Dear DigiCode,

**Re: Australian Code of Practice on Misinformation
and Disinformation: 2022 Review Discussion Paper**

Thank you for this further opportunity to provide our views on your Discussion paper. We are pleased to provide some brief comments.

Removal of 'imminent'

We refer to the current harm threshold set at imminent and serious. AMAN welcomed ACMA's acknowledgment that the inclusion of 'imminent' was problematic.

Digi's recommended including a note that, 'an imminent and serious threat includes a situation where an accumulation of harms creates a persistent serious and imminent threat to A or B.'

Unfortunately, this proposal does not address ACMA's point.

Proving a threat is imminent to a community or individual remains an evidentiary hurdle. It is our submission that this hurdle makes the entire Code redundant for affected communities.

To provide you with an example, if an actor is producing disinformation used to justify the Christchurch massacre, would we have to prove that the threat of another Christchurch massacre is imminent as a result of this current actor's operation? It should be enough to demonstrate that the disinformation dehumanises an outgroup to an ingroup audience on the basis of a protected characteristic and has caused violence in the past.

"Imminent" should be removed from the definition of harm in section 3.4 of the Code.

Definition of harms

It is also true that any limitations on freedom of expression must be defined enough to provide certainty about what crosses the line.

One potential harmful consequence of such regulations is that they can be misused against journalists and civil society activists. Disinformation laws can be misused or be cast so generally (in the case, for example, of defamation laws) that they curtail the freedom of expression by going after those who openly criticise public figures or the government.

The research commissioned by Digi showed that people's understanding of misinformation and disinformation was coloured by their politics, age and other factors. It also showed that the public's understanding of the harm caused by misinformation did not feature as an important element. This needs to change.

The Global Disinformation Index (GDI)'s definition of disinformation is useful to an extent: Information that purposely fosters malicious and divisive framing to create conflict and violence.[1] However, this threshold continues to rely on judgment calls about whether framing was purposely malicious and whether it was divisive in a harmful way. More clarity and precision are required to **define the harm** caused by disinformation.

The harm of disinformation and misinformation is hard to define with enough certainty and precision across many different contexts. Thus, we suggest **serious harm** is **defined** in specific contexts of disinformation and misinformation, such as

1. Electoral
2. Climate science
3. Health/Covid vaccines
4. Dehumanising discourse (about a minority outgroup to an ingroup audience)

There are already signs that efforts to regulate misinformation and disinformation will be met by scare campaigns by particular outlets. The Code won't be successful without being able to communicate the harms the Code aims to deter and prevent.

Defining the harm of dehumanisation

Dehumanisation cuts across many affected groups and contexts and provides a definitional framework to resist/disrupt disinformation deep in its foundations (avoiding the logic bypasses set within conspiracy theory; appealing to widely supported logic).

We jointly published a couple of papers last year that investigated the use of dehumanising discourse to convey dehumanising ideas about a group based on an identified characteristic.[2] It brings together genocide prevention research[3], social psychology[4] and discourse analysis.

Our definition of the harm of dehumanising discourse is provided here as a starting point:

An actor that serially or systematically produces or publishes material, which an ordinary person would conclude, curates information to cumulatively and overtime portray that the class of persons identified based on a protected characteristic

(i) are polluting, despoiling, or debilitating society;

(ii) have a diminished capacity for human warmth and feeling or independent thought;

(iii) act in concert to cause mortal or bodily harm; or

(iv) are to be held responsible for and deserving of collective punishment for the specific crimes or alleged crimes of some of their "members".

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1 https://www.ohchr.org/sites/default/files/Documents/Issues/Expression/disinformation/2-Civil-society-organisations/The-Global-Disinformation-Index.pdf

Dehumanisation makes a group a target for discrimination, hostility and violence. Dehumanisation is also experienced as a form of psychological violence by the target group.

We often hear that the way to address disinformation about our community is to provide counter information.

