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## Submission

**22 August 2024**

Australian Competition and Consumer Commission

Via email: [digitalmonitoring@acc.gov.au](mailto:digitalmonitoring@acc.gov.au).

### **Re: Digital Platform Services Inquiry – March 2025 – Final report**

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to comment on the Digital Platform Services Inquiry – March 2025 – Final report issues paper (**the Issues Paper**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

Digital communications services have become ubiquitous in Australian society. Australian telecommunications policy needs to urgently adapt to the integral role that digital communications services now play, including imposing similar responsibilities and regulatory settings on these digital communications companies as those imposed on the existing telecommunications sector. Despite early leadership on digital platforms regulation, Australia risks falling behind if it does not act.<sup>1</sup>

To protect consumers, ACCAN recommends that the government:

- Prioritise the introduction of mandatory internal dispute resolution standards and expansion of the Telecommunications Industry Ombudsman’s remit to include digital communications.
- Introduce all consumer protection and competition measures recommended by the ACCC in Digital Platform Services Inquiry Interim Report No. 5.
- Expand the telecommunications industry levy under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) to include digital communications services.

For more details on our recommendations please see **Attachment A**.

We thank the ACCC for the opportunity to comment on the Issues Paper. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at [samuel.kininmonth@accan.org.au](mailto:samuel.kininmonth@accan.org.au).

Yours sincerely,

Sam Kininmonth  
Senior Policy Adviser

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<sup>1</sup> Morton, R 2024. ‘ACCC pushes to regulate tech platforms’. *The Saturday Paper* (6 July).

## Attachment A

### **The government should prioritise the immediate introduction of mandatory internal dispute resolution standards**

Consumers of digital platforms services continue to face uncertain avenues to raising and resolving disputes with digital communications services. As one Australian journalist wrote recently about their own experience of being locked out of their Facebook and Instagram accounts:

[D]on't expect any support as an average punter who encounters problems on this site, as I've experienced first-hand. Need help? You're on your own.<sup>2</sup>

Effective internal dispute resolution (**IDR**) is necessary to provide consumers with clear and cost-effective means to seek redress when resolving disputes with platforms. As the ACCC states, inadequate IDR can 'reduce user trust in digital platforms and the broader online environment' and 'increase the time taken and cost associated with resolving disputes'.<sup>3</sup> In the absence of effective IDR, consumers have limited avenues to resolve issues in the first instance and at least cost. This results in unnecessary harm to consumers and platforms who see consumers disengage from their platforms and public trust continue to fall.<sup>4</sup>

Mandatory IDR processes for digital communications services would facilitate the satisfactory and timely resolution of consumer complaints. The ACCC has suggested that mandatory standards could be modelled on ASIC *Regulatory Guide 271: Internal dispute resolution* (RG271) which includes requirements with regards to visibility, accessibility, cost, responsiveness, remedies, timeliness, objectivity and fairness, privacy and record keeping.<sup>5</sup> ACCAN urges the government to prioritise mandatory standards for internal dispute resolution processes.<sup>6</sup>

### **The government should prioritise the immediate expansion of the Telecommunications Industry Ombudsman to include digital communications**

External dispute resolution (**EDR**) bodies are critical for consumers to resolve disputes when internal dispute resolution avenues have been exhausted or not offered. The ACCC notes that while a 'prohibition on unfair trading practices and strengthening of the unfair contract terms provisions' would offer some help to digital platforms services users, a digital ombuds scheme would offer 'more immediate and practical solutions for individual platform users than enforcement of ACL prohibitions'.<sup>7</sup>

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<sup>2</sup> Markus, N 2024. My Facebook profile was hacked but all the platform offered was a faceless void. *The Guardian*. Available at: <https://www.theguardian.com/commentisfree/article/2024/jun/11/my-facebook-profile-was-hacked-but-all-the-platform-offered-was-a-faceless-void>

<sup>3</sup> ACCC 2022, p.93. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

<sup>4</sup> The 2023 Edelman trust barometer found that social media is the least trusted sector and had declined from 2022; Edelman 2023. *Edelman Trust Barometer*. Available at:

<https://www.edelman.com.au/sites/g/files/aatuss381/files/2023-02/2023%20Edelman%20Trust%20Barometer%20Report%20-%20AUS%2002-2023.pdf>

<sup>5</sup> ACCC 2022, p.93. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

<sup>6</sup> ACCC 2022. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

<sup>7</sup> ACCC 2022, p.98. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

