Submission 41*, p. 4.

<sup>129</sup> See, for example, DPA, *Submission 39*, p. 1; Capital Brief, *Submission 64*, pp. 2 and 3; LINA, *Submission 44*, p. 8; Free TV, *Submission 54*, pp. 6–7.

was not purely a social media problem but was 'inextricably connected to problems in traditional broadcast (mainstream) media':

We note that while Australian journalism can play an important role in countering mis- and disinformation on digital platforms, there are also many news outlets that actively contribute to the creation and dissemination of sensationalist, misleading and divisive material.<sup>130</sup>

2.119 Similarly, submitters such as Mr Calcutt PSM pointed to the role social media has played in increasing sensationalist and divisive content in the mainstream media:

Conflict, shock, and fear have always been staple elements of the mainstream media diet. But in the face of a ubiquitous social media, it has been forced to increasingly turn to sensationalism and populism to retain market share.<sup>131</sup>

2.120 Further, the AMRC submitted that financial considerations have impacted standards and constrained the ability of media outlets to produce local interest stories, long-form content and other 'commercially unreliable news products':

The freedom of both editors and journalists to cover stories which serve a public interest function without being commercially viable has narrowed. Investigative, complex, and long form reporting have all decreased. Reporting on local government, health issues, science, community events and community issues has decreased significantly – not just in the absolute number of articles, but also in the proportion of space in publications devoted to these matters.<sup>132</sup>

2.121 This was reinforced by the MEAA, which stated that falling revenues and workforce cutbacks 'have severely affected the news media's abilities to fully scrutinise and report upon matters of considerable public interest'. According to the MEAA, 'this can be seen in diminished news reporting in crucial areas— from local council decisions to major state and federal government projects and corporate business dealings'.<sup>133</sup>

2.122 In addition, Free TV noted the role that media coverage can play in amplifying 'highly emotive and engaging posts within small online conspiracy groups'.<sup>134</sup> As an example of this, the Digital Industry Group Inc. (DIGI) pointed to well-known instances of news outlets amplifying false claims made on social

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<sup>130</sup> DRW, *Submission 17*, pp 11–12.

<sup>131</sup> Mr Bill Calcutt PSM, *Submission 22*, p. 3. See also, Dr Keith Heggart, Associate Professor Simon Knight, Dr Damian Maher, and Associate Professor Bhuva Narayan, *Submission 83*, p. 4.

<sup>132</sup> AMRC, *Submission 188*, p. 4.

<sup>133</sup> MEAA, *Submission 53*, [p. 4].

<sup>134</sup> Free TV, *Submission 54*, p. 14.

media—most recently in relation to the 'repetition of defamatory claims on traditional media in the aftermath of the Bondi Junction attacks'.<sup>135</sup>

2.123 Likewise, Dr Carson referred to research that showed the role of mainstream media in spreading misinformation about a 'death tax' during the 2019 election:

This is something that we saw firsthand in a study on the so-called 'death tax' during the 2019 election. The amount of disinformation around the death tax moved from the online environment back into the offline environment with news stories about it. In 53 per cent of cases, we found that mainstream news media were not disabusing the public of the fact that that was not ALP policy at the time.<sup>136</sup>

2.124 This point was reinforced by the ADM+S, which observed that 'the practice of sourcing stories from social media, including by reporting on viral TikTok videos or Twitter controversies, is a key source of this amplification'.<sup>137</sup>

2.125 To this end, Ms O'Loughlin told the committee that there were actions traditional media could take, including applying existing codes of practice to their broadcast video on demand service—as SBS has done—and considering whether the terms of those codes adequately cover mis- and disinformation:

We've been discussing with the commercial—and, indeed, national—broadcasters why they don't extend their current codes, which include accuracy and impartiality, onto their digital services. That's a continuing conversation. We think that the broadcasters should also turn their minds to whether or not accuracy and impartiality—those sorts of traditional terms—capture what we see in misinformation and disinformation, and that's an ongoing conversation we're having with them.<sup>138</sup>

2.126 Further, Ms Anna Draffin of PIJI highlighted her organisation's work in relation to integrity measures and argued that expectations around accountability and a social licence to operate should apply equally to digital platforms and news media organisations:

It's for all players that are involved in the ecosystem and that have a social licence to operate. Certainly, as part of PIJI's next-stage work, we're looking at areas around integrity measures et cetera as part of bringing in greater alignment between news consumption and news production, particularly in an era of genAI, where finding trustworthy is going to become more difficult. We'll all be deluged with synthetic content at speed and scale, so how do we actually (a) deal with the media literacy part but (b) decide what

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<sup>135</sup> Digital Industry Group Inc. (DIGI), *Submission 57*, p. 16.

<sup>136</sup> Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 53.

<sup>137</sup> ADM+S, *Submission 120*, p. 2.

<sup>138</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 51.

the indicators are that we need to have in place to demonstrate a source of public interest journalism?<sup>139</sup>

### *Media diversity*

- 2.127 Multiple participants highlighted the importance of media diversity to reducing the spread of mis- and disinformation.<sup>140</sup> LINA defined diversity both in terms of 'the range and relevance of information available to audiences; and the range of voices and perspectives represented in the media landscape'.<sup>141</sup>
- 2.128 According to the ACMA, Australia's media diversity policies aim to encourage a diversity of news and information across the media market and prevent 'any single media voice from exerting unacceptable levels of influence over public discourse'. Australia's media diversity rules are set out in the *Broadcasting Services Act 1992* (Broadcasting Services Act), which regulates the number of media 'voices' in a market.<sup>142</sup>
- 2.129 However, the concentration of media ownership in Australia was viewed by some participants as impacting negatively on the quality and sustainability of journalism in Australia and the level of trust in the media.<sup>143</sup> For example, Private Media contended that 'by one measure, Australia is the 'third worst market globally for media diversity' with only China and Egypt having 'more monopolistic media markets'.<sup>144</sup>
- 2.130 According to Capital Brief, this means that the dominance of News Corp, Nine Entertainment and Seven West Media has resulted in 'a small group of editors can dictate which stories are told and how the narrative takes shape'. Capital Brief argued that 'this concentration of editorial decision-making inhibits the ability of Australian journalism to effectively counter the mis- and disinformation present on social media platforms'.<sup>145</sup>

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<sup>139</sup> Ms Anna Draffin, CEO, PIJI, *Proof Committee Hansard*, 28 June 2024, p. 44.

<sup>140</sup> See, for example, Man of Many, *Submission 33*, p. 4; LINA, *Submission 44*, p. 8; DPA, *Submission 39*, p. 1; Ms Anna Draffin, CEO, PIJI, *Proof Committee Hansard*, 28 June 2024, p. 41.

<sup>141</sup> LINA, *Submission 44*, p. 8.

<sup>142</sup> ACMA, *Submission 52*, pp. 8 and 9.

<sup>143</sup> See, for example, LINA, *Submission 44*, p. 8; AMRC, *Submission 188*, p. 2; Fremantle Herald, *Submission 204*, pp. 20 and 21.

<sup>144</sup> Private Media, *Submission 56*, [p. 1].

<sup>145</sup> Capital Brief, *Submission 64*, p. 2. According to Capital Brief, News Corp, Nine Entertainment and Seven West Media own the leading news mastheads in every state, the national broadsheet, the national business publication, the most-read free news websites, the top news/talk radio stations and the leading free and subscription television networks.

2.131 The role of digital platforms was also highlighted by AMRC, which argued that both deregulation and the emergence of digital platforms had impacted on the concentration of media ownership in Australia, with flow on effects in terms of 'trust in the media, polarisation, misinformation, and widespread news avoidance'.<sup>146</sup>

2.132 Similarly, submitters such as LINA asserted that small publishers are being disproportionately impacted by digital platforms, whose algorithms are 'throttling' news content and 'constraining traffic and revenue in places where revenue is already scarce, further compounding pressures on media diversity in Australia'.<sup>147</sup>

2.133 To this end, the ACMA noted weaknesses in the current measures to address media diversity in Australia and indicated that it is implementing a new Media Diversity Measurement Framework (Diversity Framework), which will 'present a more complete picture of the contemporary news landscape'.<sup>148</sup> Once fully implemented (over four years), the framework will allow:

... levels of diversity across Australia's print, radio, TV and online media to be monitored. ... this work will inform and support the government's broader News Media Assistance Program (News MAP) initiative, providing a robust evidence base to help inform advice to government and policymakers ...<sup>149</sup>

2.134 According to LINA, policies that support media diversity—particularly local news publishers—can help sustain quality reporting and reduce the impact of mis- and disinformation:

Media diversity provides audiences with reporting that meets editorial standards and draws from a range of sources, from which individuals can make their own decisions on any given topic. In relation to local and independent news, media diversity provides an opportunity to draw on local expertise, deep subject matter knowledge and community connections to include perspectives in news reporting that would not otherwise be shared.<sup>150</sup>

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<sup>146</sup> AMRC, *Submission 188*, p. 2. According to AMRC, Australia has the third most concentrated media market in the world, with the top four media companies in Australia (NewsCorp, Seven, Nine Entertainment/Fairfax, and ACM) controlling 95 per cent of total revenue from daily newspapers, 75 per cent of total revenue from free to air TV, and 70 per cent of total revenue from radio broadcasting.

<sup>147</sup> LINA, *Submission 44*, p. 4. See also, *We Are Explorers, Submission 116*, [p. 4].

<sup>148</sup> ACMA, *Submission 52*, p. 9.

<sup>149</sup> ACMA, *Submission 52*, p. 9. The first report under the Media Diversity Measurement Framework will be published by the end of 2024.

<sup>150</sup> LINA, *Submission 44*, p. 8.

2.135 In her evidence to the committee, Ms Claire Stuchbery explained how local journalists, who are embedded in their communities, are 'uniquely positioned to identify mis- and disinformation circulating within their community when it starts to gather momentum'.<sup>151</sup>

### **Media literacy**

2.136 According to Dr Tanya Notley, media literacy refers to 'the ability to apply critical thinking to digital and non-digital media through analysis, evaluation and reflection', a skill which she described as 'essential for full participation in society' and important to avoiding misinformation:

Multiple studies have demonstrated that increasing people's capacity for critical thinking in relation to their media use increases their ability to detect and avoid misinformation and avoid scams and other media harms. Media literacy initiatives can also empower citizens to become competent and responsible media producers and consumers.<sup>152</sup>

2.137 A range of participants highlighted the importance of media literacy in allowing Australians to critically engage with news and assess the reliability of online content.<sup>153</sup> For example, Ms Stuchbery stressed the importance of audiences understanding 'what a verifiable source of information is and how to recognise trustworthy news'.<sup>154</sup> Similarly, SBS described media literacy as the key to 'identifying "fake news" and mis- and disinformation'.<sup>155</sup>

2.138 Concerningly, AMRC reported that 'less than half of Australian adults can confidently identify misinformation online'.<sup>156</sup> In addition, the Australian Library and Information Association (ALIA) pointed to research by the Australian Media Literacy Alliance (AMLA), which found that only 56 per cent of Australians feel confident they can find information online and only 39 per cent of adult Australians say they can check if online information is true.<sup>157</sup>

2.139 AMLA highlighted low levels of media literacy among young Australians, with only 41 per cent believing they know how to identify fake news.<sup>158</sup>

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<sup>151</sup> Ms Claire Stuchbery, Executive Director, LINA, *Proof Committee Hansard*, 28 June 2024, p. 42.

<sup>152</sup> Dr Tanya Notley, *Submission 176*, p. 2.

<sup>153</sup> See, for example, Australian Media Literacy Alliance (AMLA), *Submission 134*, p. 1; LINA, *Submission 44*, p. 9; Cancer Council, *Submission 189*, p. 3; The Daily Aus, *Submission 43*, [p. 15]; SBS, *Submission 45*, p. 8; Playhouse, *Submission 110*, [p. 3].

<sup>154</sup> Ms Claire Stuchbery, Executive Director, LINA, *Proof Committee Hansard*, 28 June 2024, p. 42.

<sup>155</sup> SBS, *Submission 45*, p. 8.

<sup>156</sup> AMRC, *Submission 188*, p. 8.

<sup>157</sup> Australian Library and Information Association (ALIA), *Submission 62*, p. 1.

<sup>158</sup> AMLA, *Submission 134*, p. 3.

- 2.140 According to the University of Canberra's 2024 *Digital News Report: Australia*, participants found it hardest to identify untrustworthy information on TikTok (34 per cent) and X (32 per cent), followed by Facebook and Instagram (both 26 per cent).<sup>159</sup>
- 2.141 While there was a significant focus on media literacy for young Australians, Dr Carson underscored its importance for older Australians, with studies showing they are often the most taken in by mis- and disinformation.<sup>160</sup>
- 2.142 This was borne out by evidence from ALIA, which cited lower media literacy levels for particular cohorts of Australians, including those aged 75 and older and those in regional Australia.<sup>161</sup>

### **The role of fact checking in countering mis- and disinformation**

- 2.143 The important role of fact checking in countering mis- and disinformation was emphasised by a range of participants. For example, ADM+S described fact checking as a 'critical function' and suggested that fact checking organisations have 'more of a direct impact on limiting the circulation of mis/disinformation than the general provision of news and public interest media'.<sup>162</sup>
- 2.144 Similarly, AAP told the committee that its fact checking work has 'a direct and tangible impact on the circulation of disinformation'. As a third-party fact checker for Meta and TikTok, AAP indicated that it publishes dozens of debunk articles to Meta and provides recommendations to TikTok on content containing potential mis- and disinformation. AAP also noted that the impact of its work is 'exponentially increased by Meta's use of AI technology to automatically label mis/disinformation similar to that already debunked by fact-checkers'.<sup>163</sup>

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<sup>159</sup> Park, S., Fisher, C., McGuinness, K., Lee, J., McCallum, K., Cai, X., Chatskin, M., Mardjianto, L. & Yao, P. (2024). [Digital News Report: Australia 2024](#). Canberra: News and Media Research Centre, University of Canberra, p. 121.

<sup>160</sup> Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 57.

<sup>161</sup> ALIA, *Submission 62*, p. 1. The percentage of Australians with low media literacy levels varied by cohort: Australian aged 75 years and older (75 per cent), those aged 56–74 (57 per cent), those with low education levels (56 per cent), those living with a disability (48 per cent), low-income Australians (43 per cent), and those living in regional Australia (41 per cent). See also, AMLA, *Submission 134*, p. 2.

<sup>162</sup> ADM+S, *Submission 120*, p. 9.

<sup>163</sup> AAP, *Submission 55*, pp. 3 and 4.

2.145 According to AAP, this work can result in the downranking or removal of content by these platforms. However, AAP also stressed the limitations of its influence, with any interventions being 'determined and applied solely by the platforms'.<sup>164</sup>

2.146 Some submitters, such as Reset.Tech Australia, questioned the effectiveness of digital platforms' responses to third-party fact checking:

Like other platforms, Meta only label or remove the exact post that fact checkers address and near-identical copies. Posts that repeat the same falsehoods, attach images or swap the order of words remain unaffected even when reported.<sup>165</sup>

2.147 Schwartz Media also argued that 'when advertising money is involved, [Meta] will freely publish and promote factually incorrect claims that other media businesses refuse to run'. As an example, Schwartz Media pointed to Facebook's refusal to take down an ad by former President Donald Trump's 2020 re-election campaign—even though CNN refused to run the ad because it had been proven to be demonstrably false by various fact-checkers.<sup>166</sup>

2.148 Despite the value of fact checking, many participants cautioned against an overreliance on it to counter online mis- and disinformation. For example, Dr Carson agreed that fact checking has a role in identifying—and potentially moderating the impact of—disinformation but she also noted that it did not stop its spread.<sup>167</sup>

2.149 Further, DRW described fact checking and content removal as 'well-intentioned and useful' surface solutions, but argued that they lack the scalability required to deal with the 'industrial levels of low quality and polarising content that pollute our information ecosystem'.<sup>168</sup> A similar point was made by SBS, which noted that the volume of mis- and disinformation means 'fact-checking and verification of information takes longer and requires more resources'.<sup>169</sup> To this end, ADM+S pointed out that fact checking organisations are 'mostly dependent on funding from digital platforms and donations for revenue'.<sup>170</sup>

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<sup>164</sup> AAP, *Submission 55*, p. 4.

<sup>165</sup> Reset.Tech Australia, *Submission 16*, p. 4.

<sup>166</sup> Schwartz Media, *Submission 36*, p. 10.

<sup>167</sup> Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 53.

<sup>168</sup> DRW, *Submission 17*, p. 12.

<sup>169</sup> SBS, *Submission 45*, p. 3.

<sup>170</sup> ADM+S, *Submission 120*, p. 10.