Counter narrative campaigns seem pointless when responding to the great replacement theory because the theory has inbuilt mechanisms to preclude critical thinking (e.g., 'Muslims will play victim, that's part of their evil plot.' 'Progressives are conspiring with Islamists'). Relying too much on counter-narrative ignores the psychological effects of prolonged exposure to hate materials attributing subhuman or inhuman values to a group. The consumers of that material are likely to have reduced moral barriers to violence when it comes to that group.

Inoculation does have an important role (early education for younger people). Community education about dehumanisation will help affected communities to resist internalising those narratives and support allies to speak up in more effective ways. But counter-narrative campaigns cannot be treated as the antidote to serial and systemic bad actors - disrupting their distribution model is needed.

We suspect for the other types of disinformation (electoral, climate, covid), similar work needs to be done on defining the harmful impacts in ways that make basic human sense and are hard to argue with. Then the debate can shift to avoiding harms that most people agree are harmful.

[2] Abdalla, M., Ally, M. & Jabri-Markwell, R. Dehumanisation of 'Outgroups' on Facebook and Twitter: towards a framework for assessing online hate organisations and actors. *SN Soc Sci* **1,** 238 (2021). https://doi.org/10.1007/s43545-021-00240-4

Risius M, Blasiak K, Wibisino S, Jabri-Markwell R, Louis W (2021) Dynamic Matrix of Extremisms and Terrorism (DMET): a continuum approach towards identifying different degrees of extremisms. Report to the Global Internet Forum to Counter Terrorism

[3] Maynard JL, Benesch S (2016) Dangerous speech and dangerous ideology: an integrated model for monitoring and prevention. Genocide Stud Prev 9(3):70

[4] Haslam N (2006) Dehumanization: an integrative review. Personal Soc Psychol Rev 10:257

Professional news

Section 4.4 of the code currently provides an exemption for news content that is the subject of a published editorial code. Digi proposes that Section 4.4 D. of the Code be amended to limit this exemption to 'professional news'.

We query whether news content should be exempted at all for the following reasons:

1. Media regulation in Australia does not include online content.
2. Media regulatory codes do not address misinformation or disinformation.
3. News services spread misinformation and disinformation through 'current affairs' where news can freely adopt a position, even if it is inaccurate.
4. Australians substantially consume their news through social media, yet tech companies are platforming a range of news that spreads misinformation and disinformation.
5. For example, AMAN reported Sky News 'current affairs' segments to ACMA. ACMA found the content did not reach the high threshold of "intense" dislike, "serious" contempt or "severe" ridicule needed to breach the codes. The examples included misinformation/disinformation about the teachings and tenets of Islam, which when provided as context to viscerally-charged stories about heinous crimes, would lead viewers to believe followers of Islam are a threat to society.
6. ACMA has recently acknowledged that the Codes under the *Broadcasting Services Act* are outdated, and referred to the problem of negative portrayal over time.
7. The negative portrayal of groups based on a protected characteristic (like race or religion) has a serious cumulative harmful impact on both readers and the group over time.
8. Due to their covert and nuanced nature, these more subtle drivers of hate can also be challenging to identify as isolated articles, segments or headlines. They are instead characterised by repetition, sheer volume, or disproportionality of focus on an issue.
9. The harms caused by misinformation and disinformation need to be envisaged in both media regulation, and platform regulation.
10. As a principle, it would be simpler for the community and consumers to have a complaint mechanism that allows complaints against the news service and tech company to be heard at the same time.

Co-regulation

The Australian Government must legislate to make this at least a co-regulatory regime. What this means to us is that not only will a regulator have the ability to enforce standards, but the regulator will have the power to monitor compliance with the standards and bring claims, rather than leaving the burden on the shoulders of the community and consumers.

Defunding disinformation

Australia's co-regulatory environment must break the incentive to create disinformation to garner advertising revenues. This can be done by brands, advertising and tech companies (ad tech, eCommerce, e-payment, etc.), ensuring that their services do not provide a financial lifeline to disinformation sites and stories. We encourage Digi and ACMA to continue treating this as a priority.