

2022-2023-2024

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Communications Legislation
Amendment (Combatting
Misinformation and Disinformation) Bill
2024**

No. , 2024

(Infrastructure, Transport, Regional Development, Communications and the Arts)

**A Bill for an Act to amend the law relating to
communications, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **communications, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Communications Legislation Amendment*
6 *(Combating Misinformation and Disinformation) Act 2024*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The day after this Act receives the Royal Assent.	
3. Schedule 2, Part 1	The day after this Act receives the Royal Assent.	
4. Schedule 2, Part 2	The later of: (a) immediately after the commencement of the provisions covered by table item 3; and (b) immediately after the commencement of the <i>Administrative Review Tribunal Act 2024</i> .	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

3 Schedules

8 Legislation that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

1 **Schedule 1—Main amendments**
2

3 ***Broadcasting Services Act 1992***

4 **1 After section 216E**

5 Insert:

6 **216F Schedule 9 (digital communications platforms)**

7 Schedule 9 has effect.

8 **2 At the end of the Act**

9 Add:

10 **Schedule 9—Digital communications**
11 **platforms**

12 Note: See section 216F.

13 **Part 1—Introduction**

14 **Division 1—Preliminary**

15 **1 Simplified outline of this Schedule**

16 Some digital communications platform providers are subject to
17 requirements in connection with misinformation and
18 disinformation on digital communications platforms. These
19 platforms must make specified information publicly accessible and
20 must comply with any requirements in the digital platform rules in
21 relation to the following:
22 (a) risk management;
23 (b) media literacy plans;
24 (c) complaints and dispute handling.

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The ACMA also has a graduated set of powers in relation to misinformation and disinformation on some kinds of digital communications platform.

The ACMA may make digital platform rules requiring digital communications platform providers to keep records and report to the ACMA on matters relating to misinformation and disinformation on digital communications platforms. The ACMA may obtain information and documents from digital communications platform providers and others relating to those matters. The ACMA may publish information relating to those matters on its website.

Bodies or associations representing sections of the digital platform industry may develop codes in relation to measures to prevent or respond to misinformation and disinformation on digital communications platforms. If the ACMA approves a misinformation code, digital platform providers in the relevant section of the digital platform industry must comply with the code while it is in force.

Where there is no approved misinformation code in force, an approved misinformation code that is in force is deficient or there are exceptional and urgent circumstances, the ACMA may determine a standard to provide adequate protection for the Australian community from serious harm caused or contributed to by misinformation or disinformation on digital communications platforms. Digital communications platform providers are required to comply with misinformation standards that apply to them.

27 **2 Definitions**

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In this Schedule:

access includes:

- (a) access that is subject to a pre-condition (for example, the use of a password); and
- (b) access by way of push technology; and
- (c) access by way of a standing request.

1 *Australia*, when used in a geographical sense, includes all the
2 external Territories.

3 *connective media service* has the meaning given by subclause 5(2).

4 *content* means content:

5 (a) whether in the form of text; or
6 (b) whether in the form of data; or
7 (c) whether in the form of speech, music or other sounds; or
8 (d) whether in the form of visual images (animated or
9 otherwise); or
10 (e) whether in any other form; or
11 (f) whether in any combination of forms.

12 *content aggregation service* has the meaning given by
13 subclause 5(3).

14 *digital communications platform* has the meaning given by
15 subclause 5(1).

16 *digital communications platform provider* has the meaning given
17 by subclause 7(1).

18 *digital platform rules* has the meaning given by subclause 82(1).

19 *digital service* has the meaning given by clause 4.

20 *disinformation* has the meaning given by subclause 13(2).

21 *dissemination* includes the following:

22 (a) dissemination using automated means;
23 (b) dissemination to one person or more than one person.

24 *excluded dissemination* has the meaning given by subclause 16(1).

25 *inauthentic behaviour* has the meaning given by clause 15.

26 *interactive feature* has the meaning given by clause 6.

27 *internet carriage service* has the same meaning as in the *Online*
28 *Safety Act 2021*.

1 **internet search engine service** has the meaning given by
2 subclause 5(4).

3 **media literacy plan**, for a digital communications platform, means
4 a plan setting out measures the digital communications platform
5 provider of the platform will take to enable end-users to better
6 identify misinformation and disinformation on the platform,
7 including to enable end-users to identify the source of content
8 disseminated on the platform (particularly content that purports to
9 be authoritative or factual).

10 **media sharing service** has the meaning given by subclause 5(5).

11 **misinformation** has the meaning given by subclause 13(1).

12 **misinformation code** means a code developed under Division 4 of
13 Part 2 (whether or not in response to a request under that Division).

14 **misinformation complaint** means a complaint in relation to:

- 15 (a) misinformation or disinformation on a digital
16 communications platform (or dissemination that is potentially
17 misinformation or disinformation on a digital
18 communications platform); or
19 (b) content removed from a digital communications platform on
20 the basis that its dissemination using the platform is
21 misinformation or disinformation on the platform.

22 **misinformation standard** means a standard determined under
23 Division 4 of Part 2.

24 **news content** has the meaning given by subclause 16(3).

25 **participant**, in a section of the digital platform industry, has the
26 meaning given by clause 43.

27 **post**: content is **posted** on a digital service by an end-user if the
28 end-user causes the content to be accessible to, or delivered to, one
29 or more other end-users using the digital service.

30 **private message** means a message sent using a digital
31 communications platform from an end-user:

- 32 (a) to another end-user; or

- 1 (b) at the same time to a number of end-users that does not
2 exceed:
3 (i) the number specified in the digital platform rules; or
4 (ii) if no number is specified in the digital platform rules—
5 1,000.

6 **professional news content** has the meaning given by
7 subclause 16(2).

8 **protected information** means:

- 9 (a) a trade secret; or
10 (b) other information that has a commercial value that would be,
11 or could reasonably be expected to be, destroyed if the
12 information were publicly disclosed.

13 **provided on a digital service** has the meaning given by clause 8.

14 **provided to the public**, in relation to a service, has the meaning
15 given by clause 9.

16 **section of the digital platform industry** has the meaning given by
17 clause 42.

18 **serious harm** has the meaning given by clause 14.

19 **service** includes a website.

20 **using** has a meaning affected by clause 10.

21 **VoIP communication** means a real-time voice communication
22 using the internet that is not recorded.

23 **3 Extra-territorial application**

24 This Schedule extends to acts, omissions, matters and things
25 outside Australia.

26 **Division 2—Key concepts**

27 **4 Meaning of digital service**

28 For the purposes of this Schedule, a **digital service** is a service that:

- 1 (a) delivers content to persons having equipment appropriate for
2 receiving that content, where the delivery of the service is by
3 means of an internet carriage service; or
4 (b) allows end-users to access content using an internet carriage
5 service;
6 where:
7 (c) the service is provided to the public (whether on payment of
8 a fee or otherwise); and
9 (d) the service is offered in Australia;
10 but does not include a service to the extent to which it is:
11 (e) a broadcasting service; or
12 (f) a datacasting service.

13 5 Meaning of *digital communications platform*

14 *Digital communications platforms*

- 15 (1) For the purposes of this Schedule, a ***digital communications***
16 ***platform*** is a digital service that is:
17 (a) a connective media service (see subclause (2)); or
18 (b) a content aggregation service (see subclause (3)); or
19 (c) an internet search engine service (see subclause (4)); or
20 (d) a media sharing service (see subclause (5)); or
21 (e) a kind of digital service determined by the Minister under
22 subclause (7);
23 but does not include a digital service to the extent to which it is:
24 (f) an internet carriage service; or
25 (g) an SMS service; or
26 (h) an MMS service.

27 Note 1: ***SMS*** is short for short message service.

28 Note 2: ***MMS*** is short for multimedia message service.

29 *Connective media services, content aggregation services, internet* 30 *search engine services and media sharing services*

- 31 (2) For the purposes of this Schedule, a digital service that satisfies the
32 following conditions is a ***connective media service***:

-
- 1 (a) the primary function of the digital service is to enable online
2 interaction between 2 or more end-users;
- 3 (b) the digital service allows end-users to link to, or interact
4 with, some or all of the other end-users;
- 5 (c) the digital service has an interactive feature;
- 6 (d) such other conditions (if any) as are set out in the digital
7 platform rules.
- 8 (3) For the purposes of this Schedule, a digital service that satisfies the
9 following conditions is a **content aggregation service**:
- 10 (a) the primary function of the digital service is to collate and
11 present to end-users content from a range of online sources,
12 including sources other than the digital service;
- 13 (b) the digital service is not an internet search engine service;
- 14 (c) such other conditions (if any) as are set out in the digital
15 platform rules.
- 16 (4) For the purposes of this Schedule, a digital service that satisfies the
17 following conditions is an **internet search engine service**:
- 18 (a) the digital service collects, indexes or ranks content from a
19 range of online sources, including sources other than the
20 digital service;
- 21 (b) the primary function of the digital service is to enable an
22 end-user to search the digital service's collection, index or
23 ranking;
- 24 (c) such other conditions (if any) as are set out in the digital
25 platform rules.
- 26 (5) For the purposes of this Schedule, a digital service that satisfies the
27 following conditions is a **media sharing service**:
- 28 (a) the primary function of the digital service is to provide audio,
29 visual (animated or otherwise) or audio-visual content to
30 end-users;
- 31 (b) such other conditions (if any) as are set out in the digital
32 platform rules.
- 33 (6) In determining whether the condition set out in paragraph (2)(a),
34 (3)(a), (4)(b) or (5)(a) is satisfied, disregard any of the following
35 functions:
- 36 (a) the provision of advertising material on the digital service;
-

- 1 (b) the generation of revenue from the provision of advertising
2 material on the digital service;
3 (c) collection of data using the digital service;
4 (d) the generation of revenue from data collected using the
5 digital service.

6 *Digital services determined by Minister*

- 7 (7) The Minister may, by legislative instrument, determine that a kind
8 of digital service is a digital communications platform if the
9 Minister is satisfied that it is appropriate to apply provisions of this
10 Schedule to the digital service to provide adequate protection for
11 the Australian community.
- 12 (8) The Minister must consult the ACMA before the Minister makes
13 an instrument under subclause (7).

14 **6 Meaning of *interactive feature***

15 For the purposes of this Schedule, a digital service has an
16 ***interactive feature*** if at least one of the following applies to the
17 digital service:

- 18 (a) the digital service allows an end-user to post content on the
19 digital service, other than as part of gameplay;
- 20 (b) the digital service provides a means for an end-user to share,
21 within the digital service and other than as part of gameplay,
22 content that is provided on the digital service with another
23 end-user;
- 24 (c) the digital service makes:
25 (i) interaction between end-users; or
26 (ii) interaction by end-users with content provided on the
27 digital service;
28 observable to other end-users, other than as part of gameplay.