- 2.150 Likewise, Reset.Tech Australia acknowledged the 'crucial role' that fact checkers play but asserted that Australia's 'uniquely small and brittle' fact checking system faces a number of challenges, including its small size, the risk posed by perceptions of bias and a lack of trust, and the increased workload arising from the use of generative AI.<sup>171</sup>
- 2.151 Reset.Tech Australia also highlighted a new challenge to the effectiveness of fact-checking—where bad actors explicitly attempt to overload Australian fact checkers as part of bad-faith attacks designed 'to disrupt and undermine trust in institutions'.<sup>172</sup>
- 2.152 This was reflected in evidence from the Department of Home Affairs, which described how 'Australian outlets were among more than 800 organisations around the world recently targeted by a pro-Russian campaign aimed at clogging fact-checking systems in newsrooms'.<sup>173</sup>
- 2.153 Given the impossibility of fact checking all claims, the ABC underscored the importance of improving media literacy. It argued that 'by developing the awareness and skills of audiences, the ABC can try to inoculate them against mis- and disinformation'.<sup>174</sup>

### **Regulation of mis- and disinformation on digital platforms**

- 2.154 Participants provided extensive evidence in relation to the regulation of mis- and disinformation on digital platforms. This included views on:
- the effectiveness of current regulatory approaches to mis- and disinformation—including the operation of the ACPDM;
  - the different standards that apply to media organisations and digital platforms; and
  - jurisdictional challenges involved in regulating digital platforms.

### **Effectiveness of current regulatory approaches to mis- and disinformation**

- 2.155 Since 2021, Australia has employed an industry-led self-regulatory approach to address the risks of misinformation and disinformation on digital platforms. This is enacted primarily via the industry-led ACPDM.<sup>175</sup>

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<sup>171</sup> Reset.Tech. Australia, *Submission 16*, p. 4.

<sup>172</sup> Reset.Tech. Australia, *Submission 16*, p. 4.

<sup>173</sup> Department of Home Affairs, *Submission 41*, p. 4.

<sup>174</sup> ABC, *Submission 65*, p. 5.

<sup>175</sup> ACMA, *Submission 52*, p. 5. DIGI administers the *Australian Code of Practice on Disinformation and Misinformation* (ACPDM) and governance arrangements to encourage signatory compliance. ACMA reports to the Australian Government on the effectiveness of the ACPDM.

The committee heard that other legislation affecting digital platforms also has an emphasis on self-regulation. For example, according to USD MECO, under the *Online Safety Act 2021* (which includes mechanisms to remove abusive and harmful online content), the powers of the eSafety Commissioner are intended only as 'a backstop and legislator of last resort'.<sup>176</sup>

2.156 Overall, there was a view that these self-regulatory approaches are insufficient to address the digital threats and challenges facing Australia, including the spread and impact of online mis- and disinformation.<sup>177</sup> For example, the HRLC submitted that 'reliance on rules written by the tech industry itself has led to demonstrably weaker protections against harm and is clearly at odds with the expectations of the community'.<sup>178</sup>

2.157 Indeed, the HRLC suggested that self-regulation and co-regulation are inappropriate for a powerful and high-risk sector where platforms' commercial imperatives and the public interest may be in conflict. The HRLC also argued that effective regulation requires the ability to 'impose and enforce measures to curb risks'—noting that digital platforms are 'flouting existing online safety rules and dismissing the imposition of even quite modest fines or penalties'.<sup>179</sup>

2.158 In a similar vein, USYD MECO drew the committee's attention to the example of X (formerly Twitter), which removed video of the Wakeley church stabbing from its Australian site but 'rejected the call to apply a global takedown' and 'successfully contested the takedown notice in the courts'. According to USYD MECO, this demonstrates the limitations of the light-touch approach:

X's preparedness to contest eSafety Commissioner directives in the courts, as well as its previous withdrawal from the [ACPD] ... this 'soft law' based approach, reliant as it is upon industry goodwill as an alternative to sanctions and coercion.<sup>180</sup>

2.159 Further, USYD MECO suggested that previous arguments made by digital platforms about the need for self-regulatory approaches, have been weakened by repeated scandals and heightened scrutiny. For example, the Cambridge Analytica scandal and the widespread circulation of misinformation during

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<sup>176</sup> USYD MECO, *Submission 154*, p. 18.

<sup>177</sup> See, for example, Mrs Julie Inman-Grant, Commissioner, eSafety Commissioner, *Proof Committee Hansard*, 21 Jun 2024; p. 59; Schwartz Media, *Submission 36*, p. 8; eSafeKids, *Submission 112*, p. 7; Professor Lorna Woods, *Submission 191*, [p. 2]; Dr Susie Alegre, *Submission 18*, p. 2.

<sup>178</sup> Human Rights Law Commission, *Submission 184*, Attachment 3 (Submission to the Senate Economics References Committee inquiry into the influence of international digital platforms), p. 9.

<sup>179</sup> Human Rights Law Commission, *Submission 184*, Attachment 1 (Submission to the Statutory Review of the *Online Safety Act 2021*), p. 17.

<sup>180</sup> USYD MECO, *Submission 154*, p. 19 (citation omitted).

political campaigns raised concerns about the ability of platforms to 'adequately safeguard users and administer their platforms in the public interest'.<sup>181</sup>

2.160 More recently, some platforms also acknowledged the limits of self-regulation:

Facebook (now Meta) CEO Mark Zuckerberg famously conceded before the U.S. Congress that his company ultimately bore responsibility for the content on its platform, and that the question was not whether social media companies should be regulated, but how such regulation should occur.<sup>182</sup>

2.161 The limits of self-regulation were also recognised by Ms O'Loughlin, who noted ACMA's advice to government about the need for a mechanism to 'bring parties to the table if they didn't sign up and effectively operate under a self-regulatory code or if they bunked out of that self-regulatory code completely' (as seen with the removal of X from the ACPDM):

You can't just have major players who say, 'We're not going to,' or an industry association who finds that there is a problem with one of the signatories and removes them from the code, and then they're not covered by anything. ... You can't leave that empty space. There has to be something, some way of applying rules to those types of players.<sup>183</sup>

2.162 While Reset.Tech Australia noted Australia's 'proud history as a "first mover" and innovator in digital platform regulation', it argued that Australia has now 'slipped behind' other jurisdictions:

New risks, driven by increasingly powerful algorithms and an explosion of data harvesting, have now surpassed the ability of existing digital regulatory frameworks to effectively manage them. Australia is not alone in facing these risks, but other countries are now making substantial progress, in particular the UK and the EU, with emerging progress in Canada. These jurisdictions have drawn upon the innovations and exemplars of Australian policy but introduced more comprehensive, preventative and muscular regulatory models. These models encourage platform conduct that ensures user safety and is more commensurate with public expectations for digital regulation more broadly. By contrast, Australia is still largely reliant on a hopeful but outdated desire for industry-led and largely self-regulated processes.<sup>184</sup>

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<sup>181</sup> USYD MECO, *Submission 154*, p. 18.

<sup>182</sup> USYD MECO, *Submission 154*, p. 18. The Cambridge Analytica scandal involved third parties directing Facebook user data to political campaigns under misleading pretences.

<sup>183</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 54. Ms O'Loughlin stated this advice was provided in relation to the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

<sup>184</sup> Reset.Tech Australia, *Submission 16*, p. 1 (citations omitted).

2.163 Reset.Tech Australia also told the committee that over the last decade, it has become clear to governments worldwide that:

- voluntary or co-regulatory schemes do not provide sufficient protections as they can be ignored by platforms as a 'reputational risk approach' is not sufficient incentive to safeguard the public interest; and
- legislation and fine regimes are vulnerable to being ignored by platforms if they are not seen as significant.<sup>185</sup>

2.164 USYD MECO also reflected on the worldwide movement toward greater regulation, following initial light-touch approaches:

The early history of platforms such as Facebook, Twitter/X, YouTube and TikTok was marked by a strong orientation towards light-touch moderation that dealt primarily with issues such as copyright infringement and clearly illegal, threatening, or defamatory content. In recent years, conversations have increasingly turned towards the question of online safety and harms.<sup>186</sup>

2.165 This was reflected in evidence from the ABC, which noted that 'governments around the world are moving to regulate technology platforms and social media spaces more effectively'. As an example, it cited the introduction of the Digital Service Act, the Digital Market Act, and the Artificial Intelligence Act in the European Union. According to the ABC, these measures 'oblige online and social media platforms to actively fight disinformation, ensure transparency in relation to the algorithms used to prioritise content, and warrant online safety'.

2.166 A similar view was expressed by the HRLC, which argued that 'regulator-drafted industry standards should be the norm' and noted that introduction of the Digital Services Act in the EU was 'driven by growing recognition that self- and co-regulatory models are inadequate and ineffective'.<sup>187</sup>

2.167 To this end, Dr Rys Farthing of Reset.Tech Australia told the committee that in markets where regulation has driven change in the way platforms operate, there appeared to be five building blocks underpinning that change. These were:

- measures to drive platform accountability (such as a duty of care);
- detailed risk assessment requirements for platforms;
- strong, proactive risk mitigation measures by platforms;
- strong transparency requirements; and
- strong enforcement measures.<sup>188</sup>

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<sup>185</sup> Reset.Tech Australia, *Submission 16*, p. 2.

<sup>186</sup> USYD MECO, *Submission 154*, p. 18.

<sup>187</sup> Human Rights Law Commission, *Submission 184*, Attachment 3 (Submission to the Senate Economics References Committee inquiry into the influence of international digital platforms), p. 9.

<sup>188</sup> Dr Farthing, Director of Research, Reset.Tech Australia, *Proof Committee Hansard*, 21 June 2024, p. 4.

2.168 However, the 'legitimate difficulty' of regulating to limit mis- and disinformation was recognised by AMRC, which pointed to the primacy of free speech as a democratic principle.<sup>189</sup> However, AMRC also noted how the changes wrought by digital platforms are necessarily challenging the way we think about free speech:

... the original principle that free speech should be defended on the basis that truth will prevail in the marketplace of ideas is outdated, when, in the modern media landscape, we are drowning in misinformation.<sup>190</sup>

2.169 Similarly, USYD MECO described how changes in the media landscape are challenging the effectiveness of 'counter speech' as a remedy against mis- and disinformation. These changes include:

- distribution systems which can incentivise fake news over legitimate news;
- diminished gatekeeping barriers due to the proliferation of news and information outlets;
- data-driven interactivity and personalisation targeting consumers with tailored news;
- the rise of partisan news outlets and selective news exposure;
- reduced ability (both content providers and consumers) to distinguish between fake and legitimate news; and
- the speed of fake news production, dissemination, and consumption.<sup>191</sup>

2.170 Accordingly, USYD MECO contended that regulation of digital platforms would need to consider 'how to balance free speech on social media and the freedom to innovate with the broader freedoms of a liberal society'.<sup>192</sup>

2.171 To this end, ACMA highlighted development of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 (misinformation bill). The misinformation bill would provide the ACMA with powers to act where voluntary arrangements are ineffective, as well as powers to enhance transparency about digital platforms' responses to mis- and disinformation on their services.<sup>193</sup>

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<sup>189</sup> AMRC, *Submission 188*, p. 8.

<sup>190</sup> AMRC, *Submission 188*, p. 9.

<sup>191</sup> USYD MECO, *Submission 154*, p. 19 (citation omitted).

<sup>192</sup> USYD MECO, *Submission 154*, p. 19 (citation omitted).

<sup>193</sup> ACMA, *Submission 52*, p. 7.

2.172 On 12 September 2024, the misinformation bill was introduced in the House of Representatives.<sup>194</sup> The bill aims to:

- empower ACMA to require that digital platform providers take steps to manage the risk posed by mis- and disinformation on their platforms;
- increase transparency about the way digital platform providers manage mis- and disinformation; and
- empower digital platform users to identify and respond to mis- and disinformation on digital communications platforms.<sup>195</sup>

2.173 The bill would impose core obligations on digital platform providers to:

- assess risks relating to mis- and disinformation on their platforms, and publicly report on the outcomes of that assessment;
- publish their policy or approach to managing mis- and disinformation
- publish a media literacy plan detailing the measures that will be taken to help users better identify mis- and disinformation.<sup>196</sup>

2.174 The bill also contains a range of graduated compliance and enforcement measures, including formal warnings, remedial directions, infringement notices, injunctions, and civil penalties.<sup>197</sup>

2.175 While concerns have been raised about the bill's impact on freedom of speech and the potential for censorship, the bill contains a range of strong protections for both privacy and freedom of speech. These include:

- a focus on encouraging digital platforms to have robust systems and measures in place to address mis- and disinformation on their services, rather than the ACMA directly regulating individual pieces of content;
- ACMA not having the power to request specific content or posts be removed from digital platform services;
- the code and standard-making powers under the bill not applying to authorised electoral and referendum content and other types of content such as professional news and satire; and

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<sup>194</sup> The Hon. Michelle Rowland MP, Minister for Communications, *Proof House of Representatives Hansard*, 12 September 2024, p. 7.

<sup>195</sup> Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024, Explanatory Memorandum, p. 1.

<sup>196</sup> Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024, Explanatory Memorandum, p. 1.

<sup>197</sup> Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024, Explanatory Memorandum, p. 4.

- private messages sent on instant messaging services not being within scope of the powers.<sup>198</sup>

2.176 Claims about censorship were also refuted by Mr Sam Kursar of DITRDCA. In particular, Mr Kursar noted the addition of clause 67, which states 'there is nothing in the bill, whether it's the digital platform rules, the codes or the standards, that will require the take-down of content, unless it's disinformation involving inauthentic behaviour'. He continued:

That is a very strong protection and safeguard that has been added to the bill. It includes content such as bots and troll farms from foreign actors, in research institutes abroad, who want to undermine our democratic way of life and cause vilification of groups of people across Australia based on certain attributes, whether it's imminent damage to critical infrastructure. This particular clause will provide that safeguard. What it will mean is that there are a range of other options, when it comes to a code or standard under the bill, which include things like providing authoritative sources of information or links to factual information, the de-monetisation of disinformation and so on.<sup>199</sup>

2.177 Mr Kursar also highlighted the strength the safeguards in the bill, including the high threshold for serious harm, demonstrated by the narrow definitions of harm set out in clause 14:

As I said, we've provided strong safeguards in that you've got to have a very high threshold of serious harm. We have types of harm which are very narrow; they align with our international human rights obligations. When it relates to vilifying a group in Australia or undermining the operation of an election, the government has taken a view that platforms should be held to account in dealing with that kind of content on their servers. Again, we have provided protections in the bill that nothing in the bill will require takedowns unless it is disinformation involving inauthentic behaviour.<sup>200</sup>

2.178 The criteria for serious harm, as set out in the bill, were then clarified by Mr Kursar:

...it's got to meet the definitions in clause 13—so it's got to be verifiably false. If it is verifiably false and reasonably likely to cause serious harm...if it is at scale, and if you've got a large number of users. It looks at the context of the environment. It looks at if you've made a claim using an authoritative source that's not correct—so if your content claims it's from the AC and it's not, it's more reasonably likely to cause serious harm. If your serious harm relates to the vilification of a group of Australians, if it's going to cause imminent

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<sup>198</sup> DITRDCA, *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023—Fact sheet*, June 2023, p. 2.

<sup>199</sup> Mr Sam Kursar, Acting Assistant Secretary, Digital Platforms, International and Policy Branch, DITRDCA, *Proof Committee Hansard*, 1 October 2024, p. 51.

<sup>200</sup> Mr Sam Kursar, Acting Assistant Secretary, Digital Platforms, International and Policy Branch, DITRDCA, *Proof Committee Hansard*, 1 October 2024, p. 55.

damage to critical infrastructure, imminent disruption of emergency services and public harm, it's more than likely to be in scope.<sup>201</sup>

2.179 Further, Mr Kursar stressed that any potential fines that may be levied in relation to mis- and disinformation would 'apply to the digital platforms and not to everyday Australians'—this bill is 'not about fining an Australian about their social media posts. That's not what this bill does'.<sup>202</sup>

2.180 In addition, Mr Kursar indicated that the bill would require a triennial review of the framework, including any potential impact of the bill on freedom of speech or whether there has been over censorship or overreach.<sup>203</sup>

### *The ACPDM*

2.181 The ACPDM requires signatories to 'take action to identify, assess and address misinformation and disinformation on their services'.<sup>204</sup> The ACPDM was developed by DIGI— the industry body for Australia's digital industry—and has currently has nine signatories (Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok, Twitch and Legitimate).<sup>205</sup>

2.182 In relation to combatting mis- and disinformation, DIGI stated that its members:

... share a strong commitment to ensuring the transparency and integrity of Australian democratic political processes, and institutions recognising that as important actors in the information ecosystem, they have a critical role and responsibility in reducing the spread of disinformation and misinformation online.<sup>206</sup>

2.183 While recognising that further progress can be made, DIGI highlighted a range of measures it has implemented to strengthen the ACPDM since 2021, including:

- appointment of an independent complaints committee to resolve complaints about possible breaches by signatories of their code commitments;
- creation of a portal on DIGI's website for the public to raise such complaints;
- appointment of an independent reviewer to fact check and attest all signatories' transparency reports;

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<sup>201</sup> Mr Sam Kursar, Acting Assistant Secretary, Digital Platforms, International and Policy Branch, DITRDCA, *Proof Committee Hansard*, 1 October 2024, p. 54.

