

# Response to ACCC Digital Platforms Inquiry

## *Disinformation is the real winner in government's light touch response to the ACCC Digital Platforms Inquiry*

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### SUMMARY

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The ACCC Digital Platforms Inquiry is an unprecedented investigation into the market power of digital platforms like Facebook and Google in Australia. The Inquiry aimed to determine whether the dominance of the two technology giants have resulted in an anti-competitive environment in the Australian media and advertising markets, including in the provision of news and journalism.

Disinformation was one of the standout issues in the 623-page report, with concerns about the harmful spread of disinformation relevant across several recommendations, including through the provision of quality news and journalism, the population's digital literacy skills, and a call for a code to counter disinformation directly.

The Government released their response to the Digital Platforms Inquiry's final report announcing new powers and investment for the ACCC, updates to the Privacy Act and an updated regulatory framework for media.

While many developments are welcome, major action surrounding disinformation has been put off, with a newly announced digital unit within the ACCC to spearhead the action. Further, only a voluntary code of conduct has been sanctioned.

This is despite harmful disinformation being an urgent issue to address for online platforms, particularly surrounding elections.

Importantly, platforms like Facebook have consistently demonstrated that they are unable to manage disinformation in their platforms. Facebook has a policy which allows misleading material and falsehoods to be shared via paid advertising.

Action on these issues should not wait, and a voluntary code of conduct will not ensure that platforms like Facebook are held to account.

## GOVERNMENT RESPONSE TO THE DIGITAL PLATFORMS INQUIRY AND DISINFORMATION

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The Government's response to the Digital Platforms Inquiry outlines several initiatives including:

- A dedicated digital unit within the ACCC, with enforcement powers and \$27 million in funding over the next four years;
- An ACCC facilitated voluntary code of conduct between digital platforms like Facebook and media businesses to address market imbalances, and to combat disinformation and news quality;
- A staged media regulation reform process;
- Updates to the Privacy Act to reflect the current landscape and consumer expectations.<sup>1</sup>

These initiatives are long overdue in addressing the clear market imbalance between the digital platforms and their media and advertising counterparts, and to ensure a fairer ecosystem into the future.

Disinformation is covered extensively in the report. In total, 7 of the 23 recommendations within the report directly addressed disinformation and several more suggested processes to combat it. This includes three recommendations to counter disinformation and help the public ascertain the reliability of the media platforms they use, as well as improve media literacy. A further three calling for government support for journalism, through adequate funding for the public broadcasters, support for local journalism and tax breaks for journalism donations. These three recommendations were rejected outright by the Government.

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<sup>1</sup>The Treasury (2019) *Government Response and Implementation Roadmap for the Digital Platforms Inquiry*, <https://treasury.gov.au/sites/default/files/2019-12/Government-Response-p2019-41708.pdf>

The Government's main proposal for disinformation is a voluntary code of conduct between platforms like Facebook and their media counterparts, taking lessons from similar codes from overseas.

The voluntary code of conduct is a weak approach to urgent issues surrounding disinformation and news quality. Australia must proactively address this issue as it affects us now, and not wait for benchmarks overseas to inform our approach.

The Government's response is disappointing, particularly given that the Prime Minister has previously indicated he would take immediate action in other areas of digital regulation, for example in the wake of the livestreaming of the Christchurch terrorist attack on Facebook, he called for a global crackdown on social media companies.<sup>2</sup>

During the Inquiry, Facebook repeatedly cited that it has existing commercial agreements with the media companies, which the ACCC and the Government were not privy to.<sup>3</sup> Facebook (and other platforms) are unlikely to take voluntary codes seriously which may undermine or attempt to supersede these commercial agreements. Moreover, they have had opportunities to date to address the power imbalance between the publishers but have not made any material changes because the current relationships benefit them.

While the Government gave the new ACCC digital unit enforcement powers and have promised stronger mandates should the voluntary code not be developed properly, they have effectively given the digital platforms another 12 months' reprieve from taking serious action.

There is a clear and urgent need to manage disinformation online. Targeted campaigns of hate, discrimination and division continue to infiltrate Facebook and social platforms.

The Australian Labor Party has highlighted the issue of disinformation as a serious threat, as has called for a mobilisation of progressive parties to organise around the issue.<sup>4</sup> The Government has backed the establishment of a new Senate select

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<sup>2</sup> Laschon and Dalzell (2019) *Scott Morrison wants crackdown on social media companies after sharing of Christchurch shootings footage*, <https://www.abc.net.au/news/2019-03-19/scott-morrison-social-media-companies-christchurch-shootings/10915246>

<sup>3</sup> Facebook (2019) *Facebook's response to the Digital Platforms Inquiry*, <https://fbnewsroomus.files.wordpress.com/2019/09/facebook-submission-to-treasury-on-digital-platforms-inquiry.pdf>

<sup>4</sup> Murphy (2019) *Breaking up social media giants an option to deal with misinformation, Labor says*, <https://www.theguardian.com/world/2019/dec/06/breaking-up-social-media-giants-an-option-to-deal-with-misinformation-labor-says>

committee to examine foreign interference through social media.<sup>5</sup> This follows after Attorney General Christian Porter calling for the social media giants to be defined as “publishers” to be regulated as such<sup>6</sup>, in what many believed to be a foreshadowing of the government’s response which has not eventuated.