29 **7 Meaning of *digital communications platform provider***

- 30 (1) For the purposes of this Schedule, a ***digital communications***
31 ***platform provider*** is a person who provides a digital
32 communications platform.

1 (2) For the purposes of this Schedule, a person does not provide a
2 digital communications platform merely because the person
3 supplies an internet carriage service that enables content to be
4 delivered or accessed.

5 (3) For the purposes of this Schedule, a person does not provide a
6 digital communications platform merely because the person
7 provides a billing service, or a fee collection service, in relation to
8 a digital communications platform.

9 **8 When content is provided on a digital service**

10 (1) For the purposes of this Schedule, content is ***provided on*** a digital
11 service if the content is:

- 12 (a) delivered by the digital service; or
13 (b) accessible to end-users using the digital service.

14 (2) For the purposes of this Schedule, content is ***provided on*** a digital
15 service to an end-user if the content is:

- 16 (a) delivered to the end-user by the digital service; or
17 (b) accessible to the end-user using the digital service.

18 **9 When a service is provided to the public etc.**

19 (1) For the purposes of this Schedule, a service is ***provided to the***
20 ***public*** if, and only if, the service is provided to at least one person
21 outside the immediate circle (within the meaning of the
22 *Telecommunications Act 1997*) of the person who provides the
23 service.

24 (2) For the purposes of this Schedule, a service that is provided to the
25 public is taken to be different from a service that is not provided to
26 the public, even if the content provided on the services is identical.

27 **10 Extended meaning of *using***

28 A reference in this Schedule to ***using*** a thing is a reference to using
29 the thing either:

- 30 (a) in isolation; or
31 (b) in conjunction with one or more other things.

1 **Part 2—Misinformation and disinformation**

2 **Division 1—Introduction**

3 **11 Objects**

4 The objects of this Part are:

- 5 (a) to enable end-users to better understand the accuracy and
6 credibility of content disseminated using digital
7 communications platforms, particularly content that purports
8 to be factual or authoritative; and
- 9 (b) to ensure digital communications platform providers:
10 (i) publish policies, or information on policy approaches, in
11 relation to misinformation and disinformation on digital
12 communications platforms; and
13 (ii) take other steps to enhance transparency in relation to
14 misinformation and disinformation on digital
15 communications platforms; and
- 16 (c) to enable one or more bodies or associations that the ACMA
17 is satisfied represent sections of the digital platform industry
18 to develop one or more codes that require participants in
19 those sections of the digital platform industry to implement
20 measures to prevent or respond to misinformation and
21 disinformation on digital communications platforms; and
- 22 (d) to enable the ACMA to approve codes and determine
23 standards that are reasonably appropriate and adapted to
24 protecting the Australian community from serious harm
25 caused or contributed to by misinformation or disinformation
26 on digital communications platforms; and
- 27 (e) to provide the ACMA with powers, which respect the
28 freedom of expression, to take action for the purposes of this
29 Part; and
- 30 (f) to ensure the ACMA examines systemic issues relating to
31 conduct of digital communications platform providers in
32 relation to misinformation and disinformation on digital
33 communications platforms.

1 **12 Exemption for certain digital communications platforms**

- 2 (1) Divisions 2 to 5 do not apply in relation to a digital
3 communications platform to the extent that it is:
4 (a) an email service; or
5 (b) a media sharing service that does not have an interactive
6 feature; or
7 (c) a digital service the Minister determines is an excluded
8 service for misinformation purposes under subclause (3).
- 9 (2) Digital platform rules made for the purposes of this Part, approved
10 misinformation codes and misinformation standards do not apply
11 in relation to a digital communications platform to the extent that it
12 is:
13 (a) an email service; or
14 (b) a media sharing service that does not have an interactive
15 feature; or
16 (c) a digital service the Minister determines is an excluded
17 service for misinformation purposes under subclause (3).
- 18 (3) The Minister may, by legislative instrument, determine that a
19 digital service is an excluded service for misinformation purposes.

20 **13 Meanings of *misinformation* and *disinformation***

- 21 (1) For the purposes of this Schedule, dissemination of content using a
22 digital service is ***misinformation*** on the digital service if:
23 (a) the content contains information that is reasonably verifiable
24 as false, misleading or deceptive; and
25 (b) the content is provided on the digital service to one or more
26 end-users in Australia; and
27 (c) the provision of the content on the digital service is
28 reasonably likely to cause or contribute to serious harm; and
29 (d) the dissemination is not excluded dissemination.
- 30 (2) For the purposes of this Schedule, dissemination of content using a
31 digital service is ***disinformation*** on the digital service if:
32 (a) the content contains information that is reasonably verifiable
33 as false, misleading or deceptive; and

- 1 (b) the content is provided on the digital service to one or more
- 2 end-users in Australia; and
- 3 (c) the provision of the content on the digital service is
- 4 reasonably likely to cause or contribute to serious harm; and
- 5 (d) the dissemination is not excluded dissemination; and
- 6 (e) either:
 - 7 (i) there are grounds to suspect that the person
 - 8 disseminating, or causing the dissemination of, the
 - 9 content intends that the content deceive another person;
 - 10 or
 - 11 (ii) the dissemination involves inauthentic behaviour.

12 Note: Disinformation includes disinformation by or on behalf of a foreign
13 power.

- 14 (3) For the purposes of this Schedule, in determining whether the
- 15 provision of content on a digital service is reasonably likely to
- 16 cause or contribute to serious harm, regard must be had to the
- 17 following matters:
 - 18 (a) the circumstances in which the content is disseminated;
 - 19 (b) the subject matter of the information in the content that is
 - 20 reasonably verifiable as false, misleading or deceptive;
 - 21 (c) the potential reach and speed of the dissemination;
 - 22 (d) the author of the information;
 - 23 (e) the purpose of the dissemination;
 - 24 (f) whether the information has been attributed to a source and,
 - 25 if so, the authority of the source and whether the attribution is
 - 26 correct;
 - 27 (g) other related information disseminated that is reasonably
 - 28 verifiable as false, misleading or deceptive;
 - 29 (h) any matter determined by the Minister under subclause (4);
 - 30 (i) any other relevant matter.
- 31 (4) The Minister may, by legislative instrument, determine a matter to
- 32 which regard must be had in determining whether the provision of
- 33 content on a digital service is reasonably likely to cause or
- 34 contribute to serious harm.
- 35 (5) Subclause (2) does not limit subclause (1).

1 **14 Meaning of *serious harm***

- 2 For the purposes of this Schedule, *serious harm* is:
- 3 (a) harm to the operation or integrity of a Commonwealth, State,
4 Territory or local government electoral or referendum
5 process; or
 - 6 (b) harm to public health in Australia, including to the efficacy
7 of preventative health measures in Australia; or
 - 8 (c) vilification of a group in Australian society distinguished by
9 race, religion, sex, sexual orientation, gender identity,
10 intersex status, disability, nationality or national or ethnic
11 origin, or vilification of an individual because of a belief that
12 the individual is a member of such a group; or
 - 13 (d) intentionally inflicted physical injury to an individual in
14 Australia; or
 - 15 (e) imminent:
 - 16 (i) damage to critical infrastructure; or
 - 17 (ii) disruption of emergency services;
18 in Australia; or
 - 19 (f) imminent harm to the Australian economy, including harm to
20 public confidence in the banking system or financial markets;
21 that has:
 - 22 (g) significant and far-reaching consequences for the Australian
23 community or a segment of the Australian community; or
 - 24 (h) severe consequences for an individual in Australia.

25 **15 Meaning of *inauthentic behaviour***

- 26 (1) For the purposes of this Schedule, dissemination of content on a
27 digital service involves *inauthentic behaviour* if:
- 28 (a) the dissemination uses an automated system in a way that is
29 reasonably likely to mislead an end-user about a matter
30 covered by subclause (2); or
 - 31 (b) there are grounds to suspect the dissemination is part of
32 coordinated action that is reasonably likely to mislead an
33 end-user about a matter covered by subclause (2); or

- 1 (c) there are grounds to suspect that the dissemination uses an
2 arrangement for the purpose of avoiding action by the
3 provider of the digital service to:
4 (i) comply with this Act or another law; or
5 (ii) enforce compliance with the terms of use for the digital
6 service; or
7 (d) the content is disseminated in the circumstances specified in
8 the digital platform rules.
- 9 (2) For the purposes of paragraphs (1)(a) and (b), the matters are as
10 follows:
11 (a) the identity, purpose or origin of the person disseminating the
12 content;
13 (b) the popularity of the content on the digital service;
14 (c) the motive or intention of an end-user;
15 (d) the source or origin of the content.

16 **16 Meaning of *excluded dissemination***

- 17 (1) For the purposes of this Schedule, the following are ***excluded***
18 ***dissemination***:
19 (a) dissemination of content that would reasonably be regarded
20 as parody or satire;
21 (b) dissemination of professional news content;
22 (c) reasonable dissemination of content for any academic,
23 artistic, scientific or religious purpose.
- 24 (2) For the purposes of this Schedule, ***professional news content*** is
25 news content produced by a person who:
26 (a) produces, and publishes online, news content in any of the
27 following formats:
28 (i) a newspaper;
29 (ii) a magazine;
30 (iii) a television program or channel;
31 (iv) a radio program or channel;
32 (v) a website or part of a website;

-
- 1 (vi) a program of audio, visual (animated or otherwise) or
2 audio-visual content designed to be distributed over the
3 internet; and
- 4 (b) is subject to any of the following:
- 5 (i) the rules of the Australian Press Council Standards of
6 Practice or the Independent Media Council Code of
7 Conduct;
- 8 (ii) the rules of the Commercial Television Industry Code of
9 Practice, the Commercial Radio Code of Practice or the
10 Subscription Broadcast Television Codes of Practice;
- 11 (iii) rules of a code of practice mentioned in
12 paragraph 8(1)(e) of the *Australian Broadcasting*
13 *Corporation Act 1983* or paragraph 10(1)(j) of the
14 *Special Broadcasting Service Act 1991*;
- 15 (iv) rules or internal editorial standards that are analogous to
16 the rules mentioned in subparagraph (i), (ii) or (iii) of
17 this paragraph to the extent that they relate to the
18 provision of quality journalism;
- 19 (v) rules specified for the purposes of this paragraph in the
20 digital platform rules; and
- 21 (c) has editorial independence from the subjects of the person's
22 news coverage.
- 23 (3) For the purposes of this Schedule, **news content** is content that
24 reports, investigates or explains any of the following:
- 25 (a) issues or events that are relevant in engaging persons in
26 public debate and in informing democratic decision-making;
- 27 (b) current issues or events of public significance for persons at a
28 local, regional, national or international level;
- 29 (c) current issues or events of interest to persons.

