

Submission

19 July 2024

Committee Secretary
Joint Select Committee on Social Media and Australian Society

Re: Joint Select Committee on Social Media and Australian Society

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Joint Select Committee on Social Media and Australian Society (**the Committee**) for the opportunity to submit to the inquiry on the influence and impacts of social media on Australian society (**the Inquiry**).¹

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.

Social media, digital communications services and telecommunications have converged and become ubiquitous in Australian society. Accordingly, communications policy needs to urgently adapt to the integral role that social media and 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.

ACCAN recommends that the Australian Government:

- Adopt outstanding recommendations from the Australian Competition and Consumer Commission's (**ACCC**) fifth interim report for the Digital Platform Services Inquiry.²
- Revise and expand the Telecommunications Industry Levy (**TIL**) to ensure that it is technology-neutral and accounts for digital platforms including social media.
- Support the implementation of all 116 recommendations from the Attorney General's Privacy Act Review.³
- Mandate internal dispute resolution for digital platforms including social media.
- Empower the Telecommunications Industry Ombudsman (**TIO**) to expand its remit to digital platforms including social media.
- Promote targeted competition measures for digital platforms including social media.

Please see a more detailed response to the consultation in **Attachment A**, with further recommendations to revise the TIL in **Attachment B**.

¹ Parliament of Australia 2024. *Joint Select Committee on Social Media and Australian Society*. Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Social_Media

² 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>

³ Attorney-General's Department 2023. *Privacy Act Review Report*. Available at: <https://www.ag.gov.au/rights-and-protections/publications/privacy-act-review-report>

We thank the Committee for the opportunity to submit to the Inquiry. 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.

Yours sincerely

Sam Kininmonth
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Attachment A: Key consumer recommendations for social media

1. Consumer representation is needed for digital communications

ACCAN recommends that consumer representation be adequately funded to properly engage with emerging issues facing Australian consumers using digital communications services. These services, commonly referred to as digital platforms, are a popular means for Australians to communicate with each other.⁴ However, there is no dedicated Australian consumer organisation representing the interests of consumers in the ever-expanding digital platform environment.⁵

As the peak communications consumer body, ACCAN considers that our organisation, if effectively resourced to acquit this role, would provide the consumer voice necessary to ensure that Australian consumers can use digital platforms confidently and safely. See **Appendix B** for ACCAN's view on how the TIL could be expanded to fund consumer representation for digital communications.

2. Consumer protections are needed for digital communications

2.1 Scams

ACCAN recommends the Committee consider the range of proposals proposed by ACCAN and other consumer groups in relation to mandatory industry codes to reduce scams.⁶

ACCAN supports:

- obligations to require digital communications platforms to prevent the hosting of fraudulent ads on their platforms.
- Requirements for digital communications platforms to maintain a publicly accessible and searchable database of advertising.

To support the prevention of scams, we recommend measures to:

- Verify business users who sell and advertise on platforms.
- Accelerate platform responses to flagged scamming accounts and activity.
- Detail processes and methods for digital platforms to prevent account hacking and specify a 48-hour time period to restore user accounts.
- Strengthen information sharing with the National Anti-Scam Centre.

To support the response to scams, we recommend digital communications services:

⁴ We Are Social 2022. *Digital 2022 Australia: online like never before*. Available at:

<https://wearesocial.com/au/blog/2022/02/digital-2022-australia-online-like-never-before/>

⁵ ACCAN 2021, *Submission to ACCC Digital Platforms Inquiry Report on market dynamics and consumer choice screens in search services and web browsers*. Available at: <https://accan.org.au/accans-work/submissions/1847-acc-consumer-choice-screens>

ACCAN 2022, p.6. *Digital Platform Services Inquiry – March 2023 Report on Social Media Services*. Available at: <https://accan.org.au/accans-work/submissions/2018-acc-report-on-social-media-services-issues-paper>

⁶ 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>

- provide a range of channels for scam victims to take action to notify digital communications services of scams. This should include accessible channels and a phone option to speak to a person.
- Respond to consumers within an hour of consumers taking action to notify the digital communications service.