This is clearly a bipartisan issue which has been widely discussed, however, the Government response to the ACCC report missed the opportunity to present a substantive solution.

Privacy, which is another key topic, received much more material solutions with specific updates being made to the Privacy Act, and a broader reform of Australian privacy law, including higher penalties for any breaches.

## EUROPEAN UNION CODE OF PRACTICE ON DISINFORMATION

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The Government has cited the European Union’s Code of Practice on Disinformation as a reference point for developing the local Australian version.<sup>7</sup>

The Code of Practice was developed in April 2018 with a wide range of subjects to pursue, including transparency in political advertising, takedown of fraudulent accounts and tackling campaigns of disinformation.<sup>8</sup>

Online platforms including Facebook signed the code and developed voluntary roadmaps for their approaches. Signatories also presented self-assessment reports which outline their progress against their roadmaps and code objectives.<sup>9</sup>

One year on, the EU welcomed some progress into interrupting disinformation services, and developing more initiatives to tackle political advertising.

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<sup>5</sup> Macdonald (2019) *Parliament to examine social media attacks on democracy*, <https://www.abc.net.au/radionational/programs/breakfast/parliament-to-examine-social-media-attacks-on-democracy/11778852>

<sup>6</sup> Hunter (2019) *Law should treat social media companies as publishers: Attorney-General*, <https://www.smh.com.au/politics/federal/law-should-treat-social-media-companies-as-publishers-attorney-general-20191120-p53cch.html>

<sup>7</sup> The Treasury (2019) *Government Response and Implementation Roadmap for the Digital Platforms Inquiry*, <https://treasury.gov.au/sites/default/files/2019-12/Government-Response-p2019-41708.pdf>

<sup>8</sup> DG Connect, (2018) *Code of Practice Disinformation*, <https://ec.europa.eu/digital-single-market/en/news/code-practice-disinformation>

<sup>9</sup> Ibid.

Still, they recognised that “large scale automated propaganda and disinformation persist” and an “urgent need for online platforms to establish a meaningful cooperation with a wider range of trusted and independent organisations”.<sup>10</sup>

Moreover, the self-assessment reports read like a laundry list of self-congratulatory initiatives rather than a focused and strategic assessment of impact.

Australia should find its own way of managing this issue and need not overly delay initiatives based on progress from other countries, which themselves are still new and developing.

## CONTINUED FAILURE TO COMBAT DISINFORMATION

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While it is unavoidable that digital platforms with millions of people on it will inevitably have inaccurate information, disinformation is about the deliberate creation and sharing of false information with the intent of deceiving and causing harm. The weaponization of disinformation and election tampering by far-right groups and conspiracy theorists is an urgent and alarming trend across online platforms.

A University of Oxford report showed “evidence of organised social media manipulation campaigns which have taken place in 70 countries”. Facebook is the platform of choice for these campaigns. The report noted that this was increasing and has now become a “ubiquitous and pervasive part of the digital information ecosystem”.<sup>11</sup>

This is of concern in non-democratic countries with a less robust public square and less developed media literacy. In 2018 Facebook was used to incite genocide against the native Rohingya population in Myanmar. The UN Independent International Fact-Finding mission found that Facebook had a “determining role” in the spread of hate and violence.<sup>12</sup>

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<sup>10</sup> European Union (2019) *Code of Practice on Disinformation one year on: online platforms submit self-assessment reports*, <https://europeansting.com/2019/10/30/code-of-practice-on-disinformation-one-year-on-online-platforms-submit-self-assessment-reports/>

<sup>11</sup> Bradshaw and Howard (2019) *The Global Disinformation Order 2019 Global Inventory of Organised Social Media Manipulation*, <https://comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2019/09/CyberTroop-Report19.pdf>

<sup>12</sup> Aljazeera (2018) UN: Facebook had a 'role' in Rohingya genocide: 'I'm afraid that Facebook has now turned into a beast.', <https://www.aljazeera.com/news/2018/03/facebook-role-rohingya-genocide-180313161609822.html>

In Sri Lanka, anti-Muslim riots organised by extremists turned into deadly violence in 2018. The Sri Lankan government has harshly criticised Facebook for failing to act.<sup>13</sup>

To date, Facebook has largely not changed how it operates in both countries and continues to apply a copy and paste approach to local policy with little concern for the local environment.<sup>14</sup>

The 2019 Australian Federal election showed several instances of disinformation influencing election narratives, including false claims that Labor would implement car and death taxes. Parties repeatedly raised complaints about these false posts to Facebook who refused to have them taken down.<sup>15</sup>