Despite the ACCC's repeated recommendations for an independent external dispute resolution body since 2019, consumers still have no avenue to address their problems with digital communications services. Accenture estimates that:

Given the scale and scope of interactions online, the economic cost of issues, complaints and disputes in Australia each year is \$4.2 billion of which the majority (\$3.7 billion) is the cost to users and businesses.<sup>8</sup>

The Telecommunications Industry Ombudsman (TIO) reports being approached by Australian social media users who have nowhere else to turn. Between 1 July 2021 and 19 April 2024, the TIO received approximately 900 enquiries from consumers about digital platforms.<sup>9</sup>

The TIO has expressed being willing to take on the role. Ombudsman Cynthia Gebert states that:

The TIO is ready to expand its remit to take complaints about digital platforms, either through a pilot or as a permanent part of our jurisdiction.<sup>10</sup>

The TIO further suggests that an expansion in its remit could be funded by charging digital platform companies a membership fee like telecommunications.<sup>11</sup> In ACCAN's view the government should immediately expand the TIO scheme to include digital communications services that perform similar functions to carriage service providers.

### **The government should introduce all digital platforms measures recommended by the ACCC**

Digital platforms services are now an essential part of consumers' lives, and consumers need to be able to use these services safely. The ACCC's fifth interim report found that scams, harmful apps and fake reviews are key harms that undermine consumer trust in the digital economy.<sup>12</sup> The report recommended mandatory measures to address these sources of consumer harm, including:<sup>13</sup>

- a notice-and-action mechanism
- verification of certain business users
- additional verification of advertisers of financial services and products
- improved review verification disclosures
- public reporting on mitigation efforts

<sup>8</sup> Accenture 2023, p.3. Mapping dispute resolution on digital platforms. Available at: <https://www.infrastructure.gov.au/sites/default/files/documents/foi--23-037.pdf>

<sup>9</sup> TIO 2024, p.2. *Submission to the Joint Select Committee on Social Media and Australian Society*. Available at: <https://www.tio.com.au/sites/default/files/2024-07/20240626%20-%20TIO%20submission%20to%20Joint%20Select%20Committee%20on%20Social%20Media%20and%20Australian%20Society.pdf>

<sup>10</sup> TIO 2023. *TIO makes the case to lead world-first Ombudsman service for digital platform complaints*. Available at: <https://www.tio.com.au/news/tio-makes-case-lead-world-first-ombudsman-service-digital-platform-complaints>

<sup>11</sup> TIO 2023, p.19. *Submission to the Commonwealth Department of the Treasury: Consultation on ACCC's regulatory reform recommendations*. Available at: <https://www.tio.com.au/sites/default/files/2023-03/TIO%20submission%20to%20Treasury%20-%20digital%20platforms%20regulatory%20reform.pdf>

<sup>12</sup> ACCC 2022, p.72. *Digital platform services inquiry - September 2022 interim report - Regulatory reform*. Available at: <https://www.accc.gov.au/about-us/publications/serial-publications/digital-platform-services-inquiry-2020-25-reports/digital-platform-services-inquiry-september-2022-interim-report-regulatory-reform>

<sup>13</sup> ACCC 2022, p.16. *Digital platform services inquiry - September 2022 interim report - Regulatory reform*. Available at: <https://www.accc.gov.au/about-us/publications/serial-publications/digital-platform-services-inquiry-2020-25-reports/digital-platform-services-inquiry-september-2022-interim-report-regulatory-reform>

These basic, mandatory requirements would ensure a baseline level of consumer protections on digital platform services. Since the interim report's publication there have been some developments around scams codes, notably the digital communications industry releasing a voluntary scams code.<sup>14</sup> While encouraging to see industry taking a role in scam mitigation, the code lacks many protections called for by consumer groups.<sup>15</sup> Omissions from the code include a phone option to contact digital communications services and clear timeframes to act on reported scams.