<sup>202</sup> Mr Sam Kursar, Acting Assistant Secretary, Digital Platforms, International and Policy Branch, DITRDCA, *Proof Committee Hansard*, 1 October 2024, p. 53.

<sup>203</sup> Mr Sam Kursar, Acting Assistant Secretary, Digital Platforms, International and Policy Branch, DITRDCA, *Proof Committee Hansard*, 1 October 2024, p. 54.

<sup>204</sup> ACMA, *Submission 52*, p. 5.

<sup>205</sup> ACMA, *Submission 52*, p. 5. DIGI administers the *Australian Code of Practice on Disinformation and Misinformation* (ACPDM) and governance arrangements to encourage signatory compliance. ACMA reports to the Australian Government on the effectiveness of the ACPDM.

<sup>206</sup> DIGI, *Submission 57*, p. 13.

- development of best practice reporting guidelines to drive improvements and consistency in transparency reports;
- encouraging greater participation in the code by smaller digital platforms;
- updating the definition of 'harm' in relation to mis- and disinformation; and
- additional commitments reflecting updates to the strengthened EU Code of Practice in relation to recommender systems, and deterring advertisers from repeatedly placing digital advertisements that propagate mis- and disinformation.<sup>207</sup>

2.184 Despite this, some participants raised concerns about the operation of the ACPDM. For example, Free TV highlighted concerns raised by ACMA about the implementation of the ACPDM in a June 2023 report, including:

- a lack of public transparency about the measures signatories are taking under the ACPDM and the effectiveness of those measures;
- a lack of key performance indicators by which signatories track progress against the aims and objectives of the ACPDM; and
- a lack of awareness of signatories' commitments under the ACPDM hindering the complaints function.<sup>208</sup>

2.185 This was also reflected in direct evidence from ACMA, which noted improvement in the operation of the ACPDM, but suggested that further work was needed, including the need for key performance indicators and an urgent need to improve transparency. Ms O'Loughlin also told the committee that ACMA had recommended greater investigative and enforcement powers for itself in relation to the ACPDM:

As I said, we think significant improvements to the [ACPDM] are needed. That's partly why we made recommendations to government around some powers for ourselves, for example greater powers around gathering information from platforms, formal investigative powers, formal information-gathering powers and the ability to step in if the [ACPDM] fails, using our own regulatory tools to create a standard or code which we would oversee.<sup>209</sup>

2.186 The importance of enforcement was also highlighted by AMRC, which argued that without enforcement, the ACPDM is 'effectively redundant'.<sup>210</sup> Similarly, Reset.Tech Australia highlighted instances where voluntary requirements have simply been ignored by signatories to the ACPDM:

For example, despite being a signatory to the voluntary [ACPDM], which places clear obligations on platforms to enable end-users to report

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<sup>207</sup> DIGI, *Submission 57*, pp. 14, 15 and 16.

<sup>208</sup> Free TV, *Submission 54*, p. 15.

<sup>209</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 46.

<sup>210</sup> AMRC, *Submission 188*, p. 13.

misinformation, X turned off the ability for Australians to report misinformation two weeks ahead of the Voice referendum.<sup>211</sup>

2.187 Enhanced powers for ACMA, as a 'regulatory backstop' to the ACPDM, were also supported by DIGI.<sup>212</sup>

### **Different standards applying to media organisations and digital platforms**

2.188 In addition to concerns about the effectiveness of the ACPDM, various submitters highlighted the higher standards that apply to content generated by traditional media organisations versus content appearing on digital platforms.<sup>213</sup> For example, Schwartz media described how lower standards for social media platforms fuels online mis- and disinformation:

Misinformation is provided a clear path across social platforms as they are exempt from the majority of rules and legislation that govern what domestic media companies can publish, and become a firehose of locally and internationally produced content that is designed only to confuse and mislead.<sup>214</sup>

2.189 Likewise, Free TV noted that the user generated content posted on digital platforms 'lacks the robust regulation that applies to our members'.<sup>215</sup>

2.190 A similar point was made by We Are Explorers, which stated that digital platforms are not held to the same standards as media organisations 'and in fact encourage sensationalised, out-of-context, or downright false information through their algorithms'.<sup>216</sup>

2.191 Mr Andrew Schreyer of Country Press Australia (CPA) argued that while Meta could be considered a publisher, it is not subject to the oversight or controls that apply to CPA members:

... its platforms are not subject to laws, including defamation and contempt of court, editorial standards and regulatory frameworks. Meta's Facebook has little if any checking mechanism prior to content and comments being published. Its algorithms serve up content based on popularity regardless of what may be appropriate for the audience. It has no transparent complaints process, is not held to account in any way and is not required to respond to complaints.<sup>217</sup>

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<sup>211</sup> Reset.Tech Australia, *Submission 16*, p. 3 (citation omitted).

<sup>212</sup> DIGI, *Submission 57*, p. 14.

<sup>213</sup> See, for example, HTI, *Submission 146*, p. 14; Mr Michael Miller, Executive Chairman, News Corp Australasia, *Proof Committee Hansard*, 21 June 2024, p. 12; The Conversation, *Submission 6*, p. 2.

<sup>214</sup> Schwartz Media, *Submission 36*, p. 7.

<sup>215</sup> Free TV, *Submission 54*, p. 14.

<sup>216</sup> We Are Explorers, *Submission 116*, [p. 3].

<sup>217</sup> Mr Andrew, President, Country Press Australia, *Proof Committee Hansard*, 21 June 2024, p. 27.

2.192 In a similar vein, Mr Michael Miller of News Corp Australasia commented that digital platforms lack accountability and respect for Australian laws:

News Corp journalists and commentators do get criticised for their reporting and exchange of views, but what they do is in a totally accountable, open environment governed by rule of law, and I stand by them. It's entirely different to the world of social media, who prey on women with fake porn, peddle scams and advertisements to rob the elderly, and push violent conspiracy theories with no respect for our laws and no accountability whatsoever.<sup>218</sup>

### **Jurisdictional challenges involved in regulating digital platforms**

2.193 The committee heard evidence in relation to the challenge of effectively regulating entities that may not operate from Australia.<sup>219</sup> For example, Mr McDonald of the Department of the Treasury told the committee that while digital platforms may have infrastructure and personnel in Australia, it may not be straightforward from a legal perspective:

... one of the challenges of the digital space is where [platforms] actually operate. Where do social media organisations operate? From a practical point of view, we see them on our phones and think they must be here. ... but legally the questions are not quite as straightforward.

...

Essentially, parliament can pass laws but, if we're not able to enforce them and validly impose sanctions, the question I'm grappling with is how we're able to effectively enforce the laws the parliament passes.<sup>220</sup>

2.194 While the approach to regulation in the EU was held up as a potential model for Australian legislators,<sup>221</sup> some participants, including Mr McDonald, noted that platforms had voluntarily agreed to be subject to EU jurisdiction:

If we look through how Europe has been able to bring digital platforms into its regulatory net, you see that they have voluntarily accepted being within

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<sup>218</sup> Mr Michael Miller, Executive Chairman, News Corp Australasia, *Proof Committee Hansard*, 21 June 2024, pp. 1–2.

<sup>219</sup> See, for example, Mr Bruce Meagher, Head, Public Affairs, *Proof Committee Hansard*, 28 June 2024, p. 40; Tattarang, Ms Rosie Thomas, Director of Campaigns, CHOICE, *Proof Committee Hansard*, 10 July 2024, p. 49; Ms Kate Reader, General Manager, Digital Platforms Branch, ACCC, *Proof Committee Hansard*, 21 June 2024, pp. 20 and 23.

<sup>220</sup> Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 6.

<sup>221</sup> See, for example, Dr Rys Farthing, Director of Research, Reset.Tech Australia, *Proof Committee Hansard*, 10 July 2024, p. 5; Ms Chandni Gupta, Deputy Chief Executive Officer and Digital Policy Director, Consumer Policy Research Centre, *Proof Committee Hansard*, 10 July 2024, p. 48; Ms Rosie Thomas, Director of Campaigns, CHOICE, *Proof Committee Hansard*, 10 July 2024, p. 52; Dr Rob Nicholls, Senior Research Associate, The University of Sydney, *Proof Committee Hansard*, 28 June 2024, p. 52.

their jurisdiction. If we look at some of the jurisprudence that's evolving, we see that it's more contested in other areas.<sup>222</sup>

2.195 Similarly, USYD MECO explained that while the 'internet has long been governed to some degree through national laws, ... this is made possible by platform companies agreeing to be subject to national jurisdiction, and contesting laws they don't agree with through the political process rather than outright defiance'. However, according to USYD MECO, recent court actions by X in Australia had shown 'a willingness to test the boundaries of nation-state authority over social media content'.<sup>223</sup>

2.196 Some participants saw testing of enforceability as inevitable, rather than an insurmountable barrier to regulation, instead focusing on the importance of the way legislation is crafted. Ms O'Loughlin pointed to regulation of the interactive gambling sector as an example:

We have a similar issue: we regulate interactive gambling, and most of those businesses are external to Australia, but we do have regulatory powers that we can use. So I think it's crafting the regulation to give the right regulatory powers to a regulator to be able to do it. Of course, that will be tested along the way, but, as I think our ACCC colleagues mentioned earlier today, I think we are all learning from what works internationally. There's a huge amount of cooperation going on between regulators internationally, and I think we can advise the government and the parliament of what we're seeing internationally that we think will work.<sup>224</sup>

2.197 Ms O'Loughlin also refuted arguments put forward by some platforms about the desirability of a global approach to regulation:

I think what gets put to regulators internationally by some of these parties is that we should have global regulation, because we can't have different regulation in different countries. No company operates like that globally. Every country has its own things that are important to it, either culturally, socially or economically, and it's well within the wit of any government to decide what should be in place for a particular country.<sup>225</sup>

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<sup>222</sup> Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 6.

<sup>223</sup> USYD MECO, *Submission 154*, p. 19. USYD MECO referred to X's successful prosecution of the case of whether Australian restrictions on violent content can be applied outside of Australia.

<sup>224</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 48.

<sup>225</sup> Ms Nerida O'Loughlin, Chair and Agency Head, ACMA, *Proof Committee Hansard*, 21 June 2024, p. 49.

2.198 Overall, participants took a strong view that digital platforms needed to comply with Australian laws to continue operating here. For example, Mr Jeffrey Howard of Seven West Media contended that:

Australia should not acquiesce to the demands of the digital platforms. They should be made to play by our rules. Other multinational industries are compelled to comply with all manner of laws and regulations when they want to trade here. It's time for the social media exemption to be addressed.<sup>226</sup>

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<sup>226</sup> Mr Jeffrey Howard, Managing Director and CEO, Seven West Media, *Proof Committee Hansard*, 21 June 2024, p. 2.



# Chapter 3

## News Media Bargaining Code

### Overview

- 3.1 There were mixed views on the success of the News Media Bargaining Code (Code), with multiple participants acknowledging the positive intent of the Code and the significant funding secured via commercial agreements with Google and Meta. However, the committee also heard its implementation had led to inconsistent outcomes, with the bulk of the funding going to legacy media outlets. According to some, this disparity has served to deepen existing competitive disadvantages for new or smaller publishers.
- 3.2 Against a backdrop of potential market failure, Meta's decision not to renew deals under the Code was met with dismay by most participants, with a number predicting that the financial pressure in the news media sector would lead to further closures and job losses. For some, Meta's actions were seen as illustrative of its general disregard for Australia's laws and people.
- 3.3 While multiple participants disputed the rationale put forward by Meta—that only a small percentage of people use its platforms to access news—some also acknowledged that for Meta, news is a highly substitutable product.
- 3.4 For this reason, while there was overwhelming support for designation of Meta under the Code, there were also fears Meta would respond by removing news from its platforms in Australia, as it has done in Canada.
- 3.5 In addition to the financial impact of a news ban on Australian publishers—particularly small or digital-only publishers—there were concerns that a ban would see factual reporting replaced by non-verified and/or entertainment-based content, which could make it easier for mis- and disinformation to circulate unchallenged.
- 3.6 To this end, participants advocated for a broad-based approach to any potential government intervention, with a range of measures put forward to ensure the sustainability of the news media sector and to hold digital platforms to account.
- 3.7 The remainder of this chapter focuses on Meta's decision not to renew deals under the Code, the rationale for government intervention in the news media sector, and discusses options put forward by inquiry participants to support public interest journalism in Australia—including in the event of a potential news ban on Meta platforms.

## Meta's decision not to renew deals under the News Media Bargaining Code

### Views on the operation of the Code

- 3.8 As set out in Chapter 1, the Code governs commercial relationships between Australian news businesses and 'designated' digital platform service providers that benefit from a significant bargaining power imbalance. Introduced in March 2021 by the former Australian Government, the Code includes minimum standards, including standards relating to recognition of original news content.<sup>1</sup>
- 3.9 In addition to addressing the bargaining power imbalance between platforms and publishers, the intent of the Code is to promote the circulation of news—and particularly public interest journalism—throughout the community.<sup>2</sup>
- 3.10 According to Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), the incentives created by the designation mechanism (backed by mandatory negotiation and arbitration), have resulted in significant payments that support the sustainability of Australian journalism.<sup>3</sup>
- 3.11 This was reflected in evidence from various participants, including the Media, Entertainment and Arts Alliance (MEAA), which stated that the Code had brought 'a much-needed injection of funds' into the media sector, via 30 agreements estimated to be worth over \$200 million.<sup>4</sup>
- 3.12 According to the Australian Broadcasting Corporation (ABC), its agreements with Meta and Google allowed it to 'significantly expand and strengthen its regional news services, including the employment of 60 additional journalists and establishing a presence in 10 new locations'.<sup>5</sup> The positive impact on regional publishers was also noted by Mr Andrew Schreyer of Country Press Australia (CPA):

There is no doubt that there would be fewer regional and local papers in Australia without the code. There is no question about that. The revenue that's provided from the agreements to those under the agreements is absolutely vital. I'm not able to share the numbers, but I can say that it's

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<sup>1</sup> Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), *Submission 12*, p. 8.

<sup>2</sup> Ms Kate Reader, General Manager, Digital Platforms Branch, Australian Competition and Consumer Commission (ACCC), *Proof Committee Hansard*, 21 June 2024, p. 18.

<sup>3</sup> DITRDCA, *Submission 12*, p. 8.

<sup>4</sup> Media, Entertainment and Arts Alliance (MEAA), *Submission 53*, [p. 5]. See also, Capital Brief, *Submission 64*, [p. 3]. Centre of the Public Square at Per Capita (CPS Per Capita), *Submission 50*, p. 3; Arts Law Centre of Australia, *Submission 202*, p. 2.

<sup>5</sup> Australian Broadcasting Corporation (ABC), *Submission 65*, p. 2.

significant enough that, if those payments weren't being made, the papers would not be around.<sup>6</sup>

- 3.13 However, views among most participants—including those who recognised the funding secured under the Code—were mixed.<sup>7</sup> For example, Private Media suggested that the Code had made things worse in terms of media choice, trust and sustainability.<sup>8</sup> Digital Publishers Alliance (DPA) described the Code's intention as 'noble' but its execution as 'flawed'.<sup>9</sup> Independent Multicultural Media Australia (IMMA) called it 'a valiant first attempt' but 'flawed in the detail'.<sup>10</sup>
- 3.14 Similarly, Broadsheet Media called the Code 'an important piece of regulation' but also viewed it as 'deeply flawed' with 'significant unintended consequences that risk the long term health and diversity of the media'.<sup>11</sup> Further, the Local & Independent News Association (LINA) called the Code an 'admirable attempt to force platforms to be responsible corporate citizens' but stated that it had 'not been the panacea ... the government hoped it would be'.<sup>12</sup>
- 3.15 The primary criticism of the Code was its inconsistent outcomes—with legacy media outlets receiving the majority of funding—which fuelled concerns the Code had worsened competitive disadvantages in the sector.<sup>13</sup> These disadvantages were seen to impact most on new and small publishers, as well as online-only and regional news providers. Man of Many explained:

... we highlighted several operational failures and competitive disadvantages imposed by the [Code]. The most significant issue is the inequitable distribution of funds. While larger legacy media companies have secured substantial financial agreements with digital platforms, independent publishers like Man of Many have been largely excluded from these deals despite being an ACMA-registered news business. ... This

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<sup>6</sup> Mr Andrew Schreyer, President, Country Press Australia (CPA), *Proof Committee Hansard*, 21 June 2024, p. 29.

<sup>7</sup> See, for example, Man of Many, *Submission 33*, p. 1; Private Media, *Submission 56*, [pp. 2 and 3]; Capital Brief, *Submission 64*, p. 3.

<sup>8</sup> Private Media, *Submission 56*, [p. 2].

<sup>9</sup> Digital Publishers Alliance (DPA), *Submission 39*, p. 2.

<sup>10</sup> Independent Multicultural Media Australia (IMMA), *Submission 66*, p. 1.

<sup>11</sup> Broadsheet Media, *Submission 48*, p. 1.

<sup>12</sup> Local & Independent News Association (LINA), *Submission 44*, p. 4.

