

[Public  
Interest  
Journalism  
Initiative]

**PUBLIC INTEREST JOURNALISM INITIATIVE**  
submission on the

**DIGITAL INDUSTRY GROUP INCORPORATED**  
Draft Australian Code of Practice on Disinformation

25 November 2020

## 1. OVERVIEW

The Public Interest Journalism Initiative (PIJI) acknowledges the Australian Government's pursuit of new regulatory approaches in response to the changing market dynamics brought about by digital platforms and in recognition of the importance of quality information and news to our democracy and broader civil society.

The Government provided direction for a voluntary code on disinformation and news quality through *Regulating in the Digital Age: Government Response and Implementation Roadmap for the Digital Platforms Inquiry*, assisted by more detailed guidance from the Australian Communications and Media Authority's (ACMA) *Misinformation and News Quality on Digital Platforms in Australia: A Position Paper to Guide code Development*.

PIJI welcomes the progress by the Digital Industry Group Inc (DIGI) of a draft Australian code of Practice on Disinformation, and for the opportunity to provide comment.

However, we note the limited focus of this draft code on the user experience of disinformation rather than on considerations of content (ie. news quality) with which PIJI has specific interest. The production and distribution of high-quality, public interest journalism is essential to the functioning of a democratic society, and as an antidote to the spread of mis- and disinformation harmful to that goal. The news media industry is an essential service with its production of timely, independent information that is held accountable to professional standards, regulation and public scrutiny. Therefore, the news industry is an essential part of any effort to improve the quality of digital information ecosystems.

Both the Government's response to the Digital Platforms Inquiry<sup>1</sup> and ACMA's position paper in June 2020<sup>2</sup> indicate that a voluntary code would "empower users to identify the quality of news and information"<sup>3</sup>. The position paper suggests that the code - "at a minimum" - address news quality as a separate but related issue to misinformation.

We encourage DIGI, its members, ACMA and other relevant government bodies to discuss the role and value of news media within the next stage development of the code, and would be pleased to participate in further consultation with news media producers, their peak bodies and the research sector to help inform code design.

Given the limited scope of this draft code, we focus comments on issues consistent with news quality, disinformation detection, referral process to relevant authority and referral process for the general public.

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<sup>1</sup> Australian Government 2019. *Regulating in the digital age: Government response and implementation roadmap for the Digital Platforms Inquiry*. Canberra: Australian Government.

<sup>2</sup> Australian Communications and Media Authority 2020. *Misinformation and news quality on digital platforms in Australia: a position paper to guide code development*. Sydney: Australian Communications and Media Authority.

<sup>3</sup> Ibid, p. 29.

## 2. ABOUT THE PUBLIC INTEREST JOURNALISM INITIATIVE

The Public Interest Journalism Initiative (PIJI) was established in December 2018 as a non-partisan organisation to work to ensure that Australia develops a sustainable ecosystem of independent journalism. It conducts research to inform practical policy solutions and public conversation on the importance of an effective, pluralistic news media of all sizes.

As a non-profit company limited by guarantee (ACN 630 740 153), PIJI is governed by a board of independent directors and guided by an Expert Research Panel and Policy Working Group. It is philanthropically funded and operates as a Major Research Project of the newDemocracy Foundation. PIJI is a limited shelf-life initiative of 3 to 5 years.

During its first 18 months, PIJI has completed eight research projects with another two in development and has contributed to government and industry inquiries including the Senate Standing Committees on Environment and Communications Press Freedom Inquiry, the ACCC's Digital Platforms Inquiry (DPI), Treasury's consultation on the DPI Final Report and the development of the Mandatory News Media and Digital Platforms Bargaining code.

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### 3. COMMENTS ON THE DRAFT CODE

- In our view, the current draft of the code does not sufficiently address the issue of news quality and the role that the availability of high-quality news plays in improving the digital information ecosystem.

We recommend that this issue be revisited before the code takes effect, and that a clear framework be developed for assessing news quality, as well as measures to signal that quality to users in digital environments.