1 **Division 2—Transparency**

2 **Subdivision A—Publication**

3 **17 Digital communications platform provider must publish**
4 **information**

5 *Making information available to the public*

6 (1) A digital communications platform provider of a digital
7 communications platform must ensure that the following
8 information is accessible to the public on its website and to
9 end-users on the platform:

10 (a) a report that meets the requirements (if any) prescribed by the
11 digital platform rules on the outcomes of an assessment by
12 the provider of risks relating to misinformation and
13 disinformation on the platform, including:

14 (i) risks arising from the design or functioning of the
15 platform; and

16 (ii) risks arising from the use of the platform by end-users;

17 (b) either:

18 (i) the provider's current policy in relation to
19 misinformation and disinformation on the platform; or

20 (ii) information on the provider's current policy approach in
21 relation to misinformation and disinformation on the
22 platform;

23 (c) a current media literacy plan for the platform;

24 (d) information (other than source code) specified in the digital
25 platform rules.

26 (2) If the provider updates its assessment of risks relating to
27 misinformation and disinformation on the platform,
28 paragraph (1)(a) applies in relation to the most recent assessment.

29 (3) However, subclause (1) does not apply in relation to:

30 (a) protected information; or

31 (b) personal information (within the meaning of the *Privacy Act*
32 *1988*); or

- 1 (c) any information the disclosure of which the provider
2 reasonably considers might:
3 (i) cause a significant security vulnerability for the
4 platform; or
5 (ii) increase misinformation or disinformation.

6 *Making information available to the ACMA*

- 7 (4) If a digital communications platform provider of a digital
8 communications platform fails to comply with subclause (1) (or
9 would have failed to comply with subclause (1) if subclause (3)
10 were disregarded) in relation to particular information, the provider
11 must give the ACMA, within 60 days after the failure:
12 (a) a copy of the information; and
13 (b) a statement of the reason why the provider has not ensured
14 the information is accessible to the public on its website and
15 to end-users on the platform.
- 16 (5) Without limiting subclause (4), the provider may notify the ACMA
17 that the information contains protected information. The notice
18 must identify which information is protected information and
19 explain why.

20 Note: Limitations apply to publication of protected information under
21 clause 38 (see clauses 39 and 40).

22 *Civil penalty provisions*

- 23 (6) Subclauses (1) and (4) are civil penalty provisions.

24 **18 Remedial directions—contravention of requirement to publish**
25 **information**

- 26 (1) This clause applies if the ACMA is satisfied that a digital
27 communications platform provider has contravened, or is
28 contravening, subclause 17(1) or (4).
- 29 (2) The ACMA may give the provider a written direction requiring the
30 provider to take specified action directed towards ensuring that the
31 provider does not contravene subclause 17(1) or (4), or is unlikely
32 to contravene subclause 17(1) or (4), in the future.

1 (3) A digital communications platform provider must not contravene a
2 direction under subclause (2).

3 (4) Subclause (3) is a civil penalty provision.

4 **Subdivision B—Risk management**

5 **19 ACMA may make digital platform rules in relation to risk**
6 **management**

7 The digital platform rules may require:

- 8 (a) digital communications platform providers to update their
9 assessments of risks relating to misinformation and
10 disinformation on digital communications platforms they
11 provide, at times, or in circumstances, specified in the rules;
12 and
13 (b) those risk assessments to cover specified matters; and
14 (c) digital communications platform providers to have
15 management plans for risks relating to misinformation and
16 disinformation on digital communications platforms; and
17 (d) those risk management plans to be prepared at times, or in
18 circumstances, specified in the rules; and
19 (e) those risk management plans to state the steps (if any) being
20 taken by digital communications platform providers in
21 relation to risks identified by providers or specified in the
22 rules.

23 **20 Compliance with digital platform rules regarding risk**
24 **management**

25 (1) A digital communications platform provider must not contravene
26 digital platform rules made for the purposes of clause 19.

27 (2) Subclause (1) is a civil penalty provision.

28 **21 Remedial directions—contravention of digital platform rules**
29 **regarding risk management**

30 (1) This clause applies if the ACMA is satisfied that a digital
31 communications platform provider has contravened, or is

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contravening, digital platform rules made for the purposes of clause 19.

- (2) The ACMA may give the provider a written direction requiring the provider to take specified action directed towards ensuring that the provider does not contravene digital platform rules made for the purposes of clause 19, or is unlikely to contravene those rules, in the future.
- (3) A digital communications platform provider must not contravene a direction under subclause (2).
- (4) Subclause (3) is a civil penalty provision.

Subdivision C—Media literacy plan

22 ACMA may make digital platform rules in relation to media literacy plan

- The digital platform rules may require:
- (a) digital communications platform providers to update media literacy plans for the digital communications platforms they provide, at times, or in circumstances, specified in the rules; and
 - (b) those media literacy plans to state the media literacy tools being used by digital communications platform providers in relation to risks identified by providers or specified in the rules; and
 - (c) digital communications platform providers to give the ACMA assessments of the effectiveness of those media literacy tools.

23 Compliance with digital platform rules regarding media literacy plan

- (1) A digital communications platform provider must not contravene digital platform rules made for the purposes of clause 22.
- (2) Subclause (1) is a civil penalty provision.

1 **24 Remedial directions—contravention of digital platform rules**
2 **regarding media literacy plan**

- 3 (1) This clause applies if the ACMA is satisfied that a digital
4 communications platform provider has contravened, or is
5 contravening, digital platform rules made for the purposes of
6 clause 22.
- 7 (2) The ACMA may give the provider a written direction requiring the
8 provider to take specified action directed towards ensuring that the
9 provider does not contravene digital platform rules made for the
10 purposes of clause 22, or is unlikely to contravene those rules, in
11 the future.
- 12 (3) A digital communications platform provider must not contravene a
13 direction under subclause (2).
- 14 (4) Subclause (3) is a civil penalty provision.

15 **Subdivision D—Complaints**

16 **25 ACMA may make digital platform rules in relation to complaints**
17 **and dispute handling**

- 18 (1) The digital platform rules may provide for or in relation to
19 complaints and dispute handling processes for misinformation
20 complaints.
- 21 (2) Without limiting subclause (1), digital platform rules may require
22 the following:
- 23 (a) digital communications platform providers to implement and
24 maintain complaints and dispute handling processes for
25 misinformation complaints;
- 26 (b) complaints and dispute handling processes for
27 misinformation complaints to comply with minimum
28 standards;
- 29 (c) publication, or provision to the ACMA, of information
30 regarding:
- 31 (i) complaints and dispute handling processes for
32 misinformation complaints; and
33 (ii) misinformation complaints; and

- 1 (iii) responses to misinformation complaints.
- 2 (3) However, digital platform rules made for the purposes of this
3 clause must not require a digital communications platform provider
4 of a digital communications platform to publish:
- 5 (a) protected information; or
6 (b) personal information (within the meaning of the *Privacy Act*
7 *1988*); or
8 (c) any information the disclosure of which the provider
9 reasonably considers might:
- 10 (i) cause a significant security vulnerability for the
11 platform; or
12 (ii) increase misinformation or disinformation.

13 **26 Compliance with digital platform rules regarding complaints and**
14 **dispute handling**

- 15 (1) A digital communications platform provider must not contravene
16 digital platform rules made for the purposes of clause 25.
- 17 (2) Subclause (1) is a civil penalty provision.

18 **27 Remedial directions—contravention of digital platform rules**
19 **regarding complaints and dispute handling**

- 20 (1) This clause applies if the ACMA is satisfied that a digital
21 communications platform provider has contravened, or is
22 contravening, digital platform rules made for the purposes of
23 clause 25.
- 24 (2) The ACMA may give the provider a written direction requiring the
25 provider to take specified action directed towards ensuring that the
26 provider does not contravene digital platform rules made for the
27 purposes of clause 25, or is unlikely to contravene those rules, in
28 the future.
- 29 (3) A digital communications platform provider must not contravene a
30 direction under subclause (2).
- 31 (4) Subclause (3) is a civil penalty provision.

1 **Subdivision E—Miscellaneous**

2 **28 Delayed start of requirements in this Division**

3 Subdivisions A to D do not apply in relation to a digital
4 communications platform provider until the end of the period of 6
5 months starting on the day this Schedule commences.

6 **29 Exemptions from this Division**

7 Subdivisions A to D do not apply in relation to a digital
8 communications platform specified in the digital platform rules as
9 exempt from this Division.

10 **Division 3—Information**

11 **Subdivision A—Record keeping and reporting**

12 **30 ACMA may make digital platform rules in relation to records**

13 *Records*

- 14 (1) The digital platform rules may require digital communications
15 platform providers to make and retain records relating to the
16 following:
- 17 (a) misinformation or disinformation on digital communications
18 platforms;
 - 19 (b) measures implemented by digital communications platform
20 providers to prevent or respond to misinformation or
21 disinformation on digital communications platforms,
22 including the effectiveness of the measures.
- 23 (2) Before the ACMA makes a digital platform rule for the purposes of
24 this clause, the ACMA must consider:
- 25 (a) the privacy of end-users of the digital communications
26 platforms to which the rule relates; and
 - 27 (b) whether the rule is required for the performance of the
28 ACMA's function under paragraph 10(1)(mb), (mc), (md),
29 (me), (mf), (mg) or (q) of the *Australian Communications
30 and Media Authority Act 2005*.

1 (3) Digital platform rules made for the purposes of this clause must not
2 require digital communications platform providers to make or
3 retain records of:

- 4 (a) the content of private messages; or
- 5 (b) the content of VoIP communications.

6 (4) Digital platform rules may specify the manner and form in which
7 the records are to be made. Digital platform rules may specify the
8 period for which the records are to be retained.

9 *Reporting*

10 (5) Digital platform rules may also require digital communications
11 platform providers to prepare reports consisting of information
12 contained in the records.

13 (6) Digital platform rules may also require digital communications
14 platform providers to give any or all of the reports to the ACMA.

15 (7) Digital platform rules may specify the manner and form in which
16 reports are to be prepared.

17 (8) Digital platform rules may provide for:

- 18 (a) the preparation of reports as and when required by the
19 ACMA; or
- 20 (b) the preparation of periodic reports relating to such regular
21 intervals as are specified in the rules.

22 (9) Digital platform rules may require or permit a report prepared in
23 accordance with the rules to be given to the ACMA, in accordance
24 with specified software requirements and specified authentication
25 requirements:

- 26 (a) on a specified kind of data processing device (within the
27 meaning of the *Telecommunications Act 1997*); or
- 28 (b) by way of a specified kind of electronic transmission.

29 *Source code and protected information*

30 (10) Digital platform rules must not require digital communications
31 platform providers to prepare reports containing source code.