<sup>13</sup> See, for example, The Daily Aus, *Submission 43*, [p. 15]; Broadsheet Media, *Submission 48*, p. 4; DPA, *Submission 39*, p. 2; Business News Australia, *Submission 5*, p. 2; Private Media, *Submission 56*, [p. 2]; Free Speech Union, *Submission 118*, [p. 1].

failure is not due to a lack of effort or relevance but rather due to the systemic biases and barriers inherent in the current framework.<sup>14</sup>

3.16 The outsized impact on new and small publishers was recognised by a range of participants,<sup>15</sup> with at least one calling for the revenue test under the Code to be halved from \$150 000 to \$75 000.<sup>16</sup>

3.17 The committee also heard concerns about a perceived lack of transparency around the agreements struck by platforms, as well as whether the funds received by media outlets have directly supported the production of journalistic content.<sup>17</sup> The MEAA explained:

Yes, there has been money for media companies, but there has been little accountability and little transparency. We have no idea how much money has been directed to newsrooms rather than boardrooms. These deals were done corporation to corporation, with little regard for the people doing the work—that is, the journalists—or the public, who have a right to access ethical public interest journalism.<sup>18</sup>

### **The rationale for Meta's decision**

3.18 According to Meta, it entered commercial deals with a number of Australian news publishers in order to support both Facebook Video and the Australian release of Facebook News in August 2021.<sup>19</sup>

3.19 At the same time, Meta also launched two funds to 'support innovation, public interest journalism and smaller publishers who would not be suitable for commercial agreements'.<sup>20</sup> These were the:

- three-year Newsroom Sustainability and Digital Transformation Fund (with Country Press Australia) to support regional news, which supported 106 regional mastheads in the first round, 137 mastheads in the second round and 137 newsrooms in the third round; and
- the three-year Meta Australian News Fund (in partnership with the Walkley Foundation) to fund regional newsrooms, digital first publications and

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<sup>14</sup> Man of Many, *Submission 33*, p. 3.

<sup>15</sup> See, for example, LINA, *Submission 44*, p. 4; DPA, *Submission 39*, p. 2; Business News Australia, *Submission 5*, p. 2; DRW, *Submission 17*, pp. 10–11; Post Newspapers, *Submission 198*, [p. 3]; The Daily Aus, *Submission 43*, [p. 2].

<sup>16</sup> MEAA, *Submission 53*, [p. 3].

<sup>17</sup> See, for example, MEAA, *Submission 53*, [p. 5]; ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S), *Submission 120*, p. 7; Private Media, *Submission 56*, [p. 3].

<sup>18</sup> Ms Karen Percy, Media Federal President, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 9.

<sup>19</sup> Meta, *Submission 46*, p. 57.

<sup>20</sup> Meta, *Submission 46*, p. 57.

public interest journalism projects. This fund provided \$15 million over three years and supported 150 projects in three tranches.<sup>21</sup>

3.20 However, in February 2024, Meta announced it would discontinue Facebook News in Australia, consistent with its discontinuation in the United States, the United Kingdom, France and Germany. In line with this decision, Meta also announced it would not renew the commercial deals underpinning Facebook News in Australia once they expired.<sup>22</sup>

3.21 In explaining its decision to discontinue Facebook News, Meta argued that it was part of efforts to better align Meta's investments with the products most valued by its users. To this end, Meta pointed to a shift in consumer behaviour since 2021, with users engaging increasingly with non-news content:

As a general rule, most people do not come to our services for news and news is highly substitutable on our services – this means that when news is not on our services, people continue to engage with other content. However, even allowing for this, since 2021, people have engaged increasingly with more non-news content, specifically short form video.<sup>23</sup>

3.22 Indeed, Ms Mia Garlick of Meta told the committee that '[f]or the vast majority of people using Facebook, less than three per cent of their feed is news links'.<sup>24</sup> Meta also cited declines in referral traffic to Australian news publishers from Facebook Feed—from 5.1 billion referrals in 2020 to more than 2.3 billion in 2023—as well as a drop of over 80 per cent in the number of daily active users of Facebook News in 2023.<sup>25</sup>

3.23 There was some discussion about the source of the three per cent figure. For example, both Mr Michael Miller of News Corp Australasia (News Corp) and Mr Anthony Kendall of Australian Community Media (ACM) suggested that the three per cent related to the proportion of users using the Facebook News tab.<sup>26</sup>

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<sup>21</sup> Meta, *Submission 46*, p. 58.

<sup>22</sup> Meta, *Submission 46*, p. 5.

<sup>23</sup> Meta, *Submission 46*, p. 58.

<sup>24</sup> Ms Mia Garlick, Regional Director, Policy, Australia, Japan, Korea, New Zealand and Pacific Islands, Meta, *Proof Committee Hansard*, 28 June 2024, p. 1.

<sup>25</sup> Meta, *Submission 46*, p. 60.

<sup>26</sup> Mr Michael Miller, Executive Chairman, News Corp Australasia (News Corp), *Proof Committee Hansard*, 21 June 2024, p. 3 and Mr Anthony Kendall, Managing Director, Australian Community Media (ACM), *Proof Committee Hansard*, 21 June 2024, p. 27.

3.24 However, Meta told the committee that the percentage related to the Facebook feed—not the Facebook News tab<sup>27</sup>—and had been consistent since 2018:

I'm really grateful for the opportunity to correct the record, because there was a lot of miscommunication about some of the statistics in previous pieces of testimony given to the committee. The three per cent number has been a consistent number dating back to 2018. Prior to 2018, I think the number was four per cent. In 2018, we made a change—to reduce the amount of public content on our services, which included news content—and then it dropped down to three per cent.<sup>28</sup>

3.25 Regardless of the source of the figure, there was a widespread view that Meta's claim was at best inaccurate, and at worst, disingenuous. For example, Mr Miller disputed the truthfulness of Meta's analysis and provided alternative figures:

When Meta and the other tech monopolies appear before you, they will tell you people don't use their platforms for news. That is absolutely not true. Meta says that news makes up less than three per cent of what people see on Facebook. That is also not true. Actually 48 per cent of Australians get their news using a Meta platform. In America, it is 31 per cent, and in Canada, before Meta blocked the news, it was 41 per cent.<sup>29</sup>

3.26 Similarly, Mr Mike Sneesby of Nine Entertainment told the committee that the consumption of its news content on social media had 'never been greater' and that Meta had been a significant beneficiary of this:

Nine's news and current affairs, sport, entertainment, publishing and radio businesses will account for close to 5 billion video views on Meta's platforms alone this financial year, with consumption of Nine's video content having increased at a compound annual rate of around 50 per cent since financial year 2022. The substantial majority of those video views that I'm talking about are on our news.<sup>30</sup>

3.27 Meta's claims were also challenged by the results of the University of Canberra's 2024 *Digital News Report: Australia*, which indicated that:

- 49 per cent of Australians use social media as a source of news;
- 25 per cent of Australians use social media as their main source of news;
- 60 per cent of Gen Z audiences rely on social media as their main source of news;
- 45 per cent of Australians use Meta platforms as a source of news; and

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<sup>27</sup> Ms Mia Garlick, Regional Director, Policy, Australia, Japan, Korea, New Zealand and Pacific Islands, Meta, *Proof Committee Hansard*, 28 June 2024, p. 17.

<sup>28</sup> Ms Mia Garlick, Regional Director, Policy, Australia, Japan, Korea, New Zealand and Pacific Islands, Meta, *Proof Committee Hansard*, 28 June 2024, p. 3.

<sup>29</sup> Mr Michael Miller, Executive Chairman, News Corp, *Proof Committee Hansard*, 21 June 2024, p. 1.

<sup>30</sup> Mr Mike Sneesby, Chief Executive Officer (CEO), Nine Entertainment, *Proof Committee Hansard*, 21 June 2024, p. 2.

- while Facebook for news is a declining trend in Australia, the combined use of Meta platforms for news has not declined.<sup>31</sup>
- 3.28 These figures were consistent with those of an Australian Communications and Media Authority (ACMA) survey, which found that 20 per cent of Australian adults reported that social media as their main source of news. This varied by age, with social media being 'the main source of news for 46 per cent of those aged 18–24 years and 38 per cent for those aged 25–34 years, higher than any other source'.<sup>32</sup>
- 3.29 When questioned about the disparity between its figures and the *Digital News Report: Australia* findings, Meta suggested that there were 'challenges with that survey evidence':
- ... as I understand it, it's asking people based on their impression of what they recall has happened in the last week. Also, I think that the challenge is that it's not looking at the overall volume of what's happening on the platform.<sup>33</sup>
- 3.30 However, Ms Anna Draffin suggested that the discrepancies between Meta's figures and the University of Canberra survey data pointed to the need for greater independent interrogation and assessment of Meta's data.<sup>34</sup>
- 3.31 In addition, Mr Kendall stated that Meta's claim that people don't want to see news 'is difficult to prove when it is Meta that controls the algorithms that determine what its users see'.<sup>35</sup>
- 3.32 To this end, some participants suggested that Meta had deliberately de-prioritised news content ahead of its decisions to discontinue Facebook News and not renew deals under the Code. For example, Mr Kendall spoke about a dramatic decline in traffic over the last six months:

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<sup>31</sup> University of Canberra's News and Media Centre, *Submission 47*, p. 2. The *Digital News Report: Australia* (2015–24) provides a longitudinal and globally comparative evidence base for the consumption of news in the digital era. The report offers insights into changing audience behaviours in response to the rise of digital platforms and their consequences for the news media industries. The results of the 2024 *Digital News Report: Australia* were raised by a number of participants, including SBS, *Submission 45*, pp. 2 and 3; Schwartz Media, *Submission 36*, p. 3; The Daily Aus, *Submission 43*, [p. 7]; ABC, *Submission 65*, p. 3; Nine Entertainment, *Submission 159*, [p. 2]; CPA, *Submission 196*, p. 3; ADM+S, *Submission 120*, p. 7.

<sup>32</sup> Australian Communications and Media Authority (ACMA), *Submission 52*, p. 8.

<sup>33</sup> Ms Mia Garlick, Regional Director, Policy, Australia, Japan, Korea, New Zealand and Pacific Islands, Meta, *Proof Committee Hansard*, 28 June 2024, p. 14.

<sup>34</sup> Ms Anna Draffin, CEO, Public Interest Journalism Initiative (PIJI), *Proof Committee Hansard*, 28 June 2024, p. 43.

<sup>35</sup> Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 26.

... our traffic has been falling dramatically over the last six months, as we believe they've tweaked the algorithm in the lead-up to them making a decision to pull so that they can say that this news was not being surfaced.<sup>36</sup>

3.33 SBS also noted the de-prioritisation of its news content, with the percentage of Facebook-driven views of its news videos nearly halving between July 2023 and May 2024.<sup>37</sup>

3.34 While unable to establish a causal link, ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S) pointed to its research showing that engagement with news posts has trended downwards since 2022, which aligns with 'Meta's public statements that they are no longer interested in news content and have changed their algorithms accordingly'.<sup>38</sup>

3.35 This appeared to align with evidence provided by the ABC, which noted that 'Facebook and other platforms have been deprioritising content from news organisations to an increasing extent over the past year'. It continued:

Meta has made no secret of the fact that it has adjusted the algorithms for content recommendations on both Facebook and Instagram. In early 2024, Meta announced it had changed the Facebook algorithms to favour content that attracted user interactions, such as comments. At the same time, Instagram algorithms were changed to deprioritise content it identified as political or related to politics. Such measures have meant that, across the major platforms, aggregate Facebook traffic to news and media properties has declined by 48% ... and Instagram by 10%.<sup>39</sup>

3.36 While Meta disputed the charge that the intent of its algorithmic changes was to decrease the value of news on its platforms, it also stated that the changes represented 'a commercial decision to de-prioritise this content as a result of user feedback'.<sup>40</sup>

3.37 Separate to the issue of whether Meta had deprioritised news content, Private Media saw Meta's decision as evidence that the Code has failed 'because it assumes that there is a fair value exchange that Meta is just trying to avoid paying for'.<sup>41</sup> It went on to explain:

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<sup>36</sup> Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 28.

<sup>37</sup> SBS, *Submission 45*, p. 5.

<sup>38</sup> ADM+S, *Submission 120*, p. 6.

<sup>39</sup> ABC, *Submission 65*, pp. 6–7.

<sup>40</sup> Meta, answer to a written question on notice from Ms Kate Thwaites MP, 5 July 2024 (received 26 July 2024).

<sup>41</sup> Private Media, *Submission 56*, [p. 3].

This makes a degree of sense with Google, because their search engine genuinely does need news in order to properly operate – hence, they are renewing their deals. Meta doesn't need news, therefore they are not.<sup>42</sup>

- 3.38 The relative value of news to different platforms was also highlighted by ADM+S—which noted that Google and Open A.I. value news more highly than Meta—as an underlying issue with the Code:

The fact that digital platforms value news content differently points to fundamental problems associated with the Bargaining Code. The model wrongly presumes that certain digital platforms consistently need news content to provide a service, and subsequently establishes an artificial market for a public good. As we have seen with Meta's recent strategic shifts and the dynamic nature of the platform ecosystem more broadly, this state of affairs does not always hold.<sup>43</sup>

- 3.39 This also appeared to be reflected in evidence about the difference in approaches between Google and Meta, with some participants reflecting positively on their interactions and negotiations with Google.<sup>44</sup>

- 3.40 However, the MEAA contended that this ignored Meta's use of news content to train its AI:

If there's this theory that Meta does not find value in news and does not need to pay for it, this use of news content to train AI flies in the face of that a little bit, given how important and critical news has been shown to be for that process of training. The fact that that process, for the most part, is going without any compensation to those news providers and without the consent of news providers, or the journalists who wrote the content, is incredibly important. I just throw that in there as another way in which Meta is continuing to use news content and not being perhaps forthright about that.<sup>45</sup>

### **The impact of Meta's decision**

- 3.41 There was widespread concern and disappointment about Meta's decision not to renew commercial deals entered into under the Code.<sup>46</sup> For example, Free TV Australia (Free TV) pointed to the costs involved in producing high-quality news are argued that 'Meta's decision will have detrimental impact on

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<sup>42</sup> Private Media, *Submission 56*, [p. 3].

<sup>43</sup> ADM+S, *Submission 120*, pp. 6 and 7.

<sup>44</sup> Ms Lisa Watts, CEO, The Conversation Media Group, *Proof Committee Hansard*, 10 July 2024, p. 17 and Public Interest Publishers Alliance, *Submission 133*, [p. 1].

<sup>45</sup> Ms Lilia Anderson, Research and Policy Lead, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 17.

<sup>46</sup> See, for example, Australian Associated Press (AAP), *Submission 55*, p. 2; ABC, *Submission 65*, p. 3; DITRDCA, *Submission 12*, p. 8; PIJI, *Submission 158*, [p. 8]; Mr Tony McDonald, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 2.

employment and production'.<sup>47</sup> This view was echoed by others, including Mr Kendall, who told the committee that Meta's decision would result in further closures and an increase in news deserts:

... ACM will be forced to make hard decisions on the future of many of our mastheads and the jobs they support. Make no mistake, Meta's decision will mean ACM and many other publishers will be forced to close titles. The decision will create more news deserts. Meta's decision will rob communities of independent, credible and trusted voices. But Meta does not care about any of this, it does not care about local communities, it does not care about democracy and it doesn't care about the safety and well-being of our children.<sup>48</sup>

3.42 The impact on regional areas was also highlighted by Mr Schreyer, who stated Meta's decision would lead to 'closures of mastheads in regional and rural Australia'.<sup>49</sup> Likewise, the MEAA spoke of the concerns of its regional members who rely on Facebook to distribute content:

We know our members, particularly in the regions, are extremely concerned. They rely on people going to social media and clicking through, and that leads to subscriptions. If there's nobody doing that anymore then their jobs are definitely under threat.<sup>50</sup>

3.43 Further, the ABC expressed concern about the growth of news deserts and the sustainability of the regional positions it had created with the funding received from Meta:

The loss of this revenue from the Meta deal would create a financial challenge for the ABC that would need to be resolved on a whole-of-ABC basis. Every effort will be made to maintain the regional news positions it created. This position reflects the importance of regional news services, especially in response to the decline of commercial news outlets in regional areas. The problem of local 'news deserts' in Australia continues to grow, and the ABC will continue its efforts to address it.<sup>51</sup>

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<sup>47</sup> Free TV Australia (Free TV), *Submission 54*, p. 22.

<sup>48</sup> Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 26. See also, Mr Jeffrey Howard, Managing Director and CEO, Seven West Media. *Proof Committee Hansard*, 21 June 2024, p. 4 and Mr Mike Sneesby, CEO, Nine Entertainment, *Proof Committee Hansard*, 21 June 2024, p. 4.

<sup>49</sup> Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 29.

<sup>50</sup> Ms Karen Percy, Media Federal President, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 16.

<sup>51</sup> ABC, *Submission 65*, p. 3.