2.2 Privacy and data protection

Privacy and data protections are fundamental for communications consumers. ACCAN's research has found that many groups who tend to be less digitally included, such as older Australians, Australians on lower incomes, and those living in rural, regional and remote areas, tended to find it harder to change their privacy and safety settings.⁷ For example, only 44% of participants in our study over 50 agree that it is easy to change their privacy and safety settings on apps and websites.⁸

ACCAN therefore recommends the government adopt all 116 recommendations of the Attorney General's (AG) review on the *Privacy Act 1988* (Cth) (**Privacy Act**).⁹

In addition to adopting the recommendations set out in the AG's review of the Privacy Act, we recommend the Committee examine the legality of third-party data brokers under the Privacy Act. According to experts at the University of New South Wales (UNSW) Australian Privacy Principle (APP) 3.6 of the Privacy Act.¹⁰ APP 3.6(b) provides that an 'APP entity must collect personal information about an individual only from the individual unless ... it is unreasonable or impracticable to do so.'

According to Dr Katherine Kemp, use of third-party data collection likely contravenes APP 3.6b. Dr Kemp argues that APP3.6(b) has likely not been enforced as

a result of the opacity of corporate data practices for consumers, limited scrutiny and guidance from the regulator in respect of data collection from third parties, and the general lack of deterrence created by privacy legislation which has not yet given rise to a single pecuniary penalty.¹¹

ACCAN recommends that regulators and industry consider the implications of 3.6b for protecting consumer's privacy and ensuring that any third-party data brokering in Australia conforms with both consumers interests and the law.

⁷ ACCAN 2022. *Research Snapshot: What Australians Expect from Digital Platforms*. Australian Communications Consumer Action Network, Sydney. Available at: <https://accan.org.au/accans-work/research/2003-consumer-expectations-2022>

⁸ ACCAN 2022. *Research Snapshot: What Australians Expect from Digital Platforms*. Australian Communications Consumer Action Network, Sydney. Available at: <https://accan.org.au/accans-work/research/2003-consumer-expectations-2022>

⁹ Attorney-General's Department 2023. *Privacy Act Review Report*. Available at: <https://www.ag.gov.au/rights-and-protections/publications/privacy-act-review-report>

¹⁰ Kemp, K, 2022. *Australia's Forgotten Privacy Principle: Why Common 'Enrichment' of Customer Data for Profiling and Targeting is Unlawful*. Available at SSRN: <http://dx.doi.org/10.2139/ssrn.4224653>

¹¹ Kemp, K, 2022, p.20. *Australia's Forgotten Privacy Principle: Why Common 'Enrichment' of Customer Data for Profiling and Targeting is Unlawful*. Available at SSRN: <http://dx.doi.org/10.2139/ssrn.4224653>

2.3 Expanding online safety

ACCAN continues to be concerned by a lack of targeted education programs to support all consumers including First Nations consumers and people with a disability to stay safe online. For example, ACCAN recently supported the SA Council on Intellectual Disability to develop and launch the Cyber Wise online training tool for people with an intellectual disability.¹² The new e-learning tool was co-designed by people with intellectual disability to teach people how to use the internet and technology more safely.

3. Internal dispute resolution

ACCAN supports the ACCC's recommendation that digital platforms, including social media, should develop appropriate internal dispute resolution processes to facilitate the effective resolution of consumer complaints. Having access to fair, effective, transparent, and impartial mechanisms for dispute resolution is a vital part of ensuring consumers are adequately protected in all markets, including those related to digital platforms.¹³

ACCAN's research has found that almost three in four Australians agree that it needs to be easier to make a complaint and to get their issues resolved when dealing with digital platforms such as Facebook, WhatsApp, eBay, and Service NSW.¹⁴ ACCAN's research also found that 78% of Australians think that it needs to be easier for people to get their issues resolved, and 60% feel like there is not much they can do when something goes wrong online. This research indicates that existing dispute resolution options present on digital platforms are not adequately serving consumers.

One potential internal dispute resolution model that could be reviewed for its application in the Australian context is the European Online Dispute Resolution (**ODR**) platform.¹⁵ Provided by the European Commission, the ODR aims to make online shopping safer and fairer through access to quality dispute resolution tools. Using this model, all online retailers and traders (including those on marketplaces such as eBay, Amazon, and Etsy etc), would be mandated to provide an easily accessible link to the ODR platform, as well as an e-mail address for the ODR to contact them in case of a consumer complaint. If these internal complaint handling mechanisms fail, consumers should be able to quickly and easily escalate their complaint to a dispute resolution body, such as a digital platforms ombudsman.