1 (11) A digital communications platform provider may notify the ACMA
2 that information in a report required by the digital platform rules to
3 be given to the ACMA is protected information. The notice must
4 identify which information is protected information and explain
5 why.

6 Note: Limitations apply to publication of protected information under
7 clause 38 (see clauses 39 and 40).

8 *Relationship with information-gathering powers*

9 (12) This clause does not limit clause 33 or 34 (which are about the
10 general information-gathering powers of the ACMA).

11 **31 Compliance with digital platform rules regarding records and**
12 **reports**

13 (1) A digital communications platform provider must not contravene
14 digital platform rules made for the purposes of clause 30.

15 (2) Subclause (1) is a civil penalty provision.

16 **32 Remedial directions—contravention of digital platform rules**
17 **regarding records and reports**

18 (1) This clause applies if the ACMA is satisfied that a digital
19 communications platform provider has contravened, or is
20 contravening, digital platform rules made for the purposes of
21 clause 30.

22 (2) The ACMA may give the provider a written direction requiring the
23 provider to take specified action directed towards ensuring that the
24 provider does not contravene digital platform rules made for the
25 purposes of clause 30, or is unlikely to contravene those rules, in
26 the future.

27 (3) A digital communications platform provider must not contravene a
28 direction under subclause (2).

29 (4) Subclause (3) is a civil penalty provision.

1 **Subdivision B—Information gathering**

2 **33 ACMA may obtain information and documents from digital**
3 **communications platform providers**

4 *Scope*

- 5 (1) This clause applies to a digital communications platform provider
6 of a digital communications platform if:
- 7 (a) the ACMA has reasonable grounds to believe that the
8 provider has information or a document (other than source
9 code) that is relevant to any of the following matters:
 - 10 (i) misinformation or disinformation on the platform;
 - 11 (ii) measures implemented by the provider to prevent or
12 respond to misinformation or disinformation on the
13 platform, including the effectiveness of the measures;
14 and
 - 15 (b) the ACMA considers that it requires the information or
16 document for the performance of the ACMA’s function
17 under paragraph 10(1)(mb), (mc), (md), (me), (mf), (mg) or
18 (q) of the *Australian Communications and Media Authority*
19 *Act 2005*.

20 *ACMA may require information or documents*

- 21 (2) The ACMA may, by written notice given to the provider, require
22 the provider:
- 23 (a) to give to the ACMA, within the period and in the manner
24 and form specified in the notice, any such information; or
 - 25 (b) to produce to the ACMA, within the period and in the
26 manner specified in the notice, any such documents; or
 - 27 (c) to make copies of any such documents and to produce to the
28 ACMA, within the period and in the manner specified in the
29 notice, those copies.
- 30 (3) However, a notice cannot require a person to give information, or
31 produce a document or copy, that would reveal:
- 32 (a) the content of a private message sent by an end-user of the
33 platform (other than a private message relating to the internal

- 1 operations of the platform sent by an employee of, or person
2 providing services to, the provider); or
3 (b) the content of a VoIP communication by an end-user of the
4 platform (other than a VoIP communication relating to the
5 internal operations of the platform by an employee of, or
6 person providing services to, the provider).

- 7 (4) A digital communications platform provider must comply with a
8 requirement under subclause (2).

9 *Protected information*

- 10 (5) A digital communications platform provider may notify the ACMA
11 that information given or a document or copy produced under this
12 clause contains protected information. The notice must identify
13 which information is protected information and explain why.

14 Note: Limitations apply to publication of protected information under
15 clause 38 (see clauses 39 and 40).

16 *Civil penalty provision*

- 17 (6) Subclause (4) is a civil penalty provision.

18 *Requirements for notice*

- 19 (7) A notice given to a digital communications platform provider
20 under subclause (2) must set out the effect of subclauses (4) and (6)
21 and paragraph 72(j) of this Schedule, and subsection 205F(1) (civil
22 penalty orders).

23 **34 ACMA may obtain information and documents from other**
24 **persons**

25 *Scope*

- 26 (1) This clause applies to a person if:
27 (a) the ACMA has reasonable grounds to believe that the person
28 has information or a document (other than source code) that
29 is relevant to any of the following matters:
30 (i) misinformation or disinformation on a digital
31 communications platform;

- 1 (ii) measures implemented by a digital communications
2 platform provider to prevent or respond to
3 misinformation or disinformation on a digital
4 communications platform, including the effectiveness of
5 the measures; and
- 6 (b) the ACMA considers that it requires the information or
7 document for the performance of the ACMA’s function
8 under paragraph 10(1)(md) of the *Australian*
9 *Communications and Media Authority Act 2005*.
- 10 (2) Paragraph (1)(a) does not apply in relation to information or
11 documents relating to content posted by the person on the digital
12 communications platform, other than content posted in the person’s
13 capacity as:
- 14 (a) a fact checker; or
15 (b) a content moderator; or
16 (c) an employee of the provider of the platform; or
17 (d) a person providing services to the provider of the platform.
- 18 *ACMA may require information or documents*
- 19 (3) The ACMA may, by written notice given to the person, require the
20 person:
- 21 (a) to give to the ACMA, within the period and in the manner
22 and form specified in the notice, any such information; or
23 (b) to produce to the ACMA, within the period and in the
24 manner specified in the notice, any such documents; or
25 (c) to make copies of any such documents and to produce to the
26 ACMA, within the period and in the manner specified in the
27 notice, those copies.
- 28 (4) However, a notice cannot require a person to give information, or
29 produce a document or copy, that would reveal:
- 30 (a) the content of a private message; or
31 (b) the content of a VoIP communication.
- 32 (5) A person to whom a notice is given under subclause (3) must
33 comply with a requirement under subclause (3).

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Protected information

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- (6) A person may notify the ACMA that information given or a document or copy produced under this clause contains protected information. The notice must identify which information is protected information and explain why.

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Note: Limitations apply to publication of protected information under clause 38 (see clauses 39 and 40).

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Civil penalty provision

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- (7) Subclause (5) is a civil penalty provision.

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Requirements for notice

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- (8) A notice given to a person under subclause (3) must set out the effect of subclauses (5) and (7) and paragraph 72(k) of this Schedule, and subsection 205F(1) (civil penalty orders).

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35 Copying documents—reasonable compensation

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A person is entitled to be paid by the ACMA reasonable compensation for complying with a requirement covered by paragraph 33(2)(c) or 34(3)(c).

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36 Copies of documents

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- (1) The ACMA may inspect a document or copy produced under this Subdivision and may make and retain copies of, or take and retain extracts from, such a document.

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- (2) The ACMA may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 33(2)(c) or 34(3)(c).

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37 ACMA may retain documents

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- (1) The ACMA may take, and retain for as long as is necessary, possession of a document produced under this Subdivision.

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- 1 (2) The person otherwise entitled to possession of the document is
2 entitled to be supplied, as soon as practicable, with a copy certified
3 by the ACMA to be a true copy.
- 4 (3) The certified copy must be received in all courts and tribunals as
5 evidence as if it were the original.
- 6 (4) Until a certified copy is supplied, the ACMA must, at such times
7 and places as the ACMA thinks appropriate, permit the person
8 otherwise entitled to possession of the document, or a person
9 authorised by that person, to inspect and make copies of, or take
10 extracts from, the document.

11 **Subdivision C—Publishing information**

12 **38 Publication on website**

- 13 (1) The ACMA may publish information on its website relating to the
14 following:
- 15 (a) misinformation or disinformation on digital communications
16 platforms;
- 17 (b) measures implemented by digital communications platform
18 providers to prevent or respond to misinformation or
19 disinformation on digital communications platforms,
20 including the effectiveness of the measures.
- 21 (2) The information may relate to:
- 22 (a) a particular digital communications platform or digital
23 communications platform provider; or
- 24 (b) a class of digital communications platforms or digital
25 communications platform providers; or
- 26 (c) all digital communications platforms or digital
27 communications platform providers.
- 28 (3) The information may include information that was obtained by the
29 ACMA under:
- 30 (a) paragraph 17(4)(b); or
31 (b) Subdivision D of Division 2; or
32 (c) this Division.

1 Note: The ACMA is subject to requirements in the *Privacy Act 1988* relating
2 to collection, use and disclosure of personal information.

3 **39 Protected information**

4 If the ACMA is satisfied that information is protected information,
5 the ACMA must not publish the information under clause 38
6 unless:

- 7 (a) the information is already in the public domain; or
- 8 (b) the information is required to be disclosed under a law of the
9 Commonwealth, a State or a Territory; or
- 10 (c) the ACMA obtains consent to the publication from:
 - 11 (i) if the information is a trade secret—the owner of the
12 trade secret; or
 - 13 (ii) in any other case—the owner of the information.

14 **40 Publication process in relation to protected information**

- 15 (1) This clause applies if:
 - 16 (a) the ACMA proposes to publish information under clause 38
17 that relates to:
 - 18 (i) a digital communications platform of a digital
19 communications platform provider; or
 - 20 (ii) a digital communications platform provider; and
 - 21 (b) the ACMA has been notified that the information is protected
22 information.
- 23 (2) The ACMA must give the provider a written notice:
 - 24 (a) stating that the ACMA is proposing to publish the
25 information; and
 - 26 (b) inviting the provider to make submissions to the ACMA in
27 relation to the proposal within 30 days after the notice is
28 given.
- 29 (3) After the end of the 30 days, the ACMA must decide whether or
30 not to publish the information under clause 38.
- 31 (4) In deciding whether or not to publish the information, the ACMA
32 must consider any submissions made by the provider in accordance
33 with the notice.

- 1 (5) If the ACMA decides to publish the information, the ACMA must
2 not publish the information before the end of the period of 30 days
3 after it gives the provider written notice of its decision.

4 **41 Relationship with Part 7A of the *Australian Communications and***
5 ***Media Authority Act 2005***

6 This Division does not limit Part 7A of the *Australian*
7 *Communications and Media Authority Act 2005*.

8 **Division 4—Misinformation codes and misinformation**
9 **standards**

10 **Subdivision A—Interpretation**

11 **42 Sections of the digital platform industry**

- 12 (1) For the purposes of this Schedule, ***sections of the digital platform***
13 ***industry*** are to be ascertained in accordance with this clause.
- 14 (2) For the purposes of this Schedule, each of the following groups is a
15 ***section of the digital platform industry***:
16 (a) digital communications platform providers who provide
17 connective media services;
18 (b) digital communications platform providers who provide
19 content aggregation services;
20 (c) digital communications platform providers who provide
21 internet search engine services;
22 (d) digital communications platform providers who provide
23 media sharing services.
- 24 (3) For each kind of digital service determined by the Minister under
25 subclause 5(7), the digital communications platform providers who
26 provide that kind of service are a ***section of the digital platform***
27 ***industry***.
- 28 (4) Digital platform rules may provide that persons who provide a kind
29 of digital communications platform constitute a section of the
30 digital platform industry for the purposes of this Schedule.