- 3.44 The NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) also raised concerns about the impact of Meta's decision on people from refugee backgrounds, a majority of whom use social media as their 'main access point and conduit to news and information'.<sup>52</sup>
- 3.45 In addition to the financial impact, a range of participants felt that Meta's decision was indicative of its broader disregard for Australian law and the Australian people.
- 3.46 For example, Mrs Mariam Veiszadeh of Media Diversity Australia argued that 'the financial implications of the fallout from the decision by Meta has meant that the issue of diversity, equity and inclusion, which is really broad, is taking a back seat'.<sup>53</sup>
- 3.47 Further, Mr Schreyer said that Meta's decision showed 'complete disdain for Australian media outlets, the News Media Bargaining Code and the Australian Government'.<sup>54</sup> Broadsheet Media agreed:

Meta has made clear that they will not renew or make any new deals with publishers without being further compelled to. They are telling the government, the industry and the Australian public that it has no respect for our laws or our people.<sup>55</sup>

- 3.48 Mr Miller told the committee that Meta's decision reflected its *modus operandi*:

This parliament passed a law saying that they should pay for content. They're refusing to. They didn't even negotiate. ... The parliament was united in passing that law, and they've walked away from that. They didn't even negotiate; they didn't even try. That is, in part, the way they behave.<sup>56</sup>  
Mr Miller, 21 June, p15

- 3.49 This point was underscored by IMMA, which described how digital platforms have been able to circumvent Australian law in the pursuit of commercial aims:

The digital giants have clearly commoditised and dominated the media landscape over the past 15 years. Protected by foreign laws they have circumvented the rules and laws that all publishers here in Australia must abide by.

This protection has allowed the tech giants to pursue their primary interest of competitive dominance against each other.<sup>57</sup>

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<sup>52</sup> NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS), *Submission 195*, p. 20.

<sup>53</sup> Mrs Mariam Veiszadeh, CEO, Media Diversity Australia, *Proof Committee Hansard*, 30 September 2024, p. 11.

<sup>54</sup> Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 27.

<sup>55</sup> Broadsheet Media, *Submission 48*, p. 3.

<sup>56</sup> Mr Michael Miller, Executive Chairman, News Corp, *Proof Committee Hansard*, 21 June 2024, p. 15.

<sup>57</sup> IMMA, *Submission 66*, p. 2.

### **The rationale for government intervention in the news media sector**

3.50 According to Free TV, technological, social and economic changes have 'fundamentally disrupted' the 'business models that once supported the production of quality, public interest news and journalism'.<sup>58</sup>

3.51 Similar views were expressed by Mr William Hayward of Private Media, who highlighted the 'large structural changes' that were leading to significant redundancies across all major media companies—despite the \$600 million injected into the sector under the Code.<sup>59</sup> Structural challenges facing the sector were also noted by others, including Capital Brief, which observed that they were:

... well documented, and characterised by declining legacy revenue streams, falling audience across traditional media platforms, and the emergence of new channels for discovering and consuming content.<sup>60</sup>

3.52 For some participants, market failure was seen as a very real possibility, if not a current reality. For example, the PIJI contended that 'news market failure is becoming a more likely prospect across the country' and that the industry was 'showing early signs' of failure.<sup>61</sup>

3.53 Against this backdrop, multiple participants underscored the need for stronger government intervention to support public interest journalism—particularly given its function as a public good. For example, PIJI argued that government investment was warranted in the short term given the importance of news as a public good.<sup>62</sup> Likewise, LINA suggested that:

Public interest journalism is well established as a public good and merits government support for the benefits it delivers to democracies on a macro and micro level. As such, financial support should be provided to newsrooms to offset the impact of Meta's step back from news ...<sup>63</sup>

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<sup>58</sup> Free TV, *Submission 54*, p. 21.

<sup>59</sup> Mr William Hayward, CEO, Private Media, *Proof Committee Hansard*, 28 June 2024, p. 42.

<sup>60</sup> Capital Brief, *Submission 64*, p. 3. See also, DITRDCA, *Submission 12*, p. 7; The Daily Aus, *Submission 43*, [p. 4].

<sup>61</sup> PIJI, *Submission 158*, [pp. 3 and 7]. See also, Fremantle Herald, *Submission 204*, p. 14; Mr William Hayward, CEO, Private Media, *Proof Committee Hansard*, 28 June 2024, p. 42; LINA, *Submission 44*, p. 8.

<sup>62</sup> PIJI, *Submission 158*, [p. 41]. See also, Copyright Agency, *Submission 150*, p. 2.

<sup>63</sup> LINA, *Submission 44*, p. 6.

3.54 The case for government intervention was also recognised by Mr Tony McDonald of the Department of the Treasury, who noted the 'incredibly important' part that journalism plays 'in the functioning of Australian society'.<sup>64</sup>

3.55 According to the University of Sydney's Department of Media and Communications (USYD MECO), key factors driving the need for government intervention in the platform-publisher relationship include:

- **Asymmetric interdependence** – a large number of news publishers are dependent for content distribution on a far smaller number of digital platforms that do not have the same reliance upon news content;
- **Power of digital platforms** – the impact of platforms' dominance of digital advertising on the viability of advertiser-financed news production, including public interest journalism;
- **Unequal bargaining power** – publishers bear the cost of producing news content but a significant amount of the resulting revenue goes to the digital platforms;
- **Social licence to operate** – the 'newness' of big tech business models often allows them to evade existing regulation, for example digital platforms have been able to argue that they are not media companies and so are not subject to traditional media regulation;
  - this means traditional media remain subject to positive obligations (such as content requirements or must carry rules), while at the same time losing revenue and market share to digital platforms; and
- **Social media as a source of news** – social media remains an important source of news, despite claims by digital platforms.<sup>65</sup>

### **Existing government support for the news media sector**

3.56 DITRDCA's submission outlined the range of measures currently in place to support the public interest news and journalism sector in Australia, including:

- funding for the national broadcasters, including \$6.0 billion for the ABC and \$1.8 billion for SBS over five years from 2023–24;
- \$11 million in 2023–24 and \$12 million in 2024–25 to enable the Australian Associated Press newswire service to continue servicing retail news outlets;
- \$20 million over three years from 2022–23 to improve resilience of ABC sites used for emergency radio broadcasting which are at high risk of service failure due to natural disasters;

<sup>64</sup> Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 5.

<sup>65</sup> USYD MECO, *Submission 154*, p. 15 (citations omitted).

- \$21.89 million per year (indexed) for the Community Broadcasting Program, to support a range of activities, including transmission and equipment costs and new content development;
  - \$22.7 million over four years from 2023–24 for the Amplifying Australia's Voice in the Pacific program to provide partner Pacific broadcasters with access to a range of Australian television content;
  - \$0.9 million in 2022–23 and \$0.8 million in 2023–24 to PIJI, to support provision of its data activities relating to public interest news and journalism in Australia;
  - \$1.5 million in 2022–23 and 2023–24 to LINA, to support capacity building for small, hyperlocal news businesses and to collect data on the state of local and hyperlocal news;
  - \$5 million over two years from 2022–23 to the Journalist Fund, to support news businesses to hire new cadet journalists to produce locally relevant core news content in regional areas;
  - \$15 million in 2022–23 to the Regional and Local Newspaper Publishers Program, to assist print news publishers to absorb newsprint price increases by providing financial assistance including for printing costs, assets and equipment directly related to printing.<sup>66</sup>
- 3.57 DITRDCA also promotes media literacy in the community via its Supporting Media Literacy in Culturally and Linguistically Diverse Communities grant program.<sup>67</sup>
- 3.58 At the same time, the government is also developing the News Media Assistance Program (News MAP), which is 'a program of work committed to delivering principles-based and evidence-informed solutions to address the difficult structural challenges facing the sector which prevent news organisations from adequately providing public interest news and journalism'.<sup>68</sup>
- 3.59 Public consultations on News MAP were undertaken between December 2023 and February 2024. According to DITRDCA, advice on the outcomes of the public consultation process is due to be provided to the Government shortly.<sup>69</sup>

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<sup>66</sup> DITRDCA, *Submission 12*, p. 7.

<sup>67</sup> DITRDCA, *Submission 12*, p. 7.

<sup>68</sup> DITRDCA, *Submission 12*, p. 7.

<sup>69</sup> DITRDCA, *Submission 12*, p. 7.

3.60 While there was a high degree of support for the News MAP process,<sup>70</sup> some participants also expressed uncertainty about its intended timing and operation.<sup>71</sup>

### **Participant views on existing interventions**

3.61 There was support for existing interventions. However, submitters such as Capital Brief contended that recent media policy has tended to support legacy news outlets and regional publishers, rather than encouraging new entrants and innovative business models:

... the recent history of Australian media policy is of a series of initiatives designed to support structurally challenged legacy businesses. In addition, certain interventions have favoured regional and local publications over others, and have done little to promote diversity and business model innovation by incentivising new entrants.<sup>72</sup>

3.62 The interventions mentioned as examples by Capital Brief included the:

- Journalist Fund (\$5 million to help regional news businesses hire cadets);
- Regional and Local Newspapers Publishers Program (\$15 million to support structurally challenged newspaper producers);
- Public Interest News Gathering Program (\$50 million to support commercial television, radio and newspaper businesses in regional Australia during the COVID-19 pandemic);
- Regional and Small Publishers Jobs and Innovation Package (eligibility based on pre-existing revenue, not investment in journalism, and at least two-thirds of funding mandated for regional publishers);
- Broadcast licence fee relief (abolition of broadcasting licence fees, saving incumbent networks around \$130 million per year); and
- Changes to media ownership laws (the Nine Entertainment/Fairfax Media merger reduced media diversity while favouring legacy businesses with scale-driven models).<sup>73</sup>

3.63 Beyond direct media policy interventions, legacy media was also seen to be favoured by governments in terms of advertising spend.<sup>74</sup>

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<sup>70</sup> See, for example, PIJI, *Submission 158*, [p. 32]; Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 July 2024, p. 39.

<sup>71</sup> See, for example, Mrs Natalie Harvey, CEO, Mamamia, *Proof Committee Hansard*, 10 July 2024, p. 20; Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 22; Mr Andrew Schreyer, President, Country Press Australia, *Proof Committee Hansard*, 21 July 2024, p. 30

<sup>72</sup> Capital Brief, *Submission 64*, p. 4.

<sup>73</sup> Capital Brief, *Submission 64*, p. 4.

<sup>74</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 43.

- 3.64 As mentioned earlier in this chapter, various participants felt this imbalance was evident in the funding secured under the Code, with some small and independent publishers stating that the Code as currently structured has not provided equitable outcomes.<sup>75</sup> For example, Man of Many pointed to 'systemic biases and barriers inherent in the current framework' which secured new revenue streams for larger media companies, while independent publishers 'struggle to keep up, despite playing a crucial role in maintaining media diversity'.<sup>76</sup>
- 3.65 Capital Brief concurred and highlighted the increased profit margins of Nine Publishing following introduction of the Code:
- In FY21, prior to the code taking effect, Nine Publishing reported earnings of \$117 million on revenue of \$505 million, a 23 per cent profit margin. In FY22, following ... commencement of deals with Google and Meta, profits increased to \$179.5 million at a margin in excess of 30 per cent. This is more than three times the profit margin of The New York Times, widely recognised as the global leader in the transition from newspapers to digital publishing.<sup>77</sup>
- 3.66 According to some participants, including Mr Tim Duggan of the DPA, 'the impact of funding on independent publishers is extremely oversized and important compared to its impact on legacy media that have received the majority of the funds'.<sup>78</sup>
- 3.67 More broadly, several participants queried whether the Code is the right vehicle to support sustainability of the Australian media sector. For example, Digital Rights Watch (DRW) warned against tethering the sector's sustainability to 'the profits and whims of digital platforms'. DRW suggested that this would further entrench 'curatorial opacity ... and data-extractive business models based on surveillance capitalism and behavioural advertising'.<sup>79</sup>
- 3.68 A similar view was expressed by ADM+S, which argued that issues with the Code reflect a 'broader problem with relying on bargaining codes under competition and consumer law without addressing underlying market and public interest issues'.<sup>80</sup>

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<sup>75</sup> See, for example, DPA, *Submission 39*, p. 2; The Daily Aus, *Submission 43*, [p. 15].

<sup>76</sup> Man of Many, *Submission 33*, p. 3.

<sup>77</sup> Capital Brief, *Submission 64*, p. 3.

<sup>78</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 44.

<sup>79</sup> Digital Rights Watch (DRW), *Submission 17*, p. 10.

<sup>80</sup> ADM+S, *Submission 120*, p. 8.

- 3.69 Accordingly, some participants argued for a more holistic, broad-based approach to supporting the news media sector and regulating digital platforms. For example, IMMA noted the importance of looking holistically at 'the media eco system in our country and support mechanisms'.<sup>81</sup>
- 3.70 In a similar vein, both the Centre of the Public Square at Per Capita (CPS Per Capita) and ADM+S urged consideration of the recommendations from the ACCC Digital Platforms Inquiry Preliminary Report, which proposed 'holistic regulatory oversight ... that directly remedied the information asymmetry news organisations are currently facing',<sup>82</sup> as well as holding social media companies and digital platforms to account 'for their consumer and broader harms to society'.<sup>83</sup>
- 3.71 Others, such as USYD MECO, suggested that the government should 'reassess the relationship between underlying policy principles and the use of the Code as the primary mechanism for ensuring compliance with those principles'.<sup>84</sup>
- 3.72 To this end, the New South Wales Council for Civil Liberties (NSW CCL) submitted that the government should 'pursue strengthening the media as a policy objective, which means maintaining an economic system where there is a place for journalism', including 'a healthy private market which has been challenged by the power imbalance between digital platforms and news media companies'.<sup>85</sup>
- 3.73 Further, Capital Brief suggested the 'overarching goal should be to promote a diverse media ecosystem, not just address a revenue gap faced by certain large players due to the expiry of particular commercial arrangements'.<sup>86</sup>
- 3.74 The need for interventions to support diversity was also highlighted by Mr Duggan, who proposed three principles—news availability, compensation for publishers, and diversity in media—that could guide the next phase of the Code.<sup>87</sup>
- 3.75 The necessity for a broad-based response was also recognised by Mr James Chisholm of DITRDCA, who spoke about the role of government in securing an 'enduring stream of support for public interest journalism that might be

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<sup>81</sup> IMMA, *Submission 66*, p. 3.

<sup>82</sup> ADM+S, *Submission 120*, p. 2.

<sup>83</sup> CPS Per Capita, *Submission 50*, p. 3.

<sup>84</sup> USYD MECO, *Submission 154*, p. 15.

<sup>85</sup> New South Wales Council for Civil Liberties, *Submission 147*, p. 5.

<sup>86</sup> Capital Brief, *Submission 64*, pp. 4–5.

<sup>87</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 36.

multipronged' and 'doesn't rely entirely upon expecting that platforms and publishers will be able to resolve it completely'.<sup>88</sup>

### **Options to support public interest journalism and the news media sector**

- 3.76 Participants put forward a range of potential options to support public interest journalism and the news media sector more broadly. These ranged from designation of digital platforms under the Code,<sup>89</sup> revisions to the scope and operation of the Code,<sup>90</sup> the introduction of must carry provisions,<sup>91</sup> requirements around algorithmic transparency,<sup>92</sup> new taxation and funding mechanisms, and a greater focus on media literacy.<sup>93</sup>
- 3.77 In addition, some participants advocated for a new ministry to coordinate regulation of digital platforms—similar to Taiwan's Ministry for Digital Affairs<sup>94</sup>—as well as the creation of publicly funded news apps and online spaces.<sup>95</sup>

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<sup>88</sup> Mr James Chisholm, Deputy Secretary, Communications and Media Group, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *Proof Committee Hansard*, 2 July 2024, p. 9.

<sup>89</sup> See, for example, Mr Michael Miller, NewsCorp, *Proof Committee Hansard*, 21 June 2024, p. 1; Mr Jeffrey Howard, Seven West Media, *Proof Committee Hansard*, 21 June 2024, p. 2; Mr Mike Sneesby, Nine Entertainment, *Proof Committee Hansard*, 21 June 2024, p. 3; Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 27; Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 26; Free TV, *Submission 54*, p. 3.

<sup>90</sup> See, for example, MEAA, *Submission 53*, [p. 3]; Man of Many, *Submission 33*, p. 2; The Daily Aus, *Submission 43*, [p. 15]; Broadsheet Media, *Submission 48*, p. 4; Playhouse, *Submission 110*, [p. 2]; Business News Australia, *Submission 5*, p. 2.

<sup>91</sup> See, for example, CPA, *Submission 196*, p. 2; The Daily Aus, *Submission 43*, [p. 3]; MEAA, *Submission 53*, [p. 3].

<sup>92</sup> See, for example, USYD MECO, *Submission 154*, p. 7; MEAA, *Submission 53*, [p. 3]; Business News Australia, *Submission 5*, p. 3.

<sup>93</sup> See, for example, Private Media, *Submission 56*, [p. 3]; Capital Brief, *Submission 64*, pp. 5–6; USYD MECO, *Submission 154*, p. 6; PIJI, *Submission 158*, [pp. 10, 34–39]; CPA, *Submission 196*, p. 2; The Daily Aus, *Submission 43*, [p. 3]; LINA, *Submission 44*, p. 9.