The government recently announced support for mandatory industry scam codes.<sup>16</sup> While the mandatory scam codes may help with scam problems, they still do not address other key harms from harmful apps and fake reviews. ACCAN urges the government to introduce all the targeted digital platform measures to prevent and remove scams, harmful apps and fake reviews as recommended by the ACCC's fifth interim report.<sup>17</sup>

### **The government should legislate competition measures recommended by the ACCC**

Many digital communications markets are dominated by a handful of companies. Across the DPSI the ACCC has considered competition for: data firms, digital platform ecosystems, social media, online retail, web search, mobile apps and private messaging, often finding 'substantial and enduring' market concentration.<sup>18</sup> Similar conclusions are being drawn in other jurisdictions. For example, a US judge recently found that 'Google is a monopolist in the US in markets for general search services and general search text ads and has acted as one to maintain its monopoly'.<sup>19</sup>

Targeted obligations recommended by the ACCC for large digital platforms include:<sup>20</sup>

- anti-competitive self-preferencing.
- anti-competitive tying.
- exclusive pre-installation and default agreements that hinder competition.
- impediments to consumer switching.
- impediments to interoperability.
- data-related barriers to entry and expansion, where privacy impacts can be managed.
- a lack of transparency.
- unfair dealings with business users.
- exclusivity and price parity clauses in contracts with business users.

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<sup>14</sup> DIGI 2024. Available at: <https://digi.org.au/scams/>

<sup>15</sup> Consumer Action Law Centre, CHOICE, Australian Communications Consumer Action Network 2024. *Joint Submission to the Treasury on Scams - Mandatory Industry Codes*. Available at:

<https://www.choice.com.au/consumer-advocacy/policy/policy-submissions/2024/joint-scams-submission>

<sup>16</sup> Australian Government 2024. *Albanese Government continues crackdown on scammers*. Available at:

<https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/albanese-government-continues-crackdown-scammers>

<sup>17</sup> ACCC 2022. *Digital platform services inquiry - September 2022 interim report - Regulatory reform*. Available at: <https://www.accc.gov.au/about-us/publications/serial-publications/digital-platform-services-inquiry-2020-25-reports/digital-platform-services-inquiry-september-2022-interim-report-regulatory-reform>

<sup>18</sup> ACCC 2024, p.36. *Digital platform services inquiry 2020-25*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25>

<sup>19</sup> ACCC 2024. *ACCC accepts undertaking from TPG in ongoing investigation into Google's search services*. Available at: <https://www.accc.gov.au/media-release/accc-accepts-undertaking-from-tpg-in-ongoing-investigation-into-googles-search-services>

<sup>20</sup> ACCC 2022. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

In ACCAN's view the targeted codes for obligations in each service-type must be mandatory. Allowing the codes to be voluntary risks rendering them ineffective to prevent anti-competitive behaviour. ACCAN recommends that the government implement targeted ex-ante regulation to promote competition in digital platform markets.<sup>21</sup>

**The government should explore expanding the telecommunications industry levy (TIL) under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) to include digital communications services**

Digital communications services, such as social media, online messaging and video calls, have converged with traditional carriage service providers. Some digital communications companies earn an estimated hundreds of millions of dollars in revenue in Australia each year.<sup>22</sup> In ACCAN's view, large digital communications services are part of essential communications infrastructure and so should contribute to funding public interest telecommunications services under an expanded Telecommunications Industry Levy (TIL).<sup>23</sup>

The TIL is administered by the Australian Communications and Media Authority under the *Telecommunication Industry Levy Act 2012* (Cth) and *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth). To provide equitable access to internet-based communication, the TIL requires an expansion of its scope and an amendment to its funding base. An expanded TIL would ensure:

- Funding for proper community consultation on digital communications policies
- Equitable provision and access to broadband internet services
- Resilient internet infrastructure

An expanded TIL would provide a sustainable funding pool to fund services desired to eliminate service gaps and enable equitable access to communications – both traditional and digital – regardless of personal circumstances. The government should explore expanding the TIL under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) to include digital communications services.

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*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. ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples. [Read our RAP](#)*

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<sup>21</sup> ACCC 2022. *September 2022 interim report*. Available at: <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25/september-2022-interim-report>

<sup>22</sup> ACCC 2023. *Digital platforms services inquiry: Interim report 6: Report on social media services*. Available at: [https://www.accc.gov.au/system/files/Digital%20platforms%20services%20inquiry%20-%20Interim%20report%206%20-%20Report%20on%20social%20media%20services\\_0.pdf](https://www.accc.gov.au/system/files/Digital%20platforms%20services%20inquiry%20-%20Interim%20report%206%20-%20Report%20on%20social%20media%20services_0.pdf)

<sup>23</sup> ACCAN 2024. *Joint Select Committee on Social Media and Australian Society*. Available at: <https://accan.org.au/accans-work/submissions/2315-joint-select-committee-on-social-media-and-australian-society>