- 1 (5) The section of the digital platform industry must be identified in
2 the digital platform rules by a unique name and/or number.
- 3 (6) Digital platform rules made for the purposes of subclause (4) have
4 effect accordingly.
- 5 (7) Sections of the digital platform industry provided by digital
6 platform rules under subclause (4):
7 (a) need not be mutually exclusive; and
8 (b) may consist of the aggregate of any 2 or more sections of the
9 digital platform industry mentioned in subclause (2) or (3) or
10 provided under subclause (4); and
11 (c) may be subsets of a section of the digital platform industry
12 mentioned in subclause (2) or (3) or provided under
13 subclause (4).
- 14 (8) Subclause (7) does not, by implication, limit subclause (4).

15 **43 Participants in a section of the digital platform industry**

16 For the purposes of this Schedule, if a digital communications
17 platform provider is a member of a group that constitutes a section
18 of the digital platform industry, the provider is a *participant* in that
19 section of the digital platform industry.

20 **Subdivision B—General principles relating to misinformation
21 codes and misinformation standards**

22 **44 Examples of matters that may be dealt with by misinformation
23 codes and misinformation standards**

- 24 (1) This clause sets out examples of matters that may be dealt with by
25 misinformation codes and misinformation standards.
- 26 (2) The applicability of a particular example will depend on which
27 section of the digital platform industry is involved.
- 28 (3) The examples are as follows:
29 (a) preventing or responding to misinformation or disinformation
30 on digital communications platforms;

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- 1 (b) using technology to prevent or respond to misinformation or
2 disinformation on digital communications platforms;
- 3 (c) preventing or responding to misinformation or disinformation
4 on digital communications platforms that constitutes an act of
5 foreign interference (within the meaning of the *Australian*
6 *Security Intelligence Organisation Act 1979*);
- 7 (d) preventing advertising involving misinformation or
8 disinformation on digital communications platforms;
- 9 (e) preventing monetisation of misinformation or disinformation
10 on digital communications platforms;
- 11 (f) supporting fact checking;
- 12 (g) allowing end-users to detect and report misinformation or
13 disinformation on digital communications platforms;
- 14 (h) giving information to end-users about the source of political
15 or issues-based advertisements;
- 16 (i) policies and procedures for receiving and handling reports
17 and complaints from end-users;
- 18 (j) giving end-users and others information about
19 misinformation or disinformation on digital communications
20 platforms, including management of misinformation or
21 disinformation on digital communications platforms;
- 22 (k) giving end-users and others information about authoritative
23 content and factual information on digital communications
24 platforms;
- 25 (l) improving media literacy of end-users.

26 **45 Limitation—private messages**

- 27 The ACMA must not approve a code (or part of a code), or
28 determine a standard, under this Division that contains
29 requirements relating to:
- 30 (a) the content of private messages; or
31 (b) encryption of private messages.

32 **46 Limitation—VoIP communications**

- 33 The ACMA must not approve a code (or part of a code), or
34 determine a standard, under this Division that contains
35 requirements relating to VoIP communications.

1 **Subdivision C—Misinformation codes**

2 **47 Approval of codes**

3 *Scope*

- 4 (1) This clause applies if:
- 5 (a) the ACMA is satisfied that a body or association represents a
6 particular section of the digital platform industry; and
 - 7 (b) that body or association develops a code that applies to
8 participants in that section of the digital platform industry
9 and deals with one or more matters relating to the operation
10 of digital communications platforms by those participants;
11 and
 - 12 (c) the body or association gives a copy of the code to the
13 ACMA; and
 - 14 (d) the ACMA is satisfied that the code (or part of the code):
 - 15 (i) requires participants in that section of the digital
16 platform industry to implement measures to prevent or
17 respond to misinformation or disinformation on the
18 platforms; and
 - 19 (ii) enables assessment of compliance with the measures;
20 and
 - 21 (iii) is reasonably appropriate and adapted to achieving the
22 purpose of providing adequate protection for the
23 Australian community from serious harm caused or
24 contributed to by misinformation or disinformation on
25 the platforms; and
 - 26 (iv) goes no further than reasonably necessary to provide
27 that protection; and
 - 28 (e) the ACMA is satisfied that, before giving the copy of the
29 code to the ACMA:
 - 30 (i) the body or association published a draft of the code and
31 invited members of the public to make submissions to
32 the body or association about the draft within a
33 specified period; and
 - 34 (ii) the body or association gave consideration to any
35 submissions that were received from members of the
36 public within that period; and

- 1 (f) the ACMA is satisfied that, before giving the copy of the
2 code to the ACMA:
3 (i) the body or association published a draft of the code and
4 invited participants in that section of the digital platform
5 industry to make submissions to the body or association
6 about the draft within a specified period; and
7 (ii) the body or association gave consideration to any
8 submissions that were received from participants in that
9 section of the digital platform industry within that
10 period; and
11 (g) the ACMA is satisfied that at least one body or association
12 that represents the interests of consumers has been consulted
13 about the development of the code.

14 *Period for making submissions*

- 15 (2) A period specified under subparagraph (1)(e)(i) or (1)(f)(i) must
16 run for at least 30 days.

17 *Approval of codes*

- 18 (3) The ACMA may, by written notice given to the body or
19 association, approve the code or part of the code.
20 (4) The approval of a code is not a legislative instrument.
21 (5) If the ACMA approves part of a misinformation code, this
22 Schedule has effect as if the part were a misinformation code.

23 *Approved code is a legislative instrument*

- 24 (6) A misinformation code approved by the ACMA is a legislative
25 instrument.
26 (7) For the purposes of the *Legislation Act 2003*, the ACMA is the
27 rule-maker for a misinformation code approved under this
28 Division.

29 **48 ACMA may request codes**

- 30 (1) If the ACMA is satisfied that a body or association represents a
31 particular section of the digital platform industry, the ACMA may,

- 1 by written notice given to the body or association, request the body
2 or association to:
- 3 (a) develop a code that applies to participants in that section of
4 the digital platform industry and deals with one or more
5 specified matters relating to the operation of digital
6 communications platforms by those participants; and
7 (b) give the ACMA a copy of the code within the period
8 specified in the notice.
- 9 (2) The period specified in a notice under subclause (1) must run for at
10 least 120 days.
- 11 (3) The ACMA must not make a request under subclause (1) in
12 relation to a particular section of the digital platform industry
13 unless the ACMA is satisfied that:
- 14 (a) the development of the code is necessary in order to:
- 15 (i) prevent or respond to misinformation or disinformation
16 on digital communications platforms of participants in
17 that section of the digital platform industry; or
18 (ii) address systemic issues in relation to misinformation or
19 disinformation on digital communications platforms of
20 participants in that section of the digital platform
21 industry; and
22 (b) in the absence of the request, it is unlikely that the code
23 would be developed within a reasonable period.
- 24 (4) The ACMA may vary a notice under subclause (1) by extending
25 the period specified in the notice.
- 26 (5) Subclause (4) does not, by implication, limit the application of
27 subsection 33(3) of the *Acts Interpretation Act 1901*.
- 28 (6) A notice under subclause (1) may specify indicative targets for
29 achieving progress in the development of the code (for example, a
30 target of 60 days to develop a preliminary draft of the code).

1 **49 Publication of notice where no body or association represents a**
2 **section of the digital platform industry**

- 3 (1) If the ACMA is satisfied that a particular section of the digital
4 platform industry is not represented by a body or association, the
5 ACMA may publish a notice on its website:
6 (a) stating that, if such a body or association were to come into
7 existence within a specified period, the ACMA would be
8 likely to give a notice to that body or association under
9 subclause 48(1); and
10 (b) setting out the matter or matters relating to the operation of
11 digital communications platforms that would be likely to be
12 specified in the subclause 48(1) notice.
- 13 (2) The period specified in a notice under subclause (1) must run for at
14 least 60 days.

15 **50 Variation of misinformation codes**

16 *Scope*

- 17 (1) This clause applies if:
18 (a) a misinformation code is approved under this Division; and
19 (b) the code:
20 (i) applies to participants in a particular section of the
21 digital platform industry; and
22 (ii) deals with one or more matters relating to the operation
23 of digital communications platforms by those
24 participants; and
25 (c) the body or association that developed the code gives a draft
26 variation of the code to the ACMA; and
27 (d) the ACMA is satisfied that the code (as proposed to be
28 varied):
29 (i) requires participants in that section of the digital
30 platform industry to implement measures to prevent or
31 respond to misinformation or disinformation on the
32 platforms; and
33 (ii) enables assessment of compliance with the measures;
34 and

- 1 (iii) is reasonably appropriate and adapted to achieving the
2 purpose of providing adequate protection for the
3 Australian community from serious harm caused or
4 contributed to by misinformation or disinformation on
5 the platforms; and
6 (iv) goes no further than reasonably necessary to provide
7 that protection; and
8 (e) except in a case where the draft variation is of a minor
9 nature—the ACMA is satisfied that, before giving the draft
10 variation to the ACMA:
11 (i) the body or association published the draft variation on
12 its website and invited members of the public to make
13 submissions to the body or association about the draft
14 variation within a specified period; and
15 (ii) the body or association gave consideration to any
16 submissions that were received from members of the
17 public within that period; and
18 (f) except in a case where the draft variation is of a minor
19 nature—the ACMA is satisfied that, before giving the draft
20 variation to the ACMA:
21 (i) the body or association published the draft variation on
22 its website and invited participants in that section of the
23 digital platform industry to make submissions to the
24 body or association about the draft variation within a
25 specified period; and
26 (ii) the body or association gave consideration to any
27 submissions that were received from participants in that
28 section of the digital platform industry within that
29 period; and
30 (g) except in a case where the draft variation is of a minor
31 nature—the ACMA is satisfied that at least one body or
32 association that represents the interests of consumers has
33 been consulted about the development of the draft variation.

34 *Period for making submissions*

- 35 (2) A period specified under subparagraph (1)(e)(i) or (1)(f)(i) must
36 run for at least 30 days.

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Approval of variation

- (3) The ACMA may, by written notice given to the body or association, approve the draft variation.
- (4) The draft variation and the approval of the draft variation are not legislative instruments.
- (5) If the ACMA approves the draft variation, the ACMA must, by legislative instrument, vary the code accordingly.

51 Revocation of misinformation codes and provisions of misinformation codes

- (1) The ACMA may, by legislative instrument, revoke:
 - (a) a misinformation code; or
 - (b) a provision of a misinformation code.
- (2) If the ACMA revokes a provision of a misinformation code, this Schedule has effect in relation to things occurring after the revocation as if the code did not include the provision.