4. External dispute resolution

ACCAN recommends the Minister for Communications expand the remit of the Telecommunications Industry Ombudsman to include digital platforms. An empowered TIO could offer communications

¹² SACID 2024. *Cyber Wise online training is now available*. Available at: <https://sacid.org.au/cyber-wise-online-training-now-available/>

¹³ UNCTAD 2016, United Nations Guidelines for Consumer Protection, available: https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf

¹⁴ ACCAN 2021, *New research finds nearly three-quarters of Australians want better complaints handling from digital platforms*, available: <https://accan.org.au/media-centre/media-releases/1942-new-research-finds-nearly-three-quarters-of-australians-want-better-complaints-handling-from-digital-platforms?highlight=WyJ0cnVzdCIsInRydXNOJyJd>

¹⁵ European Commission 2024. *Online Dispute Resolution*. Available at: <https://ec.europa.eu/consumers/odr/main/?event=main.home2.show>

consumers with an avenue to address their problems with digital platforms services when internal dispute resolution avenues have been exhausted or not offered. 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.¹⁶

Given that social media platforms are so important to Australians, it matters when things go wrong. A study by Accenture found that approximately 4.2 million Australian social media users experienced issues with their social media service in 2020.¹⁷ Social media consumers can face a range of issues that can disrupt their social media service including:

- Payments.
- Spam.
- Scams.
- Fake reviews.
- Hacking and fake accounts.
- Content or account removal.
- Ad-related issues.
- Platform policies and procedures.¹⁸

A lack of external dispute resolution scheme could be contributing to social media companies' falling public trust measures in Australia.¹⁹ 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.²⁰

This experience is described above is normal for thousands of Australian consumers. Accenture estimates that in 2020 there were:

- 2.4 million complaints to platforms.
- 880,000 internal disputes, where users may have disagreed with a platform's decision and sought a different outcome.

¹⁶ 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>

¹⁷ Accenture 2023, p.2. Mapping dispute resolution on digital platforms. Available at: <https://www.infrastructure.gov.au/sites/default/files/documents/foi--23-037.pdf>

¹⁸ Accenture 2023, p.12. Mapping dispute resolution on digital platforms. Available at: <https://www.infrastructure.gov.au/sites/default/files/documents/foi--23-037.pdf>

¹⁹ 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>

²⁰ 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>

- 190,000 external disputes where users engaged external bodies like the ACCC, state-based consumer affairs or the small business ombudsman to resolve their dispute.²¹

The TIO already reports being approached by Australian social media users who have nowhere else to turn. Between 1 July 2021 and 31 January 2023, the TIO received just over 550 enquiries from consumers about digital platforms.²² Ombudsman Cynthia Gebert states that:

My office is already hearing about problems with digital platform services from people and small businesses who assume we are the right body to respond to these complaints.²³

To expedite a solution to Australia's lack of external dispute resolution body for social media, ACCAN recommends that the TIO be empowered and resourced to resolve digital platforms complaints in addition to its current remit. Independent research by the Centre for Media Transition at University of Technology Sydney found that if Government decided to empower an existing body rather than setting up an entirely new body for digital platforms, existing bodies such as the TIO could be expanded to take on parts of the role. The researchers noted that because

[T]he TIO currently administers a resolution scheme based on consumer complaints about telecommunications service providers ... complaints about digital platforms are a natural fit for an expanded TIO.²⁴

The researchers concluded that

“[T]hat the TIO is the only existing body that merits serious consideration as the platform ombudsman.”²⁵

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

‘[t]he 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’.²⁶

²¹ Accenture 2023, p.2. Mapping dispute resolution on digital platforms. Available at:

<https://www.infrastructure.gov.au/sites/default/files/documents/foi--23-037.pdf>

²² TIO 2023, p.9. *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>

²³ 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>

²⁴ Holly Raiche, Derek Wilding, Karen Lee & Anita Stuhmcke, 2022, p.5. *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>

²⁵ Holly Raiche, Derek Wilding, Karen Lee & Anita Stuhmcke, 2022, p.42. *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>

²⁶ 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>

The TIO further suggests that an expansion in its remit could be funded by charging digital platform companies a membership fee like telecommunications.²⁷ In ACCAN’s view, empowering the TIO as an external dispute resolution body for social media platforms offers a means to help social media consumers in the near term.

