Ms. Kate Reader
General Manager, Digital Platforms Branch
Australian Competition & Consumer Commission
135 King Street Sydney 2001
Via email: digitalmonitoring@accc.gov.au, [redacted]

Thursday August 22, 2024

Dear Ms. Reader,

The Digital Industry Group Inc. (DIGI) thanks you for the opportunity to provide our views on the Issues Paper for the tenth and final report of the ACCC's 5-year inquiry into markets for the supply of digital platform services (the Inquiry).

As you will be aware, DIGI is a non-profit industry association that advocates for the interests of the digital industry in Australia. DIGI's founding members are Apple, Discord, eBay, Google, Meta, Microsoft, Snap, Spotify, TikTok, Twitch, X and Yahoo. DIGI's vision is a thriving Australian digitally-enabled economy that fosters innovation, a growing selection of digital products and services, and where online safety and privacy are protected.

DIGI's members include companies of varying sizes and market status; as such, our submission focuses on the Issues Paper's consumer recommendations, not its competition recommendations. DIGI and its members believe that the digital industry has an important responsibility to address consumer detriment, and that the Australian Government has an important role to play in examining evidence of consumer harm, evaluating existing rules and providing proportionate and targeted interventions to protect consumers.

DIGI shares the Government's strong commitment to consumer protection, and we are a key Government partner in this area, through our code development, partnerships, and our ongoing engagement with proposed regulation. In this submission, we wish to highlight two areas of our recent work that are relevant to efforts to protect consumers in relation to issues on digital platforms, alongside broader considerations related to these and other related work in ensuring consumer protection on digital platform services.

Scams

The Australian Online Scams Code

Given the Inquiry's interest in scams, we wish to provide an update on an important and recent industry-led voluntary code practice launched on July 26, 2024, developed by DIGI, known as *The Australian Online Scams Code*[1]. The AOSC is a proactive effort from the digital industry in line with the Government's wider legislative agenda in scams, and an important step in realising the Government's pre-election commitment for a social media scams code.

DIGI advised the Government on February 22, 2024 about our work to develop a scams code of practice for the digital industry. DIGI formed an industry working group that met regularly to proactively identify effective anti-scam measures common to the diverse digital industry that could

[1] The Australian Online Scams Code, www.digi.org.au/scams

serve as a blueprint for best practice. DIGI has sought a collaborative approach with the Government to the development of this code, with regular meetings with relevant Ministerial offices, and opportunities to provide feedback via workshops and the sharing of drafts.

The AOSC seeks to create alignment, and avoid duplicative consultation processes, with forthcoming mandatory codes. The code's scope reflects the Government's Federal Budget announcement to include social media services, paid search engine advertising and direct messaging[2]. DIGI also considered it important to include further categorisation and additional services, such as social media services with peer-to-peer marketplaces, and email.

To date, the AOSC has been adopted by Discord, Google, Meta, Snap, TikTok, Twitch, X and Yahoo. The code includes comprehensive measures under 9 key themes:

1. *Blocking*: Deploy measures to detect and block suspected scams.
2. *Reporting*: Have a simple and quick route for users to report possible scams.
3. *Takedowns*: Take quick action against verified scam content and scammers.
4. *Advertising*: Deploy measures to protect people from scam advertising.
5. *Email and messaging*: Deploy specific measures to protect people from scams in emails and private messages.
6. *Law enforcement*: Engage with law enforcement efforts to address scams.
7. *Intelligence sharing*: Contribute to public-private and cross-sectoral initiatives to address scams.
8. *Communications*: Provide information about scam risks and support counter-scam efforts.
9. *Future proofing*: Contribute to strategy development and future proofing exercises to stay ahead of the threat.

Some examples of the key uplifts in protections for consumers under the code include advertising commitments related to: the verification or authentication of new advertisers; advertisers holding the necessary financial services licence to advertise a regulated financial service; and the screening of advertisements for suspicious content. The AOSC also codifies increased intelligence sharing with the Government, the National Anti-Scam Centre (NASC), the ACCC, the ACMA, law enforcement and other industry partners to support scam identification and prevention. In addition, signatories are required to develop an internal scams strategy in order to drive improvements in counter-scam efforts over time.

DIGI looks forward to our continued work alongside the Government, the ACCC, the National Anti-Scam Centre, community groups, and industry to deliver strengthened protections for Australian consumers over time through the Australian Online Scams Code and under the forthcoming Scams Code Framework. DIGI has long supported the establishment of the National Anti-Scams Centre (NASC) and is proud to be represented on its Advisory Board, and its Data Integration and Technology Working Group. We are supportive of the 'ecosystem' approach the NASC takes to foster close collaboration across and between industry and government.

Considerations in relation to scams

The Issues Paper notes that the ACCC aims to revisit the earlier Digital Platform Services Inquiry (DPSI) report on app distribution services, which included a discussion about scams. As mentioned, DIGI notes the Government's intended focus for the Scams Code Framework is social media services, paid search engine advertising and direct messaging. Mainstream app distribution services offered by our members are not a primary source of scams, noting the app review functions in place that mitigate this prospect, compared to other services or methods of downloading.