52 Compliance with approved misinformation code

- (1) If:
 - (a) a misinformation code approved under this Division that applies to participants in a particular section of the digital platform industry is in force; and
 - (b) a digital communications platform provider is a participant in that section of the digital platform industry;the provider must comply with the code.
- (2) Subclause (1) is a civil penalty provision.
- (3) An application for a civil penalty order for a contravention of subclause (1) of this clause must not be made under section 205F unless, before the contravention, the ACMA issues a formal warning to the person under clause 74 in relation to any contravention of subclause (1) of this clause.

1 **53 Remedial directions—contravention of misinformation code**

- 2 (1) This clause applies if:
- 3 (a) a misinformation code approved under this Division that
- 4 applies to participants in a particular section of the digital
- 5 platform industry is in force; and
- 6 (b) a digital communications platform provider is a participant in
- 7 that section of the digital platform industry; and
- 8 (c) the ACMA is satisfied that the provider has contravened, or
- 9 is contravening, the code.
- 10 (2) The ACMA may give the provider a written direction requiring the
- 11 provider to take specified action directed towards ensuring that the
- 12 provider does not contravene the code, or is unlikely to contravene
- 13 the code, in the future.
- 14 (3) A digital communications platform provider must not contravene a
- 15 direction under subclause (2).

16 *Civil penalty provision*

- 17 (4) Subclause (3) is a civil penalty provision.

18 **Subdivision D—Misinformation standards**

19 **54 Limitation in relation to freedom of political communication**

20 The ACMA must not determine a standard under this Division that

21 deals with one or more matters relating to the operation of digital

22 communications platforms unless the ACMA is satisfied that the

23 standard:

- 24 (a) is reasonably appropriate and adapted to achieving the
- 25 purpose of providing adequate protection for the Australian
- 26 community from serious harm caused or contributed to by
- 27 misinformation or disinformation on the platforms; and
- 28 (b) goes no further than reasonably necessary to provide that
- 29 protection.

30 Note: An assessment of whether a standard is compatible with human rights

31 must be prepared and included in the explanatory statement for the

32 standard: see section 9 of the *Human Rights (Parliamentary Scrutiny)*

33 *Act 2011* and section 15J of the *Legislation Act 2003*.

1 **55 ACMA may determine standards—request for a code is not**
2 **complied with**

- 3 (1) This clause applies if:
- 4 (a) the ACMA has made a request under subclause 48(1) in
5 relation to the development of a code that is to:
- 6 (i) apply to participants in a particular section of the digital
7 platform industry; and
- 8 (ii) deal with one or more matters relating to the operation
9 of digital communications platforms by those
10 participants; and
- 11 (b) any of the following conditions is satisfied:
- 12 (i) the request is not complied with;
- 13 (ii) if indicative targets for achieving progress in the
14 development of the code were specified in the notice of
15 request—any of those indicative targets were not met;
- 16 (iii) the request is complied with, but the ACMA
17 subsequently refuses to approve the code; and
- 18 (c) the ACMA is satisfied that it is necessary for the ACMA to
19 determine a standard in relation to that matter or those
20 matters in order to provide adequate protection for the
21 Australian community from serious harm caused or
22 contributed to by misinformation or disinformation on the
23 platforms.
- 24 (2) The ACMA may, by legislative instrument, determine a standard
25 that applies to participants in that section of the digital platform
26 industry and deals with that matter or those matters. A standard
27 under this subclause is to be known as a ***misinformation standard***.
- 28 (3) Before determining a standard under this clause, the ACMA must
29 consult the body or association to whom the request mentioned in
30 paragraph (1)(a) was made.

31 **56 ACMA may determine standards—no industry body or**
32 **association formed**

- 33 (1) This clause applies if:
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- 1 (a) the ACMA is satisfied that a particular section of the digital
2 platform industry is not represented by a body or association;
3 and
4 (b) the ACMA has published a notice under subclause 49(1)
5 relating to that section of the digital platform industry; and
6 (c) that notice:
7 (i) states that, if such a body or association were to come
8 into existence within a particular period, the ACMA
9 would be likely to give a notice to that body or
10 association under subclause 48(1); and
11 (ii) sets out one or more matters relating to the operation of
12 digital communications platforms by participants in that
13 section of the digital platform industry; and
14 (d) no such body or association comes into existence within that
15 period; and
16 (e) the ACMA is satisfied that it is necessary for the ACMA to
17 determine a standard in relation to that matter or those
18 matters in order to provide adequate protection for the
19 Australian community from serious harm caused or
20 contributed to by misinformation or disinformation on the
21 platforms.
- 22 (2) The ACMA may, by legislative instrument, determine a standard
23 that applies to participants in that section of the digital platform
24 industry and deals with that matter or those matters. A standard
25 under this subclause is to be known as a ***misinformation standard***.

26 **57 ACMA may determine standards—total failure of**
27 **misinformation code**

- 28 (1) This clause applies if:
29 (a) a misinformation code approved under this Division that:
30 (i) applies to participants in a particular section of the
31 digital platform industry; and
32 (ii) deals with one or more matters relating to the operation
33 of digital communications platforms by those
34 participants;
35 has been in force for at least 180 days; and

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- 1 (b) the ACMA is satisfied that the code is totally deficient (as
2 defined by subclause (6)); and
- 3 (c) the ACMA has given the body or association that developed
4 the code a written notice requesting that deficiencies in the
5 code be addressed within a specified period; and
- 6 (d) that period ends and the ACMA is satisfied that it is
7 necessary for the ACMA to determine a standard that:
- 8 (i) applies to participants in that section of the digital
9 platform industry; and
- 10 (ii) deals with that matter or those matters;
11 in order to provide adequate protection for the Australian
12 community from serious harm caused or contributed to by
13 misinformation or disinformation on the platforms.
- 14 (2) The period specified in a notice under paragraph (1)(c) must run
15 for at least 30 days.
- 16 (3) The ACMA may, by legislative instrument, determine a standard
17 that applies to participants in that section of the digital platform
18 industry and deals with that matter or those matters. A standard
19 under this subclause is to be known as a ***misinformation standard***.
- 20 (4) If the ACMA is satisfied that a body or association represents that
21 section of the digital platform industry, the ACMA must consult
22 the body or association before determining a standard under
23 subclause (3).
- 24 (5) The code ceases to be in force on the day on which the standard
25 commences. However, this subclause does not affect any
26 investigation, proceeding or remedy in respect of a contravention
27 of the code that occurred before that day.
- 28 (6) For the purposes of this clause, a misinformation code approved
29 under this Division that:
- 30 (a) applies to participants in a particular section of the digital
31 platform industry; and
- 32 (b) deals with one or more matters relating to the operation of
33 digital communications platforms by those participants;
34 is ***totally deficient*** if, and only if, the code is not operating to
35 provide adequate protection for the Australian community from

1 serious harm caused or contributed to by misinformation or
2 disinformation on the platforms.

3 **58 ACMA may determine standards—partial failure of**
4 **misinformation code**

- 5 (1) This clause applies if:
- 6 (a) a misinformation code approved under this Division that:
 - 7 (i) applies to participants in a particular section of the
 - 8 digital platform industry; and
 - 9 (ii) deals with 2 or more matters relating to the operation of
 - 10 digital communications platforms by those participants;
 - 11 has been in force for at least 180 days; and
 - 12 (b) clause 57 does not apply to the code; and
 - 13 (c) the ACMA is satisfied that the code is deficient (as defined
 - 14 by subclause (6) of this clause) to the extent to which the
 - 15 code deals with one or more of those matters (the *deficient*
 - 16 *matter* or *deficient matters*); and
 - 17 (d) the ACMA has given the body or association that developed
 - 18 the code a written notice requesting that deficiencies in the
 - 19 code be addressed within a specified period; and
 - 20 (e) that period ends and the ACMA is satisfied that it is
 - 21 necessary for the ACMA to determine a standard that:
 - 22 (i) applies to participants in that section of the digital
 - 23 platform industry; and
 - 24 (ii) deals with the deficient matter or deficient matters;
 - 25 in order to provide adequate protection for the Australian
 - 26 community from serious harm caused or contributed to by
 - 27 misinformation or disinformation on the platforms.
- 28 (2) The period specified in a notice under paragraph (1)(d) must run
- 29 for at least 30 days.
- 30 (3) The ACMA may, by legislative instrument, determine a standard
- 31 that applies to participants in that section of the digital platform
- 32 industry and deals with the deficient matter or deficient matters. A
- 33 standard under this subclause is to be known as a *misinformation*
- 34 *standard*.

- 1 (4) If the ACMA is satisfied that a body or association represents that
2 section of the digital platform industry, the ACMA must consult
3 the body or association before determining a standard under
4 subclause (3).
- 5 (5) On and after the day on which the standard commences, the code
6 ceases to be in force to the extent to which it deals with the
7 deficient matter or deficient matters. However, this subclause does
8 not affect:
- 9 (a) the continuing approval, registration or effect of the
10 remainder of the code; or
- 11 (b) any investigation, proceeding or remedy in respect of a
12 contravention of the code that occurred before that day.
- 13 (6) For the purposes of this clause, a misinformation code approved
14 under this Division that:
- 15 (a) applies to participants in a particular section of the digital
16 platform industry; and
- 17 (b) deals with 2 or more matters relating to the operation of
18 digital communications platforms by those participants;
19 is *deficient* to the extent to which it deals with a particular one of
20 those matters if, and only if, in relation to that matter, the code is
21 not operating to provide adequate protection for the Australian
22 community from serious harm caused or contributed to by
23 misinformation or disinformation on the platforms.

24 **59 ACMA may determine standards—emerging circumstances**

- 25 (1) This clause applies if the ACMA is satisfied that:
- 26 (a) it is necessary for the ACMA to determine a standard that:
- 27 (i) applies to participants in a particular section of the
28 digital platform industry; and
- 29 (ii) deals with one or more matters relating to the operation
30 of digital communications platforms by those
31 participants;
32 in order to provide adequate protection for the Australian
33 community from serious harm caused or contributed to by
34 misinformation or disinformation on the platforms; and
- 35 (b) there are exceptional and urgent circumstances justifying the
36 determination of the standard under this clause; and

- 1 (c) it is unlikely that a code dealing with that matter or matters
2 could be developed under this Division within a reasonable
3 period in the circumstances.
- 4 (2) The ACMA may, by legislative instrument, determine a standard
5 that applies to participants in that section of the digital platform
6 industry and deals with that matter or those matters. A standard
7 under this subclause is to be known as a ***misinformation standard***.
- 8 (3) If the ACMA is satisfied that a body or association represents that
9 section of the digital platform industry, the ACMA must consult
10 the body or association before determining a standard under
11 subclause (2).