5. Measures to promote competition

5.1 Ex-ante regulation

We support the ACCC’s recommendation of targeted ex-ante regulation in order to promote competition in digital platform markets.²⁸ Designating large digital platforms to conform with pro-competition mandatory codes is an important step in addressing competition risks in Australia’s digital platform markets. The ACCC should lead the consultation and design of the proposed codes of conduct and obligations.

The ACCC recommends quantitative criteria should be the primary means of designating a platform for mandatory competition codes. The ACCC notes that qualitative criteria could be useful to supplement quantitative criteria.²⁹

An example of an existing designation policy is the European Union’s (EU) Digital Markets Act (DMA). Three key criteria for a core platform service to be designated as a “gateway” and trigger specific competition measures in the DMA are:

- A size that impacts the internal market: when the company achieves a certain annual turnover in the European Economic Area (EEA) and it provides a core platform service in at least three EU Member States.
- The control of an important gateway for business users towards final consumers: when the company provides a core platform service to more than 45 million monthly active end users established or located in the EU and to more than 10,000 yearly active business users established in the EU.
- An entrenched and durable position: in the case the company met the second criterion during the last three years.³⁰

Given the similarities between the DMA’s obligations on “gatekeepers” and the ACCC’s proposed targeted obligations it would seem appropriate for Australia’s mandatory competition measures to adopt similar criteria, allowing for differences in our market.

²⁷ 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>

²⁸ 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>

²⁹ 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>

³⁰ European Commission 2022. *Digital Markets Act: rules for digital gatekeepers to ensure open markets enter into force*. Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6423

We support the ACCC's suggested list of targeted obligations, including:³¹

- 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.

Codes for targeted obligations in each service-type must be mandatory. Ex ante regulation, such as the proposed mandatory competition obligations, is effective when it provides tools to the ACCC to prevent anti-competitive behaviours in advance of the market. Allowing the codes to be voluntary risks rendering them ineffective to prevent anti-competitive behaviour.

5.2 Interoperability

ACCAN urges the Committee to consider instruments that foster greater interoperability across and within digital platforms and offer consumers meaningful choice about the services they use.

Interoperability is an important measure to foster competition and innovation in digital platforms. Telecommunications, the internet and the web were built on open standards that continue to underpin fundamental communications like email today. However, digital platforms benefit from single side network effects that lock consumers into services in order to maintain access to their social networks.

For example, online private messaging services remain far less interoperable than they should be. There have been some recent developments in interoperability, such as between Meta owned apps and between Google's message app and Apple's iMessage.³² However, the limited nature of these recent developments illustrates the inadequate interoperability offered to consumers. The lack of established standards and interoperability between popular messaging apps including Facebook Messenger, WhatsApp, Telegram or Snapchat forces users to choose which platforms they use based on their broader social networks instead of each app's merits.

³¹ 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>

³² Perez, S 2020. 'Facebook introduces cross-app communication between Messenger and Instagram, plus other features'. *TechCrunch*. Available at: <https://techcrunch.com/2020/09/30/facebook-introduces-cross-app-communication-between-messenger-and-instagram-plus-other-features/>; Perez, S 2022. 'Google's Messages app can now handle iMessage reactions, challenges Apple with new features'. *TechCrunch*. Available at: <https://techcrunch.com/2022/03/10/googles-message-app-can-now-handle-imessage-reactions-challenges-apple-with-new-features/>

Platforms often cite privacy and security as excuses for the lack of initiative in interoperability, but their lack of progress in finalising standards leads some critics to find this argument unconvincing.³³ For example, the open-source Signal protocol already underpins many messaging apps and could serve as a preliminary cryptographic standard.³⁴

