

# NetThing 2021 - The role of consumers in building trust in digital platforms

Speech by ACCAN Acting CEO – Andrew Williams

## - CHECK AGAINST DELIVERY -

Building trust is a slow process. One that takes time, ongoing effort, and maintenance.

Conversely, losing trust can happen in an instant. One bad call, one misstep, and years of cultivating trust can be in jeopardy.

According to the 2021 Edelman Australia Trust Barometer, social media companies are the least trusted of all industries, falling well behind telecommunications, and even financial services.

The 2021 report shows that technology companies were the only industry to lose trust from 2020-2021, rather than gain it from Australians.

As the consumer voice for communications consumers, these statistics are not shocking or surprising to ACCAN.

We engage with consumers and advocates daily who express concern about a wide range of issues from misinformation spreading online that impacts their communities, to cyber abuse, to being unaware of their rights when using digital platforms.

While the introduction of voluntary industry codes like DIGI's 'Australian Code of Practice on Disinformation and Misinformation', and new legislation such as the Online Safety Act have been introduced to combat these issues, the fact remains that there has been no consumer voice in the rule making process.

*This brings us back to the issue of trust: how are we supposed to build consumer trust in digital platforms when the industry, regulators, and the government have no obligation to consult with consumers on the rules that will be impacting them every day?*

Over the course of this session, I want to briefly outline our thoughts on why building trust amongst consumers is so important for building better rules regarding digital platforms, and our approach to making this happen.

The Online Safety Act will introduce a new set of industry codes that will be developed by industry and then reviewed and registered by the eSafety Commissioner.

The Act provides an extensive list of examples of matters that may be dealt with by industry codes and standards. The eSafety Commissioner has fit these into three broad categories:

Measures to create and maintain a safe online environment

Measures to empower persons to manage access to class 1 and class 2 material

Measures focused on transparency and accountability.

The new codes are to be implemented across eight different sections of the online industry – social media services, websites, search engines, app stores, internet service providers, device manufacturers, hosting services, electronic services including email, messaging, gaming and dating services

These numerous new industry codes need to be developed and implemented by July 2022.

Or, if the industry adopts a phased approach to codes development, codes dealing with the most harmful, Class 1, content must be lodged for registration by July 2022, and codes dealing with content which is inappropriate for children, Class 2 content, must be lodged for registration by December 2022.

This means that the technology industry could have as little as nine months to draft as many as eight new codes, consult their members on their thoughts, refine accordingly, and get the codes ready for review and registration.

While it's fantastic to see the government is eager to implement changes to protect Australians online, this is code development at hyper speed and could pose a number of issues – not the least of which is not allowing for proper consultation with consumers.

One of the key challenges of developing effective self-regulatory codes is the need to have a broad range of expertise and perspectives involved. Issues pertaining to technology, security, privacy, human rights, digital inclusion, communications, and community interests all need to be considered. Having early participation and involvement of a broad cross section of stakeholders who will be impacted by the regulation is also proven to result in more effective codes and to build community trust in the successful implementation of these new rules.

The ACCC's *'Guidelines for developing effective voluntary industry codes of conduct'* states that codes of conduct tend to be more effective when the self-regulatory body charged with administering the code comprises representatives of the key stakeholders, including consumers, consumer associations, the government and other community groups. Likewise, Consumers' Federation Australia says that consultation or consumer engagement process should be meaningful, genuine, and efficient. They also highlight that the process should not be rushed and should be sufficient to ensure the relevant body is 'really listening' to stakeholders.

In the case of the industry codes being developed as part of the Online Safety Act, there is doubt about whether the consumer voice is truly being heard, or if it is an echo chamber of industry talking to government and vice versa. While the *'Industry codes position paper'* indicates that the eSafety Commissioner and the industry associations developing the codes need to have a meaningful consultation with both the industry that they are representing and also with the community, there is very little detail about what meaningful consultation would actually mean. If the main intent of these new rules is to protect consumers, it is vital that they undertake to understand what online conduct and content community members are concerned about.

In order for the technology industry to build trust with the community, it is vital to have input from people from a wide range of backgrounds, including People with Disability, culturally and linguistically diverse communities, Indigenous Australians, young people, older people and people from regional, rural, and remote communities. We believe that collaborative community consultation delivers better codes through more cooperation, creates higher public awareness, delivers more effective code implementation, and enables better complaint processes once the codes are registered.

As the peak body for communications consumers, ACCAN is well versed in providing the public's perspective on issues to industry, regulators, and the government. Knowing that the consultation period for the new rules is very limited, ACCAN has convened the eSafety Community Group – a group designed to reflect the diverse perspectives of our communities. With members including First Nations Media Australia, the Federation of Ethnic Communities Councils of Australia, Isolated Children's Parents' Australia, Australian Education Union, Australian Seniors Computer

Clubs Association, Women’s Legal Service NSW, and more, ACCAN’s eSafety Community Group aims to ensure the voices of everyday Australians are heard by decision makers operating in the digital platforms space. Given the condensed timeframe that the industry has for code development, the eSafety Community Group has been established as a manageable mechanism to enable consumer interests to be represented in the code development process.

One of the key issues that arose at the initial meeting of the Group was a varying level of awareness of the Online Safety Act and its implications. While the privacy experts present were across much of the detail, other consumer organisations whose communities would be dramatically impacted by the new rules had no idea about the proposed changes. The very notion of the industry and regulators having “meaningful community consultation” is challenged if key parts of the community are unaware of the consultative context. While ACCAN does not currently have dedicated resources for consumer consultation on the eSafety codes (unlike in telecommunications code development) we have endeavoured to educate our members and the wider community on these important matters so that the codes will better able to meet public expectations about transparency and accountability and they will carry more legitimacy and credibility.

ACCAN has written on behalf of the eSafety Community Group to two of the main industry bodies in charge of developing industry codes under the Online Safety Act: Communications Alliance and DIGI to request a meeting. To date, we’re pleased that our engagement with DIGI has been especially productive, and they seem to be open to taking the steps necessary to build consumer trust in the codes and the digital platforms themselves. That being said, there is still a wide array of actions needed to build consumer trust within the technology industry and the regulators, including circulating early versions of code for consumer comment, and incorporating feedback to ensure consumer concerns are addressed in the early stages.

Regulation is notorious for lagging behind innovation in the technology sector. It is truly amazing that the government, through the eSafety Commissioner, the ACCC and other regulatory bodies, have made the progress that they have in trying to make the online world a safer place. We recognise that trying to govern digital platforms can often feel like playing a game of “whack-a-mole”, where new issues arise just as quickly as existing issues are being addressed.

In order to work towards a world where digital platforms are trusted by the very people and communities that they are built for, community consultation in the rule making process cannot be an afterthought. Building trust takes time, but it is a journey that can be rewarding to all involved.