12 **60 Variation of misinformation standards**

- 13 (1) The ACMA may, by legislative instrument, vary a misinformation
14 standard that applies to participants in a particular section of the
15 digital platform industry if it is satisfied that it is necessary to do so
16 to provide adequate protection for the Australian community from
17 serious harm caused or contributed to by misinformation or
18 disinformation on digital communications platforms of those
19 participants.
- 20 (2) Before varying the standard, the ACMA must be satisfied that the
21 standard (as varied):
- 22 (a) is reasonably appropriate and adapted to achieving the
23 purpose of providing adequate protection for the Australian
24 community from serious harm caused or contributed to by
25 misinformation or disinformation on the platforms; and
- 26 (b) goes no further than reasonably necessary to provide that
27 protection.

28 **61 Revocation of misinformation standards**

29 The ACMA may, by legislative instrument, revoke a
30 misinformation standard.

31 **62 Compliance with misinformation standard**

- 32 (1) If:
-

- 1 (a) a misinformation standard that applies to participants in a
2 particular section of the digital platform industry is in force;
3 and
4 (b) a digital communications platform provider is a participant in
5 that section of the digital platform industry;
6 the provider must comply with the standard.
- 7 (2) Subclause (1) is a civil penalty provision.

8 **63 Remedial directions—contravention of misinformation standard**

- 9 (1) This clause applies if:
10 (a) a misinformation standard that applies to participants in a
11 particular section of the digital platform industry is in force;
12 and
13 (b) a digital communications platform provider is a participant in
14 that section of the digital platform industry; and
15 (c) the ACMA is satisfied that the provider has contravened, or
16 is contravening, the standard.
- 17 (2) The ACMA may give the provider a written direction requiring the
18 provider to take specified action directed towards ensuring that the
19 provider does not contravene the standard, or is unlikely to
20 contravene the standard, in the future.
- 21 (3) A digital communications platform provider must not contravene a
22 direction under subclause (2).
- 23 (4) Subclause (3) is a civil penalty provision.

24 **Subdivision E—Register of misinformation codes and**
25 **misinformation standards**

26 **64 ACMA to maintain Register of misinformation codes and**
27 **misinformation standards**

28 *Register*

- 29 (1) The ACMA is to maintain a Register in which the ACMA
30 includes:
31 (a) all misinformation codes approved under this Division; and
-

- 1 (b) all misinformation standards; and
2 (c) all requests made under clause 48; and
3 (d) all notices under clause 49.

4 (2) The Register is to be maintained by electronic means.

5 (3) The Register is to be made available for inspection on the internet.

6 *Variation of misinformation codes and misinformation standards*

7 (4) If the ACMA approves a draft variation of a misinformation code
8 under subclause 50(3), the ACMA must update the misinformation
9 code included in the Register accordingly.

10 (5) If the ACMA varies a misinformation standard under
11 subclause 60(1), the ACMA must update the misinformation
12 standard included in the Register accordingly.

13 *Revocation of misinformation codes and misinformation standards*

14 (6) If a misinformation code or a provision of a misinformation code is
15 revoked or otherwise ceases to be in force, the ACMA must
16 remove the code or provision from the Register.

17 (7) If a misinformation standard or a provision of a misinformation
18 standard is revoked or otherwise ceases to be in force, the ACMA
19 must remove the standard or provision from the Register.

20 *Legislative instruments*

21 (8) If the ACMA is required to include a legislative instrument in the
22 Register, it is not required to do so until after the legislative
23 instrument is registered under the *Legislation Act 2003*.

24 **Subdivision F—Miscellaneous**

25 **65 Misinformation standards prevail over inconsistent**
26 **misinformation codes**

27 If a misinformation code is:

- 28 (a) approved under this Division; and
29 (b) applicable to a digital communications platform provider;

1 the code has no effect to the extent to which it is inconsistent with
2 a misinformation standard that is:

- 3 (c) determined under this Division; and
4 (d) applicable to the provider.

5 **66 Digital platform rules prevail over inconsistent misinformation**
6 **codes and standards**

7 An approved misinformation code or misinformation standard has
8 no effect to the extent to which it is inconsistent with the digital
9 platform rules.

10 **Division 5—General provisions**

11 **67 Removing content and blocking end-users**

- 12 (1) Nothing in this Part, digital platform rules made for the purposes of
13 this Part, an approved misinformation code or a misinformation
14 standard requires a digital communications platform provider to:
15 (a) remove from a digital communications platform content
16 disseminated using the platform where the dissemination is
17 not disinformation on the platform that involves inauthentic
18 behaviour; or
19 (b) prevent an end-user from using a digital communications
20 platform where the end-user is not engaged in disinformation
21 on the platform that involves inauthentic behaviour.
- 22 (2) Nothing in this Part, digital platform rules made for the purposes of
23 this Part, an approved misinformation code or a misinformation
24 standard prevents a digital communications platform provider
25 from:
26 (a) removing content posted by an end-user from a digital
27 communications platform; or
28 (b) preventing an end-user from using a digital communications
29 platform.
- 30 (3) This clause does not limit any other law that requires removal of
31 content from a digital communications platform.

1 **68 Investigations and hearings—limitation on scope**

2 *Investigations*

- 3 (1) Despite section 170, an investigation for the purposes of the
4 performance or exercise of the ACMA’s function under
5 paragraph 10(1)(mb), (mc), (md), (me), (mf) or (mg) of the
6 *Australian Communications and Media Authority Act 2005* must
7 not relate to particular content posted on a digital communications
8 platform by a single end-user identifiable by the ACMA.
- 9 (2) Despite section 171, the Minister may not direct the ACMA to
10 investigate particular content posted on a digital communications
11 platform by a single end-user identifiable by the ACMA.

12 *Hearings*

- 13 (3) Despite section 182, a hearing for the purposes of the performance
14 or exercise of the ACMA’s function under paragraph 10(1)(mb),
15 (mc), (md), (me), (mf) or (mg) of the *Australian Communications*
16 *and Media Authority Act 2005* must not relate to particular content
17 posted on a digital communications platform by a single end-user
18 identifiable by the ACMA.
- 19 (4) Despite section 183, the Minister may not direct the ACMA to hold
20 a hearing in relation to particular content posted on a digital
21 communications platform by a single end-user identifiable by the
22 ACMA.

23 *Part 13 otherwise unaffected*

- 24 (5) Apart from as provided by this clause, this Part does not limit the
25 operation of Part 13 of this Act.

26 **69 Annual reporting by ACMA**

- 27 (1) After the end of a financial year, the ACMA must:
28 (a) prepare a report on the operation of this Part during the
29 financial year; and
30 (b) give the report to the Minister for presentation to the
31 Parliament.

- 1 (2) The ACMA must cause a copy of a report under subclause (1) to
2 be published on the ACMA’s website.

3 **70 Review of operation of this Part**

- 4 (1) As soon as possible after the third anniversary of the
5 commencement of this Schedule and afterwards at intervals of not
6 longer than 3 years, the Minister must cause to be conducted a
7 review of the operation of this Part.
- 8 (2) The review must:
- 9 (a) include an assessment of the impact of this Part on freedom
10 of expression; and
- 11 (b) consider whether this Part should be amended; and
- 12 (c) if the review is the first review under this clause—consider
13 the need for a scheme requiring digital communications
14 platform providers to give accredited independent researchers
15 access to data relating to misinformation or disinformation on
16 digital communications platforms.
- 17 (3) The review must be conducted in a manner that provides for public
18 consultation.
- 19 (4) The Minister must cause to be prepared a report of a review under
20 subclause (1).
- 21 (5) The Minister must cause a copy of the report to be tabled in each
22 House of the Parliament within 15 sitting days of that House after
23 the completion of the preparation of the report.

24 **71 Relationship with other laws**

- 25 This Part, digital platform rules made for the purposes of this Part,
26 approved misinformation codes and misinformation standards do
27 not limit the operation of any of the following:
- 28 (a) Schedule 8 to this Act;
- 29 (b) the *Commonwealth Electoral Act 1918*;
- 30 (c) the *Competition and Consumer Act 2010*;
- 31 (d) the *Criminal Code*;
- 32 (e) Parts 4 and 9 of the *Online Safety Act 2021*;

- 1 (f) the *Referendum (Machinery Provisions) Act 1984*;
2 (g) the *Telecommunications Act 1997*.

3 **Part 3—Miscellaneous**

4 **Division 1—Enforcement**

5 **72 Separate contraventions**

6 A person who contravenes any of the following provisions
7 commits a separate contravention of that provision in respect of
8 each day (including a day of the making of a relevant civil penalty
9 order or any subsequent day) during which the contravention
10 continues:

- 11 (a) subclause 17(1) (publish information);
12 (b) subclause 17(4) (give information to the ACMA);
13 (c) subclause 18(3) (remedial directions—publication of
14 information);
15 (d) subclause 20(1) (compliance with digital platform rules
16 regarding risk management);
17 (e) subclause 21(3) (remedial directions—risk management);
18 (f) subclause 26(1) (compliance with digital platform rules
19 regarding complaints and dispute handling);
20 (g) subclause 27(3) (remedial directions—complaints and
21 dispute handling);
22 (h) subclause 31(1) (compliance with digital platform rules
23 regarding records and reports);
24 (i) subclause 32(3) (remedial directions—records and reports);
25 (j) subclause 33(4) (information and documents from digital
26 communications platform providers);
27 (k) subclause 34(5) (information and documents from other
28 persons).

29 **73 Designated infringement provisions**

30 The following provisions are designated infringement notice
31 provisions:

- 32 (a) subclause 17(1) (publish information);
-

- 1 (b) subclause 17(4) (give information to the ACMA);
- 2 (c) subclause 20(1) (compliance with digital platform rules
- 3 regarding risk management);
- 4 (d) subclause 23(1) (compliance with digital platform rules
- 5 regarding media literacy plan);
- 6 (e) subclause 26(1) (compliance with digital platform rules
- 7 regarding complaints and dispute handling);
- 8 (f) subclause 31(1) (compliance with digital platform rules
- 9 regarding records and reports);
- 10 (g) subclause 33(4) (information and documents from digital
- 11 communications platform providers);
- 12 (h) subclause 34(5) (information and documents from other
- 13 persons);
- 14 (i) subclause 52(1) (compliance with misinformation code);
- 15 (j) subclause 62(1) (compliance with misinformation standard).