The lack of messaging interoperability risks making communications worse for Australian consumers. SMS is a fundamental means of communication for many Australians. As Australians expect more from their messaging services, such as multimedia and reactions, standards will need to evolve to meet those expectations. However, Apple's iMessage, one of the most popular apps for SMS and messaging, limits interoperability with other apps.³⁵ According to court documents, the lack of interoperability may reflect a strategy to protect market share.³⁶ Critics have pointed out that newer standards like Rich Communication Services (RCS) are more secure than SMS and support encryption.³⁷

Messaging provides a clear example that despite the threats to interoperability, the principles of fostering open, secure standards should be applied across the digital platform sector. Experts at MIT note that “tech platforms have solved engineering challenges a hundred times harder” than becoming more interoperable.³⁸ Organisations such as the Electronic Frontiers Federation have argued for years that greater effort is required to facilitate interoperability between different social media services.³⁹

5.3 Data portability

ACCAN supports regulatory efforts to encourage the prompt development and implementation of data portability regimes that are fit for purpose. Data portability recognises that consumers own their data, and they should reasonably be able to transfer it between comparable services as they choose. Data portability can contribute to a more competitive digital platform market by allowing users to switch services more easily. For example, consumers could keep their music playlist data when switching between music streaming services or move their photos between different photo apps.

The large digital platforms are aware that consumers want greater choice with the services they use and desire the removal of barriers to switching services or leaving a platform. As Google wrote

³³ Electronic Frontier Foundation 2018. *Facing Facebook: Data Portability and Interoperability Are Anti-Monopoly Medicine*. Available at: <https://www.eff.org/deeplinks/2018/07/facing-facebook-data-portability-and-interoperability-are-anti-monopoly-medicine>

³⁴ For further information, see: https://en.wikipedia.org/wiki/Signal_Protocol

³⁵ Pandey, R 2022. 'Google's RCS drama with Apple, explained: More than bubble envy, less than noble'. *Android Police*. Available at: <https://www.androidpolice.com/googles-rcs-drama-with-apple-explained/>

³⁶ Higgins, T 2022. 'Why Apple's iMessage Is Winning: Teens Dread the Green Text Bubble'. *Wall Street Journal*. Available at: <https://www.wsj.com/articles/why-apples-imessage-is-winning-teens-dread-the-green-text-bubble-11641618009>

³⁷ Pandey, R 2022. 'Google's RCS drama with Apple, explained: More than bubble envy, less than noble'. *Android Police*. Available at: <https://www.androidpolice.com/googles-rcs-drama-with-apple-explained/>

³⁸ Sullivan, M 2021, How interoperability could end Facebook's death grip on social media. *Fast Company*. Available at: <https://www.fastcompany.com/90609208/social-networking-interoperability-facebook-antitrust>

³⁹ EFF 2018. *Facing Facebook: Data Portability and Interoperability Are Anti-Monopoly Medicine*. Available at: <https://www.eff.org/deeplinks/2018/07/facing-facebook-data-portability-and-interoperability-are-anti-monopoly-medicine>

recently, people “want the freedom to be able to use different online services without worrying about losing their photos, contacts, emails and other data if they close an account or switch to a new company”.⁴⁰ Meta also recently outlined its attempts to give “people more control and choice over their data”.⁴¹ These observations were both accompanied by announcements of further efforts to foster data portability between digital platforms. Both organisations have participated in efforts such as the Data Transfer Project (DTP) for several years.⁴²

However, progress with data portability to date has been slow. Although some of the most valuable and technologically advanced companies in the world are members of the Data Transfer Project, the product is “still in development”.⁴³ In its recent post on data portability, Meta argues that “the ecosystem we are building to support data portability will not come to fruition without regulation that clarifies which data should be made portable and who is responsible for protecting data once it has been transferred”.⁴⁴

⁴⁰ Google 2022. *Building data portability to help consumers choose*. Available at: <https://blog.google/outreach-initiatives/public-policy/building-data-portability-help-consumers-choose/>

⁴¹ Meta 2021. *Transfer Your Facebook Posts and Notes With Our Expanded Data Portability Tool*. Available at: <https://about.fb.com/news/2021/04/transfer-your-facebook-posts-and-notes-with-our-expanded-data-portability-tool/>