[2] Budget 2024-25 Budget Measures Budget Paper No. 2, available at https://budget.gov.au/content/bp2/download/bp2_2024-25.pdf, p. 180

More broadly, as the ACCC further explores issues relating to scams, we encourage improvements in the data collected by Scamwatch in order to improve awareness of the origins of scams. Currently, members of the public seeking to report scams have the option to select 'social media/online forums', 'internet', 'mobile apps' and 'internet'. These categories are both broad and interchangeable e.g. online forums are both accessible via mobile apps, and browsers. Furthermore, we understand 'online forums' to include a wider range of websites including professional trading websites, of which social media is a quantifiably unknown subset. More precision and granularity will afford the ACCC with more accurate data sources about scams on which to base possible future lines of inquiry and regulatory proposals.

Dispute resolution

Internal Complaints Handling Code (ICHC)

Given the Inquiry's attention to date on dispute resolution and complaints handling, DIGI also seeks to update the Digital Platforms Branch about relevant industry-led efforts in this regard. On February 6, 2024, the Digital Industry Group Inc. (DIGI) and other industry associations received a letter from Communications Minister Michelle Rowland and Assistant Treasurer Stephen Jones, requesting the development of a voluntary internal dispute resolution code by July 2024.

DIGI took this request forward and convened a working group of major digital platforms, largely within our membership, to prepare a set of principles that could span a broad range of types of digital services, within the short timeframe provided. We provided a draft of this voluntary code, known as Internal Complaints Handling Code (ICHC) on July 31, 2024, to relevant Ministers and departmental staff for consideration. Recognising that this work has been undertaken at the Government's request, DIGI has provided this code in draft form to both Ministers and relevant departments in order to invite feedback prior to public launch.

Mainstream digital services have a large number of existing channels for resolving consumer complaints, including working with regulators, ombuds schemes, state and territory fair trading authorities, and referrals from the ACCC. DIGI has developed the ICHC with a series of principles which could sit across all of this extensive existing work. A principles-based code can help in transparently setting out what consumers should expect across all relevant complaints processes. In developing the code, we have also carefully considered various resources, including the ACCC's 2019 Digital Platforms Inquiry, the ACCC's Regulatory Reform Report, consumer complaint standard AS/NZS 10002:2014 *Guidelines for complaint management in organisations*, and ASIC's RG271 guidance on internal dispute resolution. We have adapted many of these principles to be relevant for the digital platforms sector, which has a much more diverse set of services and operating structures than banking products, in addition to being globally operated and online in nature.

Considerations in relation to dispute resolution

Noting our development of *The Australian Online Scams Code*, DIGI recognises that the need to address scams was the original rationale for the ACCC's recommendation for an internal dispute resolution code in its 2019 Digital Platforms Inquiry report, and that combatting scams is a major priority for the Government. Subsequent to receiving the correspondence from Government in February 2024, we have been advised that the Government will also be proceeding with mandatory external dispute resolution regulation, as part of or in addition to forthcoming mandatory regulation and industry-designed commitments on scams. Given it is not clear how internal and external dispute resolution schemes may interact, we would welcome ongoing engagement with the Government on the external dispute resolution scheme as it develops, in order to work toward a cohesive approach within the industry, and across the various Government departments involved, that considers the interaction between internal and external dispute resolution schemes.

Future ACCC work on Digital Platform Services

The ACCC's Digital Platforms Inquiry has been foundational in spurring a range of reforms in Australia. There are now established processes for a multitude of related reforms in a range of areas of Government, in which stakeholders have opportunities to engage outside of the periodic DPSI reports. For example, the Issues Paper's exploration of Generative AI highlights that there will be a Treasury review on existing regulations relating to consumer law and AI; DIGI looks forward to engaging in this review, along with other stakeholders. The existence of such processes raises questions about whether the structure of the DPSI was suitable in understanding potential or emerging issues in nascent or developing markets. Six monthly reports do not allow sufficient time to understand complex, novel and fast-evolving issues. DIGI notes that a formal Inquiry model is not necessary for the ACCC to monitor developments in digital markets.

As the ACCC considers overseas legislative and regulatory developments in markets for digital platform services and the impact on competition and consumers, we encourage a thoughtful review of the specific harms that the ACCC seeks to target in any additional reforms impacting on digital platform services. We further urge the ACCC to closely consider the impact of developing overseas regulations before transplanting any similar legislative efforts to Australia markets.

In general, DIGI encourages a balance between targeted digital platform-specific measures and economy-wide measures, and the importance of parity in a digital economy, in order to ensure uniform consumer expectations. Economy-wide approaches to addressing consumer protection provide consumers with a baseline of protections in a wide range of online environments, as well as offline.

We hope that the information enclosed in this submission is useful as you further consider approaches to these issues, and we would welcome the opportunity to discuss this input further.

Best regards,

[redacted]

Sunita Bose
Managing Director, DIGI
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