

Submission

23 March 2023

Via online portal: <https://onlinesafety.org.au/>

Re: Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material)

The Australian Communications Consumer Action Network (ACCAN) thanks The Steering Committee of industry associations for the opportunity to provide feedback on the *Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material)* (the Draft Codes). As Australia's key communications consumer representative body, ACCAN is keen to ensure consumer interests are taken into consideration in the development of any new legislation and other regulations that affect communications consumers. The *Online Safety Bill* is relevant to ACCAN's advocacy work because it addresses the potential consumer harms that arise from one of the uses of telecommunications technology.

In general, ACCAN welcomes measures that contribute to a safe online environment, empower consumers and provide transparency and accountability.

ACCAN supports the changes made to the draft Codes in response to the eSafety Commissioner's feedback to the initial draft Codes. ACCAN expects that these changes will provide greater clarity to all stakeholders – end-users in Australia, industry and the eSafety Commissioner, in the application, compliance and enforcement of the Codes.

ACCAN makes the following comments on the draft Codes:

- The Head Terms needs a copy-edit, there are a number of incorrect words in the text i.e. multiple uses of 'pupose' instead of "purpose', as well as a couple of incoherent sentences i.e. the first sentence in Section 6.1 Limitations.
- ACCAN continues to have concerns regarding the lack of clarity around dispute resolution and redress processes in the draft Codes. While the eight draft codes each contain instructions to provide consumers with mechanisms to flag content or complain about lack of code compliance there is little detail about processes for users to appeal decisions or seek redress for loss of content or account access. ACCAN has concerns about the lack of information regarding how innocent users might appeal false positives or incorrectly applied policies and avoid undue disruption to their accounts and content. Consumers will require clarity about how they can appeal decisions and seek redress.

ACCAN asserts that digital communication requires clear avenues for consumer complaints and redress. The Draft Codes should be amended to explicitly place the eSafety Commission as an effective avenue of appeal for consumers. For example, research at the University of Technology Sydney has found that there are a collection of existing bodies, including the eSafety Commission, that contribute to assisting consumers of online platforms and this could be confusing for consumers. The researchers note that the “need for one point of entry to address consumer confusion and frustration was an emphatic recommendation of the community and consumer representatives we consulted as part of this research.”¹

While that recommendation regards the related question of a digital platforms ombudsman scheme, it underlines the importance of understanding that digital communications decisions can go wrong and consumers require effective means of appeal and redress. In the case of the Draft Codes, we feel that the eSafety Commission should be explicitly included as an avenue for consumers to appeal decisions made under the codes and minimise consumer harm from incorrect decisions.

Yours sincerely,

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Australian Communications Consumer Action Network (ACCAN)

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

¹ H Raiche, D Wilding, K Lee & A Stuhmcke, 2022, p.50. *Digital Platform Complaint Handling: Options for an External Dispute Resolution Scheme*. Available at: <https://www.uts.edu.au/sites/default/files/2022-08/CMT%20DPCH%20Report%20-%20electronic%20version.pdf>