⁴² For further information, see: <https://datatransferproject.dev/>

⁴³ For further information, see: <https://datatransferproject.dev/documentation>

⁴⁴ Meta 2021. *Transfer Your Facebook Posts and Notes With Our Expanded Data Portability Tool*. Available at: <https://about.fb.com/news/2021/04/transfer-your-facebook-posts-and-notes-with-our-expanded-data-portability-tool/>

Attachment B: Revising the Telecommunications Industry Levy

What is the TIL

The Telecommunications Industry Levy (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). The TIL raises money from industry and government to supply public interest telecommunications services. These services include:

- An accessible standard telephone service to all Australians, regardless of where they live.
- Public payphones around the country.
- The National Relay Service for people who are d/Deaf or find it hard to hear or speak to hearing people on the phone.
- The Emergency Call Service (Triple Zero).

The TIL also funds grants such as ACCAN's Accessible Telecoms, a free service that helps people, particularly elderly people and people with disabilities to find devices and services that meet their needs.⁴⁵ The convergence between telecommunications and digital communications should see a revision of the social policies paid for by the TIL and a commensurate expansion of its funding base, which could expand consumer engagement and protection in the realm of digital communications.

What the TIL should be

The TIL should fund public interest programmes that maintain essential communications services. It was created to remedy access gaps in Australia's communications market in the 1990s. The TIL supports policies to ensure access to communications is equitable regardless of location or ability.

The recent review of the Universal Services Obligation demonstrates that internet-based communication, which includes social media, is now fundamental for consumers.⁴⁶ However, to effectively deliver this guarantee to Australian consumers, 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 social media 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.

⁴⁵ Accessible Telecoms 2024. *Home page*. Available at: <https://www.accessibletelecoms.org.au/>

⁴⁶ Department of Infrastructure, Transport, Regional Development, Communications and the Arts. *Better delivery of universal services*. Available at: <https://www.infrastructure.gov.au/have-your-say/better-delivery-universal-services>

Who pays for the TIL

The TIL is funded by telecommunications carriers that earn more than \$25 million or more of eligible revenue in a year as well as the government. A company’s eligible revenue is calculated by tallying gross telecommunications revenue minus deductions such as consumer equipment.⁴⁷ The overall levy target amount for a given year is calculated by tallying the costs of the services provided, grants and government administrative costs minus \$100 million. The total remaining deficit is then distributed among eligible large telcos in proportion to their eligible revenue for the year.

Social media earns enough to be eligible for the TIL

Social media companies reported hundreds of millions of dollars in revenue in Australia.⁴⁸ This means that many large social media companies would qualify to contribute to the TIL based on their revenues. As **Table 1** shows, large social media companies would likely earn more than the \$25M in eligible revenue for an expanded TIL.

Table 1. Social media revenue estimates in 2021-2022⁴⁹

Company	Australian Advertising revenue FY 21-22 (\$)
Meta	4.7 and 5.1 billion
YouTube	430 to 470 million
TikTok	100 to 150 million
Twitter (now X)	50 to 90 million
Snapchat	80 to 120 million
LinkedIn	No figures to confirm revenue from display advertising in Australia, in FY22 LinkedIn Marketing Solutions exceeded US\$5 billion in global annual revenue

According to these estimated revenues, some large social media companies would likely qualify for an expanded TIL, but there is quite a large difference in revenues between the top companies. This means that when proportionality is applied, the TIL contribution would largely be paid for by large companies such as Meta and Alphabet (Google) rather than smaller companies and new entrants to the market. The threshold would reduce the risk of an expanded levy acting as a barrier to small market entrants while ensuring that larger platforms contribute to public interest programmes.

The largest social media companies make revenues comparable to the eligible revenues of Australian telecommunications companies. **Table 2** (see next page) illustrates that when we use the ACCC’s

⁴⁷ ACMA 2023. *Eligible revenue reporting*. Available at: <https://www.acma.gov.au/eligible-revenue-reporting>

⁴⁸ Australian Competition and Consumer Commission 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

⁴⁹ Australian Competition and Consumer Commission 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

lower estimate of social media companies' revenues for 2021-2022 they might sit in the top 20 contributors.