<sup>94</sup> CPS Per Capita, *Submission 50*, p. 4. According to CPS Per Capita, Taiwan's Ministry for Digital Affairs has a broad remit to address digitalisation, cyber security, digital infrastructure, digital education and data management. The Ministry also uses technology and digital communications infrastructure for citizen engagement and participation in policy making. It emphasises creating systems and networks to allow citizens to feed into government decision- and policy-making. It provides a digital environment that engages citizens and acts as a platform for civic engagement (as opposed to social media platforms, which CPS Per Capita argues are designed for addiction and division).

<sup>95</sup> See, for example, CPS Per Capita, *Submission 50*, pp. 4–6; Mr Adrian McMahon, *Submission 75*, p. 2; Mr Jörn Sanda, *Submission 173*, [p. 4].

3.78 The remainder of this section focuses on the following options canvassed by participants, including:

- designation under the Code;
- designation 'plus' additional support;
- 'must carry' provisions; and
- media literacy.

### Designation

3.79 Following Meta's decision, one of the primary tools available to the government to ensure the sustainability of the Australian news media sector through the Code is designation. This measure would require digital platforms to enter into negotiations with news providers for funding agreements or potentially be subject to mandatory arbitration.<sup>96</sup> The arguments for and against designating digital platforms were not necessarily around whether they could be designated under the Code, but rather whether they should, given possible consequences.

3.80 According to the legislation underpinning the Code, the *Competition and Consumer Act 2010*, in deciding whether to designate a digital platform, the Minister must consider:

- (a) whether there is a significant bargaining power imbalance between Australian news businesses and the group comprised of the corporation and all of its related bodies corporate; and
- (b) whether that group has made a significant contribution to the sustainability of the Australian news industry through agreements relating to news content of Australian news businesses (including agreements to remunerate those businesses for their news content).<sup>97</sup>

3.81 The case for designation is premised on the fact that social media platforms are unavoidable business partners for news media companies.<sup>98</sup> Free TV explained that commercial free-to-air TV companies were reliant on the distribution channel on social media provides to attract as many viewers as possible:

...free-to-air broadcasters need to connect with audiences across all available platforms from terrestrial broadcast delivery, owned and operated digital assets and other platforms such as social media channels. The need to maximise audience reach means that any platform with a material

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<sup>96</sup> ABC, *Submission 65*, p. 3.

<sup>97</sup> Section 52E(3), *Competition and Consumer Act 2010*.

<sup>98</sup> See, for example, Mr Jeffrey Howard, Seven West Media, *Proof Committee Hansard*, 21 June 2024, p. 2; Mr Michael Miller, NewsCorp Australasia (NewsCorp), *Proof Committee Hansard*, 21 June 2024, p. 5; Mr Mike Sneesby, Nine Entertainment, *Proof Committee Hansard*, 21 June 2024, p. 6; Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 36.

number of users is an unavoidable business partner for local media businesses.<sup>99</sup>

3.82 Who to designate was also a prominent point of discussion. There was significant support for the designation of Meta platforms under the Code, which is not a surprise given that they have announced their intention not to renew its agreements with publishers.<sup>100</sup>

3.83 Free TV supported extending designation to other platforms such as YouTube and TikTok, 'and any relevant digital platform where there is evidence of unwillingness to engage in fair and appropriate remuneration for television or video-based news content'.<sup>101</sup> This view was supported by Mamamia who pointed to the growth of TikTok and the risk of only concentrating on Meta:

The danger at this point would be to focus purely on Meta, and it's not just about Meta. In fact, if we think about the next five years, probably the greater risk is TikTok.<sup>102</sup>

3.84 Business News Australia also recommended that designation be extended to include Google and Microsoft.<sup>103</sup>

### *The impact of a 'news ban'*

3.85 The decision whether to designate and the impacts were discussed extensively, as were the likely outcomes of designation. The general view was that designation will result in Meta deciding to 'remove news from Facebook as they have done in Canada'.<sup>104</sup>

3.86 The impact of such a decision is significant and substantiated by Meta's previous news ban in Australia in 2021, and its current action in Canada. However, the impacts on publishers are not uniform, with small, local and independent publishers being affected disproportionately.<sup>105</sup>

3.87 The DPA explained the likely impact on smaller digital publishers:

Direct [impacts] would be things like the loss of traffic and also the fact that revenue is generated through these platforms, particularly Instagram, which for many digital publishers is a large source of revenue—to be able to amplify content. There are even more indirect ones: most of our members

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<sup>99</sup> Free TV, *Submission 54*, p. 20

<sup>100</sup> See, for example, Free TV, *Submission 54*, p. 20; MEAA, *Submission 53*, [p. 3]; Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p.26.

<sup>101</sup> Free TV, *Submission 54*, p. 22.

<sup>102</sup> Mr Jason Lavigne, Executive Chairman, Mamamia, *Proof Committee Hansard*, 10 July 2024, p. 15.

<sup>103</sup> Business News Australia, *Submission 5*, p. 5.

<sup>104</sup> See, for example, ADM+S, *Submission 120*, p. 6; Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 36; The Daily Aus, *Submission 43*, p. 2; SBS, *Submission 45*, p. 2.

<sup>105</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 37.

rely on advertising from media agencies and brands, and we are already seeing an impact to some members due to brands and agencies holding back some of their revenue and some of their campaigns in the anticipation that a news ban will come into effect in the next few months.

- 3.88 DPA also told the committee that the impact of Meta's news ban in Canada has had substantially less impact for larger publishers:

For most of the bigger publishers, it hasn't had that much of an effect. Large legacy media have many revenue streams and many tentacles in different areas, and that hasn't affected them much. They have large brand names, and people will go to their websites.<sup>106</sup>

- 3.89 A further reported impact of the news ban in Canada was that news from reputable sources was replaced by mis- and disinformation. The Australian Associated Press (AAP) cited analysis carried out by The Conversation of the impacts of the ban in Canada:

According to The Conversation's analysis of the Canadian news ban, 'the main replacement for news coverage on Facebook has been political discussion that doesn't directly reference or link to the news it draws on. This disconnection also opens the door for the circulation of well-meaning misinformation or deliberate disinformation'.<sup>107</sup>

- 3.90 AAP also submitted that when Meta disabled News in 2021, their FactCheck accounts were also disabled, which are used to 'directly address misinformation and disinformation known to be circulating in the region, including de-bunks, pre-bunks and media literacy campaigns'.<sup>108</sup>

- 3.91 STARTTS also reported research from Canada which said that the ban has 'resulted in a 90 per cent reduction in views of official news outlet pages (amounting to approximately 5 million views per day), with news links replaced by non-verified or opinion content and less-informative content like memes'.<sup>109</sup>

- 3.92 More pertinently for STARTTS, this would have a significant impact on people from refugee backgrounds:

... it may make it more difficult for people to distinguish fact from fiction, which may be particularly problematic for groups who identify social media as their primary means of news consumption. ... people from refugee backgrounds are highly susceptible to the effects of misinformation and disinformation.<sup>110</sup>

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<sup>106</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 38.

<sup>107</sup> Australian Associated Press (AAP), *Submission 55*, p. 1.

<sup>108</sup> AAP, *Submission 55*, p. 1.

<sup>109</sup> STARTTS, *Submission 195*, p. 20.

<sup>110</sup> STARTTS, *Submission 195*, p. 20.

3.93 The question for many contributors to the inquiry was how to mitigate the impacts of a news ban if Meta were to go down that road. Given that many of the publishers who are likely to be impacted receive little or no funding under the Code in the first place, the proposals and recommendations to support small, independent and digital publishers encompass revising the Code in general, as well as what to do to ameliorate the consequences of a news ban by Meta.

#### **Designation 'plus' additional support**

3.94 Designation, plus measures to support the news media sector was advocated by many contributors. Most witnesses and submitters agreed there was no option but to designate Meta, and potentially others, but that the government had to step in to ensure that there was still access to independent media if Meta banned news on its platforms.

3.95 The argument for providing support is that a strong, healthy news media supports a healthy democratic society. DPA highlighted the consequences of depriving Australians of access to a diverse public interest media:

If you start cutting off that access to public interest journalism, to vital information important to niche communities, you are then affecting what happens in these digital public squares. As I said, the twofold effect of that are, firstly, the effect on Australian society and democracy, which will be worse off for it, and secondly the effect on Australian businesses, in particular small, independent media.<sup>111</sup>

3.96 Private Media also encouraged the committee look at ways to support public interest journalism given its importance to Australian society:

If the starting point is that the market has failed to cover the costs of public interest journalism, and that Australian society requires public interest journalism, that means we need an alternative long term funding mechanism.<sup>112</sup>

3.97 DRW submitted that consideration should be given to ensuring media does not have to solely rely on advertising revenue:

If we are interested in a robust media sector to underpin Australia democracy, it would be more beneficial to turn to funding mechanisms that minimise the role played by advertising, rather than making vital news media more reliant on the invasive and largely unaccountable model of data-driven ad targeting.<sup>113</sup>

3.98 A range of potential funding mechanisms were proposed by participants. For example, Mr Duggan of DPA proposed establishment of a temporary transition fund under News MAP. This fund would allow news media businesses affected by a possible Meta news ban to 'transition their revenue and their audiences off

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<sup>111</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 40.

<sup>112</sup> Private Media, *Submission 56*, p. 3.

<sup>113</sup> DRW, *Submission 17*, p. 11.

these platforms into other areas'.<sup>114</sup> The idea of transition funding was also supported by participants such as The Conversation, LINA, We Are Explorers, and Broadsheet Media.<sup>115</sup>

3.99 Further, Broadsheet Media suggested the creation of a digital platform levy, 'to be distributed to eligible publishers by a third party at arm's length from government'. According to Broadsheet Media, this could 'ensure a more equitable outcome for all publishers, relative to their scale, by determining objective parameters for distribution of funds, rather than having the digital platforms use their outsized bargaining power'.<sup>116</sup>

3.100 The need for greater transparency around the distribution and use of funds was also raised by participants such as Private Media.<sup>117</sup> In a similar vein, PIJI argued that 'the appropriate protocols and vehicle for the distribution of funds ... will require further investigation' and noted it was currently conducting research to inform an appropriate model.<sup>118</sup>

3.101 Ms Seidler of The Daily Aus suggested that any new funding mechanism should recognise the diversity in the sector:

... if there was the opportunity there to rethink the way that money is redistributed, we would want there to be an acknowledgement that there are diverse players with diverse audiences. We would want to see that reflected in any distribution. We wouldn't want to influence the work of anyone who is currently undergoing that. We would really just want to see the fact that the legacy media players represent some part of the industry but we and our colleagues in the Digital Publishers Alliance are part of a broader ecosystem and play a really meaningful role in the industry.<sup>119</sup>

3.102 In the event of a Meta news ban, Mr Kendall of ACM suggested that the threshold be set at 20 per cent of Meta's revenue, with the funds to be divided between the provision of mental health services and support for public interest journalism.<sup>120</sup> A tax on Meta's revenue, with support for mental health services, was also supported by CPA.<sup>121</sup>

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<sup>114</sup> Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 43.

<sup>115</sup> Ms Lisa Watts, CEO, The Conversation Media Group, *Proof Committee Hansard*, 10 June 2024, p. 17; LINA, *Submission 44*, p. 3; We Are Explorers, *Submission 116*, [p. 4]; Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 June 2024, p. 20.

<sup>116</sup> Broadsheet Media, *Submission 48*, p. 5.

<sup>117</sup> Private Media, *Submission 56*, [p. 4]. See also, Ms Karen Percy, Media Federal President, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 14.

<sup>118</sup> PIJI, *Submission 158*, p. 7.

<sup>119</sup> Ms Zara Seidler, Co-Founder, The Daily Aus, *Proof Committee Hansard*, 30 September 2024, p. 23.

<sup>120</sup> Mr Anthony Kendall, Managing Director, ACM, *Proof Committee Hansard*, 21 June 2024, p. 26.

<sup>121</sup> Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 27.

3.103 To this end, the committee heard that the Department of the Treasury has been considering the way in which a taxing power could be used to encourage compliance with the Code. Treasury also told the committee that there was multilateral work underway in the OECD to try and more fairly allocate taxation rights.<sup>122</sup>

3.104 However, as an alternative to the Code, USYD MECO proposed a levy on digital advertising to support public interest journalism and the provision of news to underserved communities and regional, rural and remote areas.<sup>123</sup>

3.105 According to USYD MECO, an advertising levy would 'target the core business model of major digital technology platforms—digital advertising—which is fuelled by data generated by and about Australian citizens'.<sup>124</sup> It would also circumvent debate around whether platforms derive revenue from news content, and avoid the need to determine whether platforms are 'actors or neutral intermediaries in the news publishing economy'.<sup>125</sup>

3.106 USYD MECO suggested two possible models for such a levy:

- a digital services tax, like the two per cent tax introduced in the United Kingdom and France; or
- a Public Interest Journalism Levy (PIJL), like the Telecommunications Industry Levy under the *Telecommunications Act 1997*, whereby holders of a newly devised type of content licence—that also meet a revenue threshold—would need to contribute to the PIJL.<sup>126</sup>

3.107 A levy on digital advertising revenue was also supported by Private Media,<sup>127</sup> Playhouse<sup>128</sup> and PJII, which—like USYD MECO—highlighted the 'content-agnostic' nature of a levy, which may make it a more attractive option for

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<sup>122</sup> Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 4.

<sup>123</sup> USYD MECO, *Submission 154*, p. 17.

<sup>124</sup> USYD MECO, *Submission 154*, p. 17.

<sup>125</sup> USYD MECO, *Submission 154*, pp. 16 and 17.

<sup>126</sup> USYD MECO, *Submission 154*, p. 17. Under the *Telecommunications Act 1997*, service providers are either Carriage Service Providers or Content Service Providers. Both forms of service provider are class licensed. Broadly, Carriage Service Providers that operate specified infrastructure must hold a Carrier Licence. Holders of a Carrier Licence which meet a revenue threshold must contribute to the Telecommunications Industry Levy.

<sup>127</sup> Private Media, *Submission 56*, [p. 3].

<sup>128</sup> Playhouse, *Submission 110*, [p. 3].

platforms. PIJI noted that similar mechanisms have been used in Canada, as well as several EU countries and US states such as California.<sup>129</sup>

3.108 Further, some participants such as Private Media, LINA and DPA suggested that the government allocate a percentage of its advertising spend to local and independent publishers.<sup>130</sup>

3.109 While advocating for additional support, Broadsheet Media said that they were simply looking to compete with other media organisations on an equal footing:

We're not looking for handouts, here. We're not looking to be sustained through government funding. What we're looking to do is compete on an even playing field.<sup>131</sup>

3.110 Indeed, many submitters pointed to the need for a suite of measures to ensure the sustainability of independent news media. Daily Aus was one of the smaller independent digital platforms that recommended several measures to support the industry:

- Revisit and Amend the NMBC: Ensure equitable support for all news organisations, including independent media, to prevent market concentration.
- Safeguard News Access on Social Media: Implement measures to compel platforms like Meta to maintain news content availability without commercial agreements.
- Support Independent Journalism: Provide targeted support and funding for independent news outlets to ensure a diverse media landscape.
- Establish a Digital Media Literacy Fund: Improve digital media literacy among young Australians to help them critically evaluate news sources.
- Incentivise Public Interest Journalism: Ensure timely and accurate news dissemination during crises to prevent misinformation.
- Incentivise Cross-Platform Collaboration: Facilitate partnerships between traditional and social-first news organisations to enhance news coverage and reach broader audiences.<sup>132</sup>

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<sup>129</sup> PIJI, *Submission 158*, p. 7. In Canada, Google has agreed to make an annual lump sum payment to Canadian news outlets as an alternative to submitting to Canada's Online News Act, which is paid via formula (63 per cent to publishers, 30 per cent to private broadcasters, 7 per cent to state broadcasters) and the number of journalists employed by each eligible news business. In the US, the state of California has passed a digital levy that proposes to tax platforms on the basis of the data they collect from users. Revenue from the levy would be channelled into tax credits for outlets who hire journalists to produce public interest journalism and into local schools to fund programs such as media literacy and online safety.

<sup>130</sup> Private Media, *Submission 56*, [p. 4]; LINA, *Submission 44*, p. 13; Mr Tim Duggan, Chair, DPA, *Proof Committee Hansard*, 21 June 2024, p. 43. See also, PIJI, *Submission 158*, pp. 26–27.

<sup>131</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 23.

<sup>132</sup> The Daily Aus, *Submission 43*, p. 3.

3.111 The first measure recommended by the Daily Aus to 'Revisit and Amend the NMBC' to reflect the needs of all players in the industry, echoed similar suggestions from many in the independent publishing sector.