Key to this further development of the code and associated framework will be direct consultation with news media producers and peak bodies. PIJI would be pleased to participate in these efforts.

- We note the code focusses on disinformation, defined as inauthentic conduct that deceives or harms the public, or provides economic benefits to a user at the expense of the public. While this aligns with the Australian Government's response to the Digital Platforms Inquiry that set the need for a voluntary industry code, it does not address the ACMA position paper released in June 2020, which expanded the code to include both disinformation and the broader category of misinformation.

PIJI recommends that the code be expanded to cover all types of misinformation.

As the NMRC note, consumers are often not well equipped to identify and differentiate between different types. The same false content can be shared by an inauthentic user with the intention to mislead (making it disinformation and actionable) or by an otherwise ordinary user without that intention (making it misinformation and not actionable).<sup>4</sup> As this example suggests, to achieve the necessary outcomes the code will need to cover the broader category of misinformation and assesses both user behaviour and also the content itself in determining whether intervention by a signatory is required.

- PIJI seeks further clarity around the public accountability and reporting mechanisms that are envisaged under the voluntary code. We note that the ACMA, in adopting an outcomes-based regulatory approach rather than a rules-based approach, recommended that signatories develop their own plans of action to meet the expectations of the code and demonstrate delivery against those plans. The draft voluntary code does not make it clear if signatories would publish plans of action or report publicly against them. PIJI urges signatories commit to public accountability to the greatest possible extent, and that oversight of the code be conducted by an independent regulator or third-party organisation.

Dis- and misinformation are significant public policy challenges that some limited international evidence suggests<sup>5</sup>, require a whole-of-society approach to address. On this basis PIJI questions if a voluntary code of conduct covering only one industry is the appropriate approach. We recommend the ACMA and the Australian Government consider situating the code within a broader strategy.

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<sup>4</sup> News & Media Research Centre 2020. Response to the Australian code of Practice on Disinformation. p. 12.

<sup>5</sup> See for example Kerr W. and Phillips M. 2020. Taiwan is beating political disinformation. The West can too. *Foreign Policy*. 11 November.

## 2 Guiding Principles

### 2.6: *Integrity and security of services and products*

This principle asks signatories to take action against “inauthentic accounts” whose purpose is to propagate disinformation.

A definition should be provided for “inauthentic accounts”. Without specific definition, PIJI assumes that an “inauthentic account” is any account that engages in “inauthentic behaviour”, a term which is defined.

However, this section can also be read to suggest that there are two kinds of account that engage in “inauthentic behaviour”; “authentic accounts” and “inauthentic accounts”, and that the latter will be the subject of action by signatories under the code. We assume that this is not the intended meaning of this section. Such interpretation could be avoided by clearly defining “inauthentic accounts” in the glossary.

## 3 Glossary

### 3.3 *Harm*

We suggest further guidance is required on the definition of “Harm”. The assessment of whether certain behaviour or content poses “an imminent and serious threat” to democratic political and policymaking processes remains unclear. Signatories should be transparent about how they assess the harm potential of certain behaviours and content, and how they balance that potential for harm against the ‘public benefit’ test described in Objective 3: Work to ensure the public benefit of Services and Products delivered by Digital Platforms.

## 4 Scope, application and commencement of this code

### 4.1 *Scope*

The draft code does not contain a definition of ‘user-generated content’. The interpretation of that term will be critical to defining the boundaries of what content is subject to the code. We recommend that a definition be provided in the glossary.

The relationship between this and the next section 4.2 *Excluded services and products* is also unclear. Are videos provided for the purpose of entertainment excluded from the scope of the code as per 4.2D regardless of their origin, or are user-generated videos captured by the code regardless of their purpose? PIJI submits that the former interpretation, where any content with an entertainment purpose is out of scope, would not enable the code outcome of reducing the spread of mis- and disinformation.

#### **4.2 Excluded services and products**

##### **4.2A Private messaging services including those provided via software applications**

It is important that any code protect the reasonable expectation of privacy of users of digital platforms, particularly with regard to private messaging services. We welcome the acknowledgment of the importance of user privacy that the code provides under *Guiding Principle 2.3*.