Table 2. Carriers by levy amount with estimate of social media revenue for comparison⁵⁰

Company	Eligible revenue (\$)	Levy Amount (\$)
Telstra Corporation Limited	11,859,233,827.00	109,748,001
Meta	4,700,000,000	
Optus Mobile Pty Ltd	4,206,336,571.01	38,926,379
NBN Co Limited	3,234,380,291.00	29,931,678.3
TPG Telecom Limited	2,855,016,181.73	26,420,958
YouTube	430,000,000	
Axicom Inbuilding Solutions Pty Ltd	208,291,964.00	1,927,580.4
Vocus Fibre Pty Ltd	205,855,439.83	1,905,032.3
Primus Telecommunications Pty Limited	195,234,733.15	1,806,745.9
Optus Satellite Network Pty Ltd	150,282,888.17	1,390,751.4
TikTok	100,000,000	
Aussie Broadband Limited	93,083,131.99	861,412
Macquarie Telecom Pty Limited	85,424,266.00	790,535.3
Opticomm Ltd	81,859,542.03	757,546.5
SnapChat	80,000,000	
03b Teleport Services (Australia) Pty Ltd	77,947,900.00	721,347.3
Nextgen Networks Pty Limited	75,351,201.73	697,316.9
AARNet Pty Ltd	57,768,561	534,603.2
Twitter	50,000,000	
Victorian Rail Track	48,074,958.00	444,896.4
Telstra Multimedia Pty Limited	47,863,735.00	442,941.7
Pivotel Group Pty Ltd	45,077,763.46	417,159.7
Superloop (Australia) Pty Ltd	42,381,087.22	392,204
Uecomm Operations Pty Limited	40,342,617.21	373,339.6
Over the Wire Pty Ltd	40,144,609.70	371,507.2
Iridium Australia Licensee Pty Limited	26,773,908.00	247,771.7
New Skies Satellites Australia Pty Ltd	24,952,523.00	230,916.2
LBN Co Pty Ltd	19,302,717.46	178,631.7
Uniti Group Limited	6,315,911.31	58,448.9
OPENetworks Pty Ltd	5,972,581.95	55,271.6
Optus Fixed Infrastructure Pty Ltd	5,079,217.52	47,004.2
Link Us Pty Ltd	3,666,899.69	33,934.3
Capital Fibre Networks Pty Ltd	595,324.22	5,509.3
Skiron OpCo Pty Ltd	583,728.37	5,402

⁵⁰ ACMA 2022. *Telecommunications Industry Levy Assessment 2021-22*. Available at: <https://www.acma.gov.au/sites/default/files/2022-11/Telecommunications%20Industry%20Levy%20Assessment%202021-22.pdf>; Australian Competition and Consumer Commission 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

Benefits of expanding the TIL

Adding social media and digital communications services to the TIL will create a more equitable and sustainable public interest policy environment.

Consumer representation

Despite the growing number of consumers using social media platforms, there is still no consumer group funded by the Australian Government to engage with social media and digital communications services. This is a missed opportunity, as funded consumer representation would offer Australian consumers – as well as industry and government – a range of benefits, including:

1. Reduced risk of harm by providing expert consumer input into policy making processes
2. Contributions to consumer trust to participate in the digital economy
3. Reduced regulatory uncertainty
4. Reduced regulatory delays due to lack of consumer participation
5. Informed consumer representation into co-regulatory schemes.

1. Shaping policy to reduce consumer harms

The growing popularity of digital communications risks consumer harm and regulatory risks. An informed consumer group can provide regulators and industry with early warning and solutions to avoid consumer harm.

2. Building consumer trust in the digital economy

Consumer trust is fundamental to growing the digital economy. A resourced digital communications consumer group will help build towards a trusted digital communications sector that consumers feel comfortable engaging with. For the last several years, social media has been the least trusted sector in the Australian economy and it continues to fall on trust measures.⁵¹ Almost all Australians rely on online reviews but it is estimated that over half of Australians believe they have fallen for fake reviews.⁵² Some studies indicate that higher consumer trust can influence consumers' intention to participate in the digital economy.⁵³

3. Reducing regulatory uncertainty

Digital communications is a rapidly changing regulatory space. A stable consumer voice can reduce regulatory uncertainty by providing an independent opinion on regulatory changes.