Political advertising on Facebook continues to allow deliberate falsehoods to be propagated throughout the platform including for paid advertising. It is also an issue of concern for Australians, with a recent poll showing overwhelming majority support for tighter controls on political advertising.<sup>16</sup>

In the Netherlands, Facebook's only third-party fact checking agency quit in protest of their policy to allow disinformation in political advertising. Dutch media outlet NU.nl felt increasingly at odds with Facebook management's decision over disinformation and felt compromised by its policies.<sup>17</sup>

A year out from the US 2020 elections, Americans are already being inundated with "politically relevant disinformation", amassing over 158 million views in the last month. The disinformation campaigns are starting much earlier than in the 2016 elections, despite stronger awareness and calls for combating the issue. They are also

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<sup>13</sup> Wong (2019) *Sri Lankans fear violence over Facebook fake news ahead of election Facebook's decision to allow politicians to promote content already rated false by factcheckers has been widely condemned*, <https://www.theguardian.com/world/2019/nov/11/facebook-sri-lanka-election-fake-news>

<sup>14</sup> Frier (2019) *Facebook's Crisis Management Algorithm Runs on Outrage*, <https://www.bloomberg.com/features/2019-facebook-neverending-crisis/>

<sup>15</sup> Wroe (2019) *Labor demands Facebook remove 'fake news' posts about false death tax plans*, <https://www.smh.com.au/federal-election-2019/labor-demands-facebook-remove-fake-news-posts-about-false-death-tax-plans-20190419-p51fpk.html>

<sup>16</sup> Koziol (2019) *Most voters want political advertising banned from social media*, <https://www.smh.com.au/technology/most-voters-want-political-advertising-banned-from-social-media-20191119-p53bz6.html>

<sup>17</sup> Schiffer (2019) *Facebook's only fact-checking service in the Netherlands just quit*, <https://www.theverge.com/2019/11/26/20984097/facebook-fact-checking-netherlands-quit-political-ads-lies-news-policy>

accelerating, with the spread of disinformation happening more than 3 times than the preceding 3-month period.<sup>18</sup>

In the UK, days from the general election, Facebook ads have been found to be “indecent, dishonest and untruthful”. Millions of pounds in advertising are being spent in the lead up to the election, with campaigns of disinformation rampant throughout.<sup>19</sup>

The Guardian Australia revealed on December 2019 a coordinated effort to organise some of Facebook’s biggest far right pages and develop a for profit network built on Islamophobic hate. The investigation revealed that the group now has 21 Facebook pages in its control with over a million followers and connected websites.<sup>20</sup>

The group encourages deep hatred of Islam and tries to influence western politics by amplifying far right parties in Australia, Canada, the UK and the US.

Although Facebook took down some pages and accounts when presented with the findings, alarmingly Facebook was also telling users that dozens of the posts that were distributed adequately met its community standards.<sup>21</sup>

It is clear that Facebook’s current approach to the issue is woefully inadequate. Its continued hard-line stance on allowing political misinformation to be advertised in its platform is in complete contrast to its claim that it is pursuing avenues to combat disinformation in a serious manner.

Whilst the Digital Platforms Inquiry had a consumer lens, it was a landmark opportunity to hold platforms like Facebook to account and present substantive solutions towards the issue of disinformation.

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<sup>18</sup> Gilbert (2019) *2020 Voters Are Already Being Inundated by Fake News on Facebook*, [https://www.vice.com/en\\_us/article/bjwky3/2020-voters-are-already-being-inundated-by-fake-news-on-facebook](https://www.vice.com/en_us/article/bjwky3/2020-voters-are-already-being-inundated-by-fake-news-on-facebook)

<sup>19</sup> Tidy and Schraer (2019) *General election 2019: Ads are ‘indecent, dishonest and untruthful’*, <https://www.bbc.com/news/technology-50726500>

<sup>20</sup> Knaus et al (2019) *Inside the hate factory: how Facebook fuels far-right profit*, <https://www.theguardian.com/australia-news/2019/dec/06/inside-the-hate-factory-how-facebook-fuels-far-right-profit>

<sup>21</sup> Knaus, McGowan and Evershed (2019) *Facebook tells users Islamophobic posts meet its community standards despite investigation*, <https://www.theguardian.com/australia-news/2019/dec/09/facebook-tells-users-islamophobic-posts-meet-its-community-standards-despite-investigation>

However, the Government's response of a voluntary code of conduct, to be developed over another 12 months, is a weak and ineffective solution towards a problem that is urgent, damaging and continuing to divide and manipulate us.

## CONCLUSION

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The landmark ACCC Digital Platform Inquiry was a great opportunity for the Australian government to lead much needed reform in the online media and advertising industry.

However, the Government chose to deliver a light touch response on the issues which have been clearly and thoroughly presented.

The most urgent issue of disinformation online platforms continues to be unaddressed, with the call for a voluntary code of conduct falling well short of the action needed.

Platforms like Facebook have continually fallen short of the management of harmful disinformation and their current voluntary efforts demonstrate that stronger regulation is required.