We also note, however, that concerns have previously been raised about the spread of mis- and disinformation on WhatsApp, and particularly the spread of visual misinformation in group messages.<sup>6</sup> Facebook's actions to date to limit the spread of misinformation on the platform are welcome, however, PIJI suggests on that evidence, it would be counterproductive to offer a blanket exclusion for messaging services from the scope of the code.

##### **4.2D Content including e-books, videos, films, television, radio broadcasts or podcasts that is provided for the purpose of entertainment or education**

PIJI welcomes this provision but seeks clarity on how it would be operationalised to ensure that intentionally misleading content is not unduly excluded.

Excluding digital content that is produced in good faith for the purpose of entertainment and education is appropriate. However, it remains possible that content could be produced with the deliberate intent to mislead, and yet would be excluded on the basis it is provided for the purpose of entertainment or education.

### **Objective 3: Work to ensure the public benefit of services provided and products delivered by Digital Platforms**

PIJI welcomes the commitment to ensuring the public benefit of services and products provided, but notes the draft code does not contain a definition of the 'public benefit'.

We recommend that DIGI provides further guidance to ensure consistency of understanding among the signatories of the code, as well as the public accountability for actions that are taken or not taken in pursuit of this objective.

A public benefit test should require that any action taken under the code results in a benefit to the public which outweighs the detriment caused. Conversely, a decision not to take action against certain users or content should be made if the public is better served by the availability of that information rather than its removal.

We recommend that further guidance be provided to assist code signatories in identifying when to take action and when not to. Relevant considerations for the disinformation code could include the

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<sup>6</sup> See for example Narayanan V. et al. 2019. *News and information over Facebook and WhatsApp during the Indian Election Campaign*. Comprop data memo 2019.2. Oxford: Oxford University; Banaji S. et al. 2019. *WhatsApp vigilantes: an exploration of citizen reception and circulation of WhatsApp misinformation linked to mob violence in India*. London: Department of Media and Communications, London School of Economics; Machado C. et al. 2019. A study of misinformation in WhatsApp groups with a focus on the Brazilian presidential elections. *Companion proceedings of the 2019 World Wide Web Conference*.

open contest of ideas in the digital environment; the production and availability of high-quality news and information; the right of the electorate to be informed about matters of public interest, governance and policy; the avoidance of harm against individuals or groups.

#### **Objective 4: Empower consumers to make better informed choices of digital content**

PIJI welcomes efforts to enable consumers to make informed choices about accessing news content and believes that public interest journalism is an essential part of improving the digital information ecosystem.

The measures suggested in this objective, including the prioritisation of content in search or news feeds; creation of content subject to an editorial code and credibility signalling, are all positive steps toward ensuring high quality information is visible and accessible by users of digital platforms.

The *Misinformation and news quality on digital platforms in Australia position paper* prepared by ACMA anticipated that consideration would be given to the assessment and prioritisation of high-quality news. In PIJI's view, the draft code does not encompass this goal and we would urge DIGI to revisit this issue.

PIJI accepts that it is not possible for digital platforms to assess the quality of each individual news story, however, there are professional standards governing robust content production which could be used as a measure of organisational credibility. Such indicators include adherence to a published code of ethics and editorial standards; membership of industry bodies such as the Australian Press Council and oversight by a complaints resolution system that is recognised and administered externally. These standards have recently been considered by the Australian Competition and Consumer Commission in the development of the News Media and Digital Platform Bargaining Code, and may provide useful guidance as well as opportunity for some harmonisation between these industry codes.

**ANNEX A:  
PREPARATION OF THIS SUBMISSION**

This submission was developed by PIJI's Policy Working Group supported by Anna Draffin (Chief Executive Officer), Gary Dickson (Research and Projects Manager).

PIJI wishes to thank the following organisations for providing insight and feedback on the draft DIGI code which has helped inform the development of this submission:

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