⁵¹ Edelman 2023, p.9. *Edelman Trust Barometer: Australia Report*. Available at:

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

⁵² Dixon, G 2021. *More than 50% of Australians believe they've fallen for fake reviews*. Available at:

<https://www.reviews.org/au/reviews/fake-reviews-survey/>

⁵³ Oliveira, T., Alinho, M., Rita, P. and Dhillon, G., 2017. Modelling and testing consumer trust dimensions in e-commerce. *Computers in Human Behavior*, 71, pp.153-164. Available at:

<https://www.sciencedirect.com/science/article/pii/S074756321730064X#sec1>

4. Reducing regulatory delays

Funded consumer representation would be better prepared to engage with stakeholders and consultations, reducing regulatory delays. Government departments and regulators regularly follow best practice by consulting on policy with consumer groups. The large number of consultations in a short time on digital communications requires a dedicated organisation to provide prompt perspective sustainably on an ongoing basis.

5. Providing consumer representation to co-regulatory schemes

Industry codes can provide a flexible means to deal with technical industry matters and often benefit from a consumer voice in their administration. If government chooses to use co-regulatory schemes or codes, funded consumer advocacy for social media and digital communications services can provide ongoing consumer perspective in the drafting, implementation and revision of these codes.

Broadening the levy for sustainability

Broadening the TIL will make it more equitable and sustainable into the future as digital communications services converge with telecommunications. According to the Productivity Commission a broad funding for a levy would ‘further minimise distortions, the base should also include all providers in the levy that supply services that are close substitutes, particularly where there is evidence of convergence in telecommunications services’.⁵⁴ In other words, a broad levy is preferential to a narrower levy because it minimises market distortions where consumers would shift their custom to comparable services not covered by a levy.

ACCAN notes that expanding the TIL to include digital communications services, including social media, would be consistent with the wide array of reforms that the Australian Government is considering about how to best regulate digital communications services and emerging technologies.⁵⁵ The digital communications market plays an increasingly prominent role in the Australian communications market, yet digital communications services are not faced with the same obligations to contribute to the maintenance of shared communications infrastructure services such as the TIL. This has been borne out by feedback from industry stakeholders, who have noted that ‘current regulatory framework has failed to address or investigate how these over-the-top players can contribute their fair share to ensure our critical infrastructure can stay ahead of demand’.⁵⁶

Digital communications services hold a complicated relationship with telecommunications markets, sometimes competing with telecommunications services and sometimes complementing them. What is clear however is that digital communications services are an essential, and profitable, part of communications in Australia and they should contribute to the shared costs of maintaining shared programs like the TIL that ensure equitable communications access and delivery of public policy communications outcomes such as consumer representation. Despite their importance to Australian

⁵⁴ Productivity Commission 2017. *Telecommunications Universal Service Obligation: Productivity Commission Inquiry Report No. 83*, 316.

⁵⁵ Rohan Pearce 2024. ‘ACCAN seeks technology-neutral approach to USO’, *Communications Day*, (26 June).

⁵⁶ Jared Lynch 2024. ‘“Make them pay”: TPG takes aim at Meta, other tech giants’, *The Australian*, (27 May). Available at: <https://www.theaustralian.com.au/business/make-them-pay-tpg-takes-aim-at-meta-other-tech-giants-over-universal-phone-web-access/news-story/e7e8747e845047faa2e67cec85de836>

consumers and small business, digital communications services face vastly different regulatory obligations than telecommunications services.

To make TIL funding more equitable and sustainable we advise the committee to recommend that the Government consult on the development of criteria for determining which digital communications services should be required to pay into the TIL, and on the scope of any required reforms to existing legislative arrangements. As social media and digital communications service providers are reliant upon the provision of communications infrastructure services, it is reasonable to include them within the levy base of the TIL to promote the sustainability, equity and resilience of Australia's communications network, to ensure that all Australian consumers and small businesses can access baseline communications services suited to their capabilities.

For further context on ACCAN's view on USO funding, please consult our submission on the funding of universal services.⁵⁷

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.](#)

⁵⁷ ACCAN 2024. *Funding of universal telecommunications services (RBS Review)*. Available at: <https://accan.org.au/accans-work/submissions/2301-funding-of-universal-telecommunications-services-rbs-review>