3.112 Private Media were of the view that the Code was, by design, intended to provide funding to large media companies for their own benefit, rather than to support public interest journalism:

This is part of the 'original sin' of the code, but is by design, not mistake. In order for the big media companies to pass the bargaining code funds straight back to shareholders, the payments had to be described as some sort of payment, rather than a genuine attempt to support public interest journalism.<sup>133</sup>

3.113 Broadsheet Media did not necessarily agree that the Code was not designed with smaller publishers in mind, as the principles of the Code apply equally to all publishers:

We're a member of this ecosystem—all the same bargaining and balances that apply to the *Australian Financial Review* also apply to Broadsheet, if not more so. When the code was set up, it looked at the ACCC's report on imbalanced bargaining, and that applies to us as much as anyone.<sup>134</sup>

3.114 However, they discussed how the Code's design meant that publishers would have 'to go back, hat in hand, every three years' to social media platforms, which is not a sustainable model. Broadsheet Media proposed a framework which says, 'These are the rules of engaging in our country with our media,' that is the best-case outcome'.<sup>135</sup>

### *News availability – 'must carry' provisions*

3.115 Compelling digital platforms to maintain news content was also a topic of discussion in submissions as well as in the public hearings.

3.116 The concept that the news publishers or broadcasters must carry specific quotas of content is not a new one, and applies in Australia, as well as in overseas jurisdictions.<sup>136</sup>

3.117 In Australia there are various content obligations placed on broadcasters. For example, to comply with the transmission quotas set out in the *Broadcasting Services Act 1992* (BSA), all commercial television licensees must broadcast at

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<sup>133</sup> Private Media, *Submission 56*, p. 3.

<sup>134</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 23.

<sup>135</sup> Mr Nicholas Shelton, Founder and Publisher, Broadsheet Media, *Proof Committee Hansard*, 10 July 2024, p. 22.

<sup>136</sup> See for example, *Cable Carriage of Broadcast Stations*, US Federal Communications Commission. Available at: [www.fcc.gov/media/cable-carriage-broadcast-stations](http://www.fcc.gov/media/cable-carriage-broadcast-stations) (accessed on 19 August 2024); Indonesia - Public Interest Publishers Alliance *Submission 133*, p. 2.

least 55 per cent Australian content between 6:00 am and midnight on primary channels, and 1,460 hours of Australian content between 6:00 am and midnight on non-primary channels.<sup>137</sup>

3.118 In addition, broadcasters must meet a certain quota of first-release Australian programme based on a points system which is set out in the Broadcasting Services (*Australian Content and Children's Television*) Standards 2020 (*Cth*)(ACCTS).<sup>138</sup>

3.119 Subscription TV broadcasters and channel providers are subject to the New Eligible Drama Expenditure scheme. Under that scheme, at least 10 per cent of total programme expenditure for each drama channel must be on new Australian drama programs.<sup>139</sup>

3.120 However, the same obligations do not currently apply to large streaming providers.

3.121 Streaming services voluntarily report their level of investment in Australian content to the ACMA but are not otherwise subject to any obligations in respect of Australian content.<sup>140</sup>

3.122 Currently, the BSA—which deals with content regulation and media ownership—does not generally regulate content provided on internet services. However, DITRDCA told the committee that the potential regulation of digital platform services is under consideration as part of the broader media reform agenda.<sup>141</sup>

3.123 Many contributors to the inquiry proposed that some form of 'must carry' obligations be inserted into the Code to ensure that platforms continue to permit news on its platforms, if they are designated. CPA cited the Canadian experience:

The Canadian experience tells us, once designated, Meta may drop news from its platform and refuse to negotiate with publishers. In this instance,

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<sup>137</sup> ACMA, *Australian content on commercial TV*. Available at: [www.acma.gov.au/australian-content-commercial-tv](http://www.acma.gov.au/australian-content-commercial-tv) (accessed 22 August 2024).

<sup>138</sup> ACMA, *Australian content on commercial TV*. Available at: [www.acma.gov.au/australian-content-commercial-tv#compliance-with-the-bsa-and-accts](http://www.acma.gov.au/australian-content-commercial-tv#compliance-with-the-bsa-and-accts) (accessed 22 August 2024).

<sup>139</sup> ACMA, *Spending on subscription TV drama*. Available at: [www.acma.gov.au/spending-subscription-tv-drama#:~:text=New%20eligible%20drama%20expenditure%20scheme,be%20on%20new%20local%20dramas](http://www.acma.gov.au/spending-subscription-tv-drama#:~:text=New%20eligible%20drama%20expenditure%20scheme,be%20on%20new%20local%20dramas) (accessed 22 August 2024).

<sup>140</sup> ACMA, *Spending by subscription video on demand providers*. Available at: [www.acma.gov.au/spending-subscription-video-demand-providers#expenditure-on-australian-programs](http://www.acma.gov.au/spending-subscription-video-demand-providers#expenditure-on-australian-programs) (accessed 22 August 2024).

<sup>141</sup> DITRDCA, *Submission 12*, p. 11.

we encourage the government to insert a 'must carry news' clause in the code, forcing them to negotiate with publishers.<sup>142</sup>

3.124 The Conversation were supportive of taking all necessary measures to ensure that platforms facilitate news content 'during public emergencies particularly fires, floods, terrorist and large-scale cyber-attacks, armed conflicts and pandemics'.<sup>143</sup>

3.125 Broadsheet Media recommended that platforms be required to ensure 'that 5% of any one person's feed must consist of content from eligible news publishers'.<sup>144</sup> Australians for a Murdoch Royal Commission also supported legislating for a right to news access, to ensure that '[n]o local government area in Australia [...] miss out on access to relevant community news'.<sup>145</sup>

3.126 Ms Zara Seidler of The Daily Aus stressed the importance of news availability for young people:

It is of the utmost importance that that fact based, accurate information remains on the platforms where those young people are. They will not leave the platforms. They will not be able to get news elsewhere—or, rather, they will not feel inclined to, and we believe that we must be able to cater to those audiences. Otherwise, as we've alluded to, we think that there will be really dire consequences for democracy.<sup>146</sup>

3.127 The MEAA also noted the potential role of 'must carry' provisions in helping to combat mis- and disinformation:

One option that we explored was to mandate the carriage of news on social media. I think that's important as well for the issue of mis- and disinformation. If we see journalism as an important counterbalance to mis- and disinformation, then we understand that it's really crucial that social media continues to carry news, even though it might come with a certain price to those social media companies.<sup>147</sup>

3.128 Other submitters pointed out that while requiring platforms to carry content is one thing, ensuring that content is discoverable and not hidden due to algorithmic factors is something else:

There's a concept of the 'must carry' on lots of different infrastructure platforms. We could talk about a must carry regime [...] Must carry on

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<sup>142</sup> Mr Andrew Schreyer, President, CPA, *Proof Committee Hansard*, 21 June 2024, p. 27.

<sup>143</sup> The Conversation, *Submission 6*, p. 4.

<sup>144</sup> Broadsheet Media, *Submission 48*, p. 4.

<sup>145</sup> Australians for a Murdoch Royal Commission (AMRC), *Submission 188*, p. 13.

<sup>146</sup> Ms Zara Seidler, Co-Founder, The Daily Aus, *Proof Committee Hansard*, 30 September 2024, p. 26.

<sup>147</sup> Ms Lilia Anderson, Research and Policy Lead, MEAA, *Proof Committee Hansard*, 30 September 2024, p. 15.

digital technology platforms, from a TV perspective, is a very important step, but consumers being able to find it is the more important issue.<sup>148</sup>

3.129 This theme was picked up by Mr Miller, who saw carry provisions as part of the solution but—on their own—as 'an analog solution in a digital world' given that platforms' algorithms mean that simply carrying content would not provide the 'surfacing and the discoverability' required.<sup>149</sup>

3.130 The Department of the Treasury did say that they had been investigating 'the potential application of must-carry rules and whether or not they would be compatible with the code and the extent to which they would be enforceable'.<sup>150</sup>

### **Media literacy**

3.131 Various participants pointed to media literacy as a key part of any response to countering mis- and disinformation on digital platforms. For example, the Australian Media Literacy Alliance (AMLA) stressed that 'successful media literacy initiatives empower citizens to become competent and responsible media producers and consumers'.<sup>151</sup>

3.132 For Ms Stuchbery of LINA, 'strengthening media literacy in our communities will help counter mis- and disinformation in a systematic way'.<sup>152</sup> Similarly, the ABC highlighted the importance of improving media literacy given the impossibility of verifying or fact checking all claims.<sup>153</sup>

3.133 Given this, participants such as Dr Tanya Notley called for a national approach to media literacy that 'builds on the strengths of existing, relevant national public institutions, universities and educational and cultural organisations'.<sup>154</sup>

3.134 According to Dr Notley, this approach has been used with success in countries like the Netherlands and Finland. It also provided a model for the creation of the AMLA, which comprises seven public cultural institutions and two university partners.<sup>155</sup>

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<sup>148</sup> Mr Jeffrey Howard, CEO, Seven West Media, *Proof Committee Hansard*, 21 June 2024, p. 14.

<sup>149</sup> Mr Michael Miller, Executive Chairman, Newscorp *Proof Committee Hansard*, 21 June 2024, p. 14.

<sup>150</sup> Mr Tony McDonald, Assistant Secretary, Competition and Consumer Branch, Department of the Treasury, *Proof Committee Hansard*, 25 June 2024, p. 6.

<sup>151</sup> Australian Media Literacy Alliance (AMLA), *Submission 134*, p. 1.

<sup>152</sup> Ms Claire Stuchbery, Executive Director, LINA, *Proof Committee Hansard*, 28 June 2024, p. 42.

<sup>153</sup> ABC, *Submission 65*, p. 5.

<sup>154</sup> Dr Tanya Notley, *Submission 176*, p. 3.

<sup>155</sup> Dr Tanya Notley, *Submission 176*, p. 3.

- 3.135 A national strategy was also proposed by AMLA, which has a 'primary goal' of developing and promoting 'a government-endorsed national media literacy strategy for Australia'.<sup>156</sup> It was also supported by the Australian Library and Information Association (ALIA), which suggested there was 'an urgent role for Government in supporting and funding a national approach to media literacy and media literacy education'.<sup>157</sup>
- 3.136 Calls for additional investment in media literacy featured in evidence from other submitters such as The Daily Aus, which suggested that a fund be established to 'improve digital media literacy among young Australians to help them critically evaluate news sources'.<sup>158</sup> Similarly, PlayHouse called for investment in 'comprehensive media literacy programs across all levels of education, from primary school to adulthood'.<sup>159</sup>
- 3.137 To this end, several participants highlighted the work of Squiz Kids and its Newshounds media literacy program for primary school children.<sup>160</sup> Squiz Kids itself stated that providing media literacy education for young children is 'consistent with international best practices' and advocated for funding to continue the Newshounds program beyond 2025—noting that funding for the pilot was provided by the Google News Initiative.<sup>161</sup>
- 3.138 Ms Lucinda Longcroft of Google Australia and New Zealand highlighted the importance of being able to find 'accurate, credible information' and told the committee about its work in this area:

... we've partnered with Australian organisations like AAP and Squiz Kids to build our children's media literacy and combat misinformation. We have teams of experts around the world working in the fight against misinformation. We work to ensure that Google provides users with high-quality and trusted information, rewarding the publishers and creators who produce it and surfacing more authoritative sources.<sup>162</sup>

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<sup>156</sup> AMLA, *Submission 134*, pp. 1 and 6.

<sup>157</sup> Australian Library and Information Association (ALIA), *Submission 62*, p. 2.

<sup>158</sup> The Daily Aus, *Submission 43*, [p. 3].

<sup>159</sup> PlayHouse, *Submission 110*, [p. 3].

<sup>160</sup> See, for example, Mr Luke Arnold, *Submission 34*, p. 1; Mrs Christy Hutt, Ms Dani Phelan, Ms Anne Hibbert & Ms Jayne Aguiar, *Submission 74*, pp. 3–4; Ms Lucinda Longcroft, Director, Government Affairs and Public Policy, Google Australia and New Zealand, *Proof Committee Hansard*, 28 June 2024, p. 34.

<sup>161</sup> SquizKids, *Submission 114*, [pp. 1 and 6].

<sup>162</sup> Ms Lucinda Longcroft, Director, Government Affairs and Public Policy, Google Australia and New Zealand, *Proof Committee Hansard*, 28 June 2024, p. 34.

3.139 While there was significant focus on media literacy for young people, Dr Andrea Carson of La Trobe University reminded the committee that older people were often most at risk. Dr Carson also suggested that the focus of media literacy efforts should be on identifying 'credibility features of information', rather than seeing traditional media as the baseline for credible information:

... I don't think we should just single out young people. In fact, digital natives can actually be very good at being able to pick up what's credible information and what isn't—nor do I think we should necessarily use traditional news sources as the baseline. Rather, we should look for credibility features of information. That's something that can expand to older generations. Studies show that those that are often most taken in with mis- and disinformation aren't the young generations; they're the older generations.<sup>163</sup>

3.140 This was reflected in evidence from LINA, which pointed out that adults aged over 55 'are some of the most likely to share mis- and disinformation on social media' and that local news outlets were well-placed to improve adult media literacy in their communities.<sup>164</sup> In line with this, LINA highlighted a program it put forward in the context of the 2024–25 Budget, which would involve:

- LINA partnering with a registered training organisation to develop a media literacy curriculum for adults;
- local newsrooms delivering media literacy programs to their own communities (using a centralised curriculum and teaching resources); and
- newsrooms partnering with community organisations (such as libraries, schools and Councils) to deliver programs locally.<sup>165</sup>

3.141 Likewise, Dr Notley noted the current lack of resources supporting adult media literacy and advocated for 'sustained public funding' to 'promote and extend AMLA's work and to develop media literacy research, resources and programs more generally – particularly for adults'.<sup>166</sup>

3.142 In a similar vein—given the role of libraries in providing digital access and literacy support in local communities—ALIA proposed that the government work with ALIA and its partners to 'update and expand evidence-based media literacy programs, with emphasis on segments of the community with the highest needs'.<sup>167</sup>

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<sup>163</sup> Dr Andrea Carson, Professor of Political Communication, La Trobe University, *Proof Committee Hansard*, 28 June 2024, p. 57.

<sup>164</sup> LINA, *Submission 44*, p. 8.

<sup>165</sup> LINA, *Submission 44*, p. 9.

<sup>166</sup> Dr Tanya Notley, *Submission 176*, p. 3.

<sup>167</sup> ALIA, *Submission 62*, p. 2.

## Committee View

- 3.143 A significant driver for the establishment of the committee was to examine how best to protect and promote public interest journalism in Australia.
- 3.144 Social media companies impact the civic space through the distribution and access of news, which also comes at times intertwined with mis- and disinformation. This can have far-reaching consequences to the democratic principles of many countries, including Australia, especially if elections become a focus of mis- and disinformation.
- 3.145 The committee heard how social media has become of increasing importance as a source of access to news and public interest journalism for many Australians.
- 3.146 In terms of news, the inquiry explored how the platforms exercised their market power, particularly through the News Media Bargaining Code (the Code), and the impact this has on public interest journalism in Australia.
- 3.147 The Code facilitated direct deals between social media and digital platforms and larger news publishers, and also granted lump sums for other entities to distribute to smaller news publishers. However, the distribution of funding under the Code was uneven across the sector.
- 3.148 At its inception, the Code was intended to address the bargaining power imbalance of various parties in the news sector, and to ensure that appropriate compensation was paid by social media platforms for content produced by news publishers big and small.
- 3.149 However, the business model of many of the platforms has changed in recent years, to models that do not rely on carrying news from established news publishers. This has illustrated a fundamental problem with the Code. The Code presumes that social media platforms want to carry news, or that certain digital platforms consistently need news content to provide a service.
- 3.150 Meta have claimed that news accounts for an ever-decreasing portion of its content, and that it is not necessary to carry it at all. If they do not see any commercial disadvantage from not carrying news, as they have done in Canada, the Code becomes irrelevant to them.
- 3.151 For this reason, the committee has considered that alternative or additional mechanisms other than the Code should be explored to both regulate the digital environment when it comes to news and the propagation of information, and protect and promote public interest journalism.
- 3.152 The committee heard compelling evidence from digital publishers that designation might not only be ineffective but might also do harm to Australian society if platforms, particularly Meta, block news altogether thereby depriving users from the carriage of news media, which plays a crucial role in underpinning democratic society.

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- 3.153 To ensure that access to news remains a key element of users' consumption of media, the committee supports further exploration of 'must carry' requirements to social media platforms. This further exploration should include an assessment of any legal or regulatory barriers to such a requirement.
- 3.154 Without designation, the logical step is that the nexus between the support for public interest journalism and the commercial arrangements with digital platforms under the Code is broken and should be replaced with alternative revenue mechanisms, such as a levy system, on the broader operations of the digital platforms.
- 3.155 The committee envisages that a levy drawn from the revenues of the digital platforms could be used to support public interest journalism, improve media literacy, and provide for mechanisms to ensure technical transparency in the operation of algorithms and recommender systems which drive the content that users are exposed to.
- 3.156 That is not to say that the Code should be abolished. The committee foresees the Code remains in force, for now. While the exact design of a levy system should be left to government, the Code could be utilised as a vehicle to disseminate funds from a levy system to the news media publishers, with a revised registration criteria that does not present an unreasonable barrier to registration for small, independent or digital only publishers. When considering the design of a levy system, consideration should be given to preserving commercial deals already in place between digital platforms and publishers, and in supporting those deals to continue.
- 3.157 The committee is also aware of the various strands of government activity across the broad spectrum that is the digital environment. Given this range, the committee is of the view that a stand-alone ministry should be established with the responsibility of coordinating the regulation, monitoring and research activities required to ensure that the digital environment meets the expectations of Australian society.
- 3.158 The committee understands fully the value that social media platforms bring to a democratic society. The platforms have developed rapidly to take the place of many traditional pillars of society, but without the protections and responsibilities that are required to ensure that their operation acts in accordance with Australia's values, laws, or way of life.

## **Interim report recommendations**

- 3.159 Recognising the scope of this interim report, the recommendations below focus on the decision of Meta to abandon deals under the Code and the important role of Australian journalism, news and public interest media on a healthy democracy in countering mis- and disinformation.
- 3.160 The committee's final report will consider issues relating to online safety; algorithms and recommender systems; the impacts of the mental health of users; lack of accountability of social media platforms; and age verification.

### **Recommendation 1**

- 3.161 **The committee recommends that the Australian Government establish a Digital Affairs Ministry with overarching responsibility for the coordination of regulation to address the challenges and risks presented by digital platforms. The Ministry could also play a role in coordinating monitoring and research activities to assess the ongoing impact of digital platforms on Australian society, as well as the effectiveness of existing and future regulation. Because matters relating to the regulation of social media are broad, the new Digital Affairs Ministry should be given an equally broad remit so that it can regulate matters such as, but not limited to, privacy and consumer protection, competition, online safety, and scams.**

### **Recommendation 2**

- 3.162 **The committee recommends that, acknowledging the limitations of the News Media Bargaining Code, the Australian Government explore alternative revenue mechanisms to supplement the Code, and contribute to systems oversight, such as a digital platform levy. Exploration should include consideration for preserving current and future commercial deals to sustain public interest journalism over the longer term, and to support digital media literacy initiatives.**

### **Recommendation 3**

- 3.163 **The committee recommends that the Australian Government develop an appropriate mechanism and protocols to guide the fair and transparent distribution of revenue arising from any new revenue mechanisms. This work could have reference to relevant research and should include protocols aimed at ensuring the sustainability of small, independent and digital only publishers, as well as those operating in underserved communities and rural, regional and remote areas. Consideration should also be given for a portion of any revenue raised through such mechanisms to be used for funding an independent body to oversee systems, accredit researchers to access data and other related functions.**

#### **Recommendation 4**

**3.164** If the News Media Bargaining Code is to be redesigned, the committee recommends that the Australian Government revisit the tests for registration of news businesses under the News Media Bargaining Code to ensure their design does not present an unreasonable barrier to registration for small, independent or digital only publishers.

#### **Recommendation 5**

**3.165** Given Meta's decision not to renew deals under the News Media Bargaining Code, and the de-prioritisation of news on Meta platforms, the committee recommends that the Australian Government establish a short-term transition fund to help news media businesses to diversify and strengthen alternative income streams and news product offerings. The fund should have a particular focus on supporting small, independent and digital only publishers, as well as those operating in underserved communities and rural, regional and remote areas.

#### **Recommendation 6**

**3.166** The committee recommends that the Australian Government investigate the viability and effectiveness of 'must carry' requirements for digital platforms in relation to Australian news content from large and small news providers, including an assessment of the legal pathways and barriers to such requirements.

#### **Recommendation 7**

**3.167** The committee recommends that the Australian Government establish a Digital Media Competency Fund (to be funded via alternative revenue mechanisms to be explored at Recommendation 2). While this fund should have a strong focus on the digital media literacy of young Australians, it should also fund initiatives aimed at improving the digital media literacy of other groups at risk of being taken in by mis- and disinformation, including older Australians and those in regional areas.

#### **Recommendation 8**

**3.168** The committee supports the need for legislation to combat mis- and disinformation.

#### **Recommendation 9**

**3.169** To improve transparency around digital platforms' systems and processes use, the committee recommends that the Australian Government adopt transparency requirements similar to the measures in the European Union's Digital Services Act, which includes transparency around recommender

systems, as well as mandatory access to platform data and algorithms to facilitate research. This should also include measures to require digital platforms to provide notice of changes to algorithms and the rationale for those changes.

#### **Recommendation 10**

**3.170** The committee recommends that the Australian Government examine options to respond to the use of algorithms and recommender systems to deprecate news by digital platforms with significant power.

#### **Recommendation 11**

**3.171** The committee recommends that the Australian Government review the effectiveness of the industry co-regulation model for digital platforms in Australia.

**Ms Sharon Claydon MP**  
**Chair**  
**Member for Newcastle**

# Coalition Members' dissenting report

## Executive Summary

- 1.1 This dissenting report addresses the Coalition committee members' view of the *Second interim report: digital platforms and the traditional news media* (Second Interim Report) of the Joint Select Committee on Social Media and Australian Society.
- 1.2 Over the past four months, the committee has heard harrowing testimony from parents, mental health groups, young people, educators, technology experts, analysts and researchers, our security agencies, as well as psychologists and brain-science experts. We share a grave concern for what young people see online, and equally, the freedom the online world provides for people to say and treat one another as they would not ordinarily do in a face-to-face environment. The impact of the societal harms caused to the community by social media will be a greater focus in the committee's final report.
- 1.3 The committee has also heard from traditional and digital media sources, about the impact of the social media platforms on their business models, both at the establishment and growth phases, and how a lack of algorithmic transparency leaves the success or failure of these sites, and their messages, to the whim of the platform engineers.
- 1.4 Coalition committee members share many of the concerns outlined in the Second Interim Report's analysis. However, we highlight the fact that the Albanese Government has failed to take any firm action to resolve the dispute with Meta under the News Media Bargaining Code which was introduced by the former Coalition Government which according to some reports, has seen hundreds of millions of dollars paid to Australian media companies.<sup>1</sup>
- 1.5 Coalition committee members also reject the Government's plans to introduce its Misinformation Bill which will serve only to silence some voices, and not others.

## Transparency Obligations

- 1.6 In the scope of the Second Interim Report, Coalition committee members acknowledge and accept arguments to support more, and broader, algorithmic transparency obligations.
- 1.7 Coalition committee members have heard consistent and compelling evidence around a lack of transparency relating to any social media or online platform algorithms, and a regulatory framework which is no longer fit for purpose given

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<sup>1</sup> Media Entertainment and Arts Alliance, *Submission 53*, p. 5; Private Media, *Submission 56*, p. 1; Per Capita, *Submission 50*, p. 3; The Daily Aus, *Submission 43*, p. 4; Capital Brief, *Submission 64*, p. 3.

the vast expansion in algorithmically governed platforms, which now dominate as much as eight hours of young Australians' days, every day.<sup>2</sup>

- 1.8 It is the hope of Coalition committee members that this matter will be further considered, and the subject of specific recommendations, in the final report.

### **Impact of Social Media on News Media: News Media Bargaining Code and Media Content Primacy**

- 1.9 One significant theme in the Second Interim Report's recommendations and analysis was the efficacy of the News Media Bargaining Code.
- 1.10 The report recommendations on this topic are based on the claim that the News Media Bargaining Code is now no longer fit for purpose. The Coalition committee members strongly reject this assertion.
- 1.11 The Code commenced in March 2021 under the former Coalition Government, following the passage through the Parliament of the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021*. The Second Interim Report highlights that the Department of the Treasury published a report reviewing the Code in November 2022:

In November 2022, the Department of the Treasury published the report of its review of the Code. The review considered it 'reasonable to conclude that the Bargaining Code has been a success to date'. It also noted that over '30 commercial agreements had been struck, agreements that were highly unlikely to have been made without the Bargaining Code'.<sup>3</sup>

- 1.12 The News Media Bargaining Code was designed to give government powerful tools to hold social media companies to account for the commercial benefits they gain from use of Australian news content. The Coalition Government's premise was that Australian news media organisations should be compensated for the use of the content by social media platforms. This was clearly in both the public interest and in the interests of the Australian media industry.
- 1.13 The Albanese Government has been weak in its handling of this issue. It has failed to take action available to it under the powers set out in the Code and has instead attempted to cite referral of the issue to this committee as some form of action. In reality, the Government has simply used this referral to obfuscate and delay.

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<sup>2</sup> Australian Gaming and Screens Alliance, *Submission 59*, p. 8.

<sup>3</sup> Joint Select Committee on Social Media and Australian Society, *Second interim report: digital platforms and the traditional news media*, October 2024, p. 17.

1.14 The current Australian Government has failed to deliver on its promise to exercise its powers under the Code. Back in March this year, the Assistant Treasurer, The Hon Stephen Jones MP, promised that:

The Government will be taking all of the steps available to it under the News Media Bargaining Code from the Prime Minister to every Minister in his Government.<sup>4</sup>

1.15 However, that has not happened. Representatives of Meta gave evidence to this committee on 4 September 2024 that the only Minister with whom Meta had met with was Mr Jones, and that was with the company's policy manager for the Asia Pacific region. The level of seniority of these discussions is a far cry from the high-level discussions held between the former Australian Treasurer, The Hon Josh Frydenberg, and the Chairman and Chief Executive Officer of Meta, Mr Mark Zuckerberg, in 2021.

1.16 This Government has lacked the necessary courage to use the strong powers available to it under the Code. By contrast, the Coalition Government applied the Code in 2021 to ensure substantial financial agreements were reached between Australian media, and providers like Meta and Google. The Albanese Government has been incapable of repeating that success and is now seeking to blame the Code for its own failings and inaction.

1.17 The future of Australian journalism and the very fabric of Australian democracy is at stake due to the weak leadership of the Albanese Government. Under the Coalition, Meta paid for news. Under this Albanese Government, Meta has demonstrated its utter contempt for the Australian Government, its people and its laws – and has gotten away with it.

### **Misinformation and Disinformation Legislation: the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024***

1.18 Coalition committee members reject this recommendation. Whilst Recommendation 8 of the Second Interim Report does not expressly call on Parliament to pass the Misinformation Bill, the intent of the recommendation is clear. The attempt to use the report's recommendations to justify the Government's Misinformation Bill is a political stunt on what represents an appalling attack on free speech.

1.19 The Misinformation Bill is the subject of a Senate inquiry which is due to report by 25 November 2024. Committee hearings only recently commenced and only a fraction of the many thousands of submissions on the bill have actually been made public.

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<sup>4</sup> The Hon Stephen Jones MP, Assistant Treasurer, [Meta's News Content Announcement Press Conference](#), 1 March 2024.

- 1.20 In fact, the Misinformation Bill was only referred to the Senate Standing Committees on Environment and Communications on 19 September 2024.
- 1.21 This comes after a staggeringly short consultation period of just seven working days.
- 1.22 The Misinformation Bill is currently being debated in the House of Representatives. The Communications Minister has confirmed that she seeks to pass the bill this year, limiting time for its proper scrutiny.
- 1.23 This controversial bill has not been subjected to an adequate and comprehensive parliamentary review.
- 1.24 At no time was the Misinformation Bill formally considered by this committee as evidence. Nor is the formal consideration of this bill text part of the Terms of Reference for this committee.
- 1.25 The bill risks censorship of everyday Australians, due to ill-defined terms such as 'misinformation' and 'disinformation'. It betrays our democracy by incentivising censorship and will make government the arbiter of truth.
- 1.26 The bill would impose huge fines on digital platforms, if the Government decides that the platforms have not censored enough of what the Government considers to be misinformation.
- 1.27 Under the Government's plan, academics, scientists, and artists are exempted from the bill as being incapable of being a source of misinformation or disinformation—but not everyday Australians.
- 1.28 The definitions of misinformation and disinformation are flawed, and the application of contexts in which an opinion can be classified as misinformation is unclear.
- 1.29 The Coalition is concerned that to avoid liability for these fines, digital platforms will err on the side of caution and censor legal, respectful free speech of everyday Australian users. Coalition committee members consider that this will have a chilling effect on democracy in this country. Evidence for key groups to the Senate inquiry on this bill support this position.
- 1.30 More concerning, under the current bill before the Parliament, the Communications Minister can personally order misinformation investigations and hearings, on terms of her choosing.
- 1.31 The Coalition will not be supporting the Misinformation Bill in the Parliament, and accordingly, the Coalition committee members will not be supporting any recommendations made by this Second Interim Report that convey or imply approval of the bill.

- 1.32 Coalition committee members appreciate that a robust and independent media industry, holding digital platforms accountable, and increasing the public's digital and media literacy are important factors to consider in combatting the proliferation of misinformation and disinformation.
- 1.33 The Coalition would like to note that the committee heard strong evidence around the importance of media literacy as an avenue to combat misinformation and disinformation through appropriate media literacy education through Australia's schooling system. This evidence has not been given the same credence in the Second Interim Report as Labor's own flawed Misinformation Bill has.

### **Acknowledgments and Reflections**

- 1.34 We thank the committee Chair, Ms Sharon Claydon MP, and committee members for conducting a comprehensive inquiry on a matter of national significance in a collegiate manner.
- 1.35 The Coalition also thank the secretariat in their work to date facilitating a broad reaching evidence base.
- 1.36 The Coalition thinks that the impact of social media on Australian society is an issue of national significance and looks forward to continuing to work with committee colleagues in a bipartisan spirit, where possible on this issue.

**Senator the Hon Sarah Henderson**  
**Member**  
**Senator for Victoria**

**Ms Zoe McKenzie MP**  
**Member**  
**Member for Flinders**

**Senator Jacinta Nampijinpa Price**  
**Member**  
**Senator for the Northern Territory**

**Mr Andrew Wallace MP**  
**Member**  
**Member for Fisher**



## Australian Greens' additional comments

- 1.1 Global giants like Meta continue to operate in Australia and benefit off Australian communities, yet will stop at nothing to ensure they do not have to adhere to Australian laws or give anything back to those they profit off, be it users, journalists, or content creators. What this inquiry has already made abundantly clear is that reform is urgently needed to hold these big corporations to account.
- 1.2 Meta's decision earlier this year to not renew deals under the News Media Bargaining Code is a repeat of their blatant attempt to threaten the Government, news organisations and the Australian public in 2021, by pulling news content off their platforms.
- 1.3 The Government cannot bow to this threat. Meta cannot be allowed to continue to throw its weight around in this country, unfettered by strong regulation.
- 1.4 While the introduction of the News Media Bargaining Code in 2021 was an important step in regulating global platforms and requiring them to pay some of their fair share when it came to news, an ever-evolving digital world means new regulations and reform must be urgently considered. This must include the exploration of laws requiring corporations like Meta to carry news.
- 1.5 An increasing number of Australians get their news from social media platforms, with the University of Canberra *Digital News Report 2024* showing **almost half of Australians use social media to access news**, and two-thirds of Gen Z rely on social media as their main news source, up a huge 17 percentage points in the past year. Many news outlets rely on the funding from online platforms through the News Media Bargaining Code and with the refusal of Meta to renew deals the impact is already being felt with job cuts and outlet closures. The potential for Meta to remove news from their platforms will create a void for mis and disinformation, while in turn their refusal to pay for the news it carries will impact Australian jobs and the quality of public interest journalism in Australia. Tech platforms must be held responsible for creating the very spaces that drive division, abuse and conspiracy theories.
- 1.6 Regulating cowboys like Meta and X is a problem being grappled with globally, with these corporations fighting tooth and nail to protect their profits while throwing user safety under the bus. Issues such as the harms caused by algorithms and data harvesting, scams, mis and disinformation, and the threat to public interest journalism cannot be viewed in isolation.
- 1.7 We need laws that protect Australians from the predatory business models of Meta and other social media platforms. This could include requirements to carry news and information in the public interest, and be taxed properly for their activities and profits on Australian soil.

- 1.8 Above all, the Australian Parliament must have the courage to target big tech where it hurts—their predatory business models that profit off selling Australian users' data, using it to train AI without user consent, and exploiting users' privacy. Young people are particularly vulnerable and at risk. In the UK and EU, we have seen sensible protections that will not only make platforms safer for young people, but for all of us.
- 1.9 While these platforms surpass global borders, they cannot be left beyond the law. They must be held to account and made to pay their fair share and enforce regulations that require them to protect Australians' safety online.
- 1.10 In addition to the recommendations in the majority report, the Australian Greens recommend that:

#### **Recommendation 1**

- 1.11 The Australian Government consider implementing a digital services tax to ensure global giants pay their fair share back to the communities they profit off, similar to those implemented in countries like France and Canada.**

#### **Recommendation 2**

- 1.12 The Australian Government prioritise reforms to secure a diverse media landscape in Australia, including finalising the full implementation of the promised News MAP and conducting a Royal Commission into media regulation, concentration and the impact of the Murdoch empire.**

#### **Recommendation 3**

- 1.13 The Australian Communications and Media Authority is overhauled to ensure it is fit for purpose and can independently enforce regulation and ensure the safety of Australian communities in a digital age.**

**Senator Sarah Hanson-Young  
Deputy Chair  
Senator for South Australia**