16 **74 Warnings**

- 17 (1) If the ACMA is satisfied that a person has contravened any of the
- 18 following provisions, the ACMA may issue a formal warning to
- 19 the person:
- 20 (a) subclause 17(1) (publish information);
- 21 (b) subclause 17(4) (give information to the ACMA);
- 22 (c) subclause 20(1) (compliance with digital platform rules
- 23 regarding risk management);
- 24 (d) subclause 23(1) (compliance with digital platform rules
- 25 regarding media literacy plan);
- 26 (e) subclause 26(1) (compliance with digital platform rules
- 27 regarding complaints and dispute handling);
- 28 (f) subclause 31(1) (compliance with digital platform rules
- 29 regarding records and reports);
- 30 (g) subclause 33(4) (information and documents from digital
- 31 communications platform providers);
- 32 (h) subclause 34(5) (information and documents from other
- 33 persons);
- 34 (i) subclause 52(1) (compliance with misinformation code);
- 35 (j) subclause 62(1) (compliance with misinformation standard).

- 1 (2) For the purposes of this Act and the *Australian Communications*
2 *and Media Authority Act 2005*, a warning under subclause (1) is
3 taken to be a notice under this Schedule.

4 **75 Remedial directions**

- 5 (1) For the purposes of this Act and the *Australian Communications*
6 *and Media Authority Act 2005*, a direction under any of the
7 following provisions is taken to be a notice under this Schedule:
8 (a) subclause 18(2) (remedial directions—publication of
9 information);
10 (b) subclause 21(2) (remedial directions—risk management);
11 (c) subclause 24(2) (remedial directions—media literacy plan);
12 (d) subclause 27(2) (remedial directions—complaints and
13 dispute handling);
14 (e) subclause 32(2) (remedial directions—records and reports);
15 (f) subclause 53(2) (remedial directions—contravention of
16 misinformation code);
17 (g) subclause 63(2) (remedial directions—contravention of
18 misinformation standard).
- 19 (2) A direction under any of the provisions mentioned in subclause (1)
20 is not a legislative instrument.

21 **76 No ancillary contravention of civil penalty provisions in this**
22 **Schedule**

23 Section 205E (ancillary contravention of civil penalty provision)
24 does not apply in relation to a civil penalty provision in this
25 Schedule.

26 **Division 2—Other matters**

27 **77 Service of notices by electronic means**

28 Paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act*
29 *1999* do not apply to:
30 (a) a notice under this Schedule; or

1 (b) a notice under any other provision of this Act, so far as that
2 provision relates to this Schedule.

3 Note: Paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act 1999*
4 deal with the consent of the recipient of information to the information
5 being given by way of electronic communication.

6 **78 Service of summons, process or notice on corporations**
7 **incorporated outside Australia**

8 *Scope*

- 9 (1) This clause applies to:
- 10 (a) a summons or process in any proceedings under, or
11 connected with, this Schedule; or
 - 12 (b) a notice under this Schedule; or
 - 13 (c) a notice under any other provision of this Act, so far as that
14 provision relates to this Schedule;
- 15 where:
- 16 (d) the summons, process or notice, as the case may be, is
17 required to be served on, or given to, a body corporate
18 incorporated outside Australia; and
 - 19 (e) the body corporate does not have a registered office or a
20 principal office in Australia; and
 - 21 (f) the body corporate has an agent in Australia.

22 *Service*

- 23 (2) The summons, process or notice, as the case may be, is taken to
24 have been served on, or given to, the body corporate if it is served
25 on, or given to, the agent.
- 26 (3) Subclause (2) has effect in addition to section 28A of the *Acts*
27 *Interpretation Act 1901*.

28 Note: Section 28A of the *Acts Interpretation Act 1901* deals with the service
29 of documents.

30 **79 Acquisition of property**

31 The provisions of this Schedule have no effect to the extent (if any)
32 to which their operation would result in an acquisition of property

1 (within the meaning of paragraph 51(xxxi) of the Constitution)
2 from a person otherwise than on just terms (within the meaning of
3 that paragraph).

4 **80 Concurrent operation of State and Territory laws**

5 It is the intention of the Parliament that this Schedule is not to
6 apply to the exclusion of a law of a State or Territory to the extent
7 to which that law is capable of operating concurrently with this
8 Schedule.

9 **81 Schedule not to affect performance of State or Territory**
10 **functions**

11 A power conferred by this Schedule must not be exercised in such
12 a way as to prevent the exercise of the powers, or the performance
13 of the functions, of government of a State, the Northern Territory
14 or the Australian Capital Territory.

15 **Division 3—Digital platform rules**

16 **82 Digital platform rules**

- 17 (1) The ACMA may, by legislative instrument, make rules (the *digital*
18 *platform rules*) prescribing matters:
19 (a) required or permitted by this Act to be prescribed by the
20 digital platform rules; or
21 (b) necessary or convenient to be prescribed for carrying out or
22 giving effect to this Schedule.

23 Note: An assessment of whether digital platform rules are compatible with
24 human rights must be prepared and included in the explanatory
25 statement for the rules: see section 9 of the *Human Rights*
26 *(Parliamentary Scrutiny) Act 2011* and section 15J of the *Legislation*
27 *Act 2003*.

- 28 (2) To avoid doubt, the digital platform rules may not do the
29 following:
30 (a) create an offence or civil penalty;
31 (b) provide powers of:
32 (i) arrest or detention; or

- 1 (ii) entry, search or seizure;
2 (c) impose a tax;
3 (d) set an amount to be appropriated from the Consolidated
4 Revenue Fund under an appropriation in this Act;
5 (e) directly amend the text of this Act.
- 6 (3) Digital platform rules may make provision for or in relation to a
7 particular matter by empowering the ACMA to make decisions of
8 an administrative character.
- 9 (4) Digital platform rules that are inconsistent with the regulations
10 have no effect to the extent of the inconsistency, but digital
11 platform rules are taken to be consistent with the regulations to the
12 extent that the digital platform rules are capable of operating
13 concurrently with the regulations.

1 **Schedule 2—Consequential amendments and**
2 **transitional provisions**

3 **Part 1—Main amendments and transitional**
4 **provisions**

5 *Australian Communications and Media Authority Act 2005*

6 **1 Section 3 (subparagraph (b)(i) of the definition of**
7 **authorised disclosure information)**

8 After “or 13 of”, insert “, or Schedule 9 to,”.

9 **2 After paragraph 10(1)(ma)**

10 Insert:

- 11 (mb) to assist bodies or associations that the ACMA is satisfied
12 represent sections of the digital platform industry to develop
13 codes under Division 4 of Part 2 of Schedule 9 to the
14 *Broadcasting Services Act 1992*;
- 15 (mc) to develop standards under Division 4 of Part 2 of Schedule 9
16 to the *Broadcasting Services Act 1992*;
- 17 (md) to monitor compliance with Schedule 9 to the *Broadcasting*
18 *Services Act 1992*, digital platform rules, misinformation
19 codes and misinformation standards;
- 20 (me) to conduct investigations relating to misinformation and
21 disinformation on digital communications platforms;
- 22 (mf) to inform itself and advise the Minister in relation to
23 misinformation and disinformation on digital
24 communications platforms;
- 25 (mg) to make available to the public information about matters
26 relating to misinformation and disinformation on digital
27 communications platforms;

28 **3 Paragraph 53(2)(k)**

29 After “Schedule 8” (wherever occurring), insert “or 9”.

1 ***Broadcasting Services Act 1992***

2 **4 Title**

3 Omit “**and content services**”, substitute “**, content services and digital**
4 **communications platforms**”.

5 **5 After paragraph 3(1)(hb)**

6 Insert:

7 (hc) to encourage digital communications platform providers to
8 protect the Australian community against certain kinds of
9 harm caused or contributed to by misinformation or
10 disinformation on digital communications platforms; and

11 (hd) to provide end-users in Australia with visibility in relation to
12 decision-making by digital communications platform
13 providers in managing misinformation and disinformation on
14 digital communications platforms; and

15 (he) to strengthen transparency and accountability requirements in
16 relation to misinformation and disinformation on digital
17 communications platforms;

18 **6 At the end of subsection 3(1)**

19 Add:

20 Note: Clause 11 of Schedule 9 sets out other objects of Part 2 of that
21 Schedule.

22 **7 Subsection 3(2)**

23 Insert:

24 ***digital communications platform*** has the same meaning as in
25 Schedule 9.

26 ***digital communications platform provider*** has the same meaning
27 as in Schedule 9.

28 ***disinformation*** has the same meaning as in Schedule 9.

29 ***misinformation*** has the same meaning as in Schedule 9.

1 **8 After subsection 4(3AB)**

2 Insert:

3 (3AC) The Parliament also intends that digital communications platforms
4 be regulated, in order to prevent and respond to misinformation
5 and disinformation on the platforms, in a manner that:

- 6 (a) enables public interest considerations in relation to
7 misinformation and disinformation on digital
8 communications platforms to be addressed in a way that does
9 not impose unnecessary financial and administrative burdens
10 on digital communications platform providers; and
11 (b) will readily accommodate technological change; and
12 (c) encourages the provision of digital communications
13 platforms to the Australian community; and
14 (d) encourages the development of technologies relating to
15 digital communications platforms.

16 **9 Subsection 4(4)**

17 Insert:

18 *digital communications platform* has the same meaning as in
19 Schedule 9.

20 *digital communications platform provider* has the same meaning
21 as in Schedule 9.

22 *disinformation* has the same meaning as in Schedule 9.

23 *misinformation* has the same meaning as in Schedule 9.

24 **10 Paragraph 5(1)(a)**

25 Omit “and the online content service industry”, substitute “, the online
26 content service industry and the digital communications platform
27 industry”.

28 **11 Subsection 5(4)**

29 Insert:

30 *digital communications platform* has the same meaning as in
31 Schedule 9.

1 **12 Subsection 6(1) (definition of *newspaper*)**

2 Before “means”, insert “, other than in Schedule 9,”.

3 **13 Subsection 98D(2)**

4 Omit “or section 43AC”, substitute “, section 43AC or Schedule 9”.

5 **14 Subsection 204(1) (at the end of the table)**

6 Add:

7

To give a remedial direction	Subclause 18(2), 21(2), 24(2), 27(2), 32(2), 53(2) or 63(2) of Schedule 9	The person to whom the direction was given
Variation of a remedial direction	Subclause 18(2), 21(2), 24(2), 27(2), 32(2), 53(2) or 63(2) of Schedule 9	The person to whom the direction was given
Refusal to revoke a remedial direction	Subclause 18(2), 21(2), 24(2), 27(2), 32(2), 53(2) or 63(2) of Schedule 9	The person to whom the direction was given
To publish information under clause 38 of Schedule 9 after giving a person notice under subclause 40(2) of Schedule 9	Subclause 40(3) of Schedule 9	The person to whom the notice was given
Refusal to approve a misinformation code or part of a misinformation code	Subclause 47(3) of Schedule 9	The body or association that developed the misinformation code
Refusal to approve a draft variation of a misinformation code	Subclause 50(3) of Schedule 9	The body or association that developed the draft variation

1 **15 After subsection 204(4)**

2 Insert:

3 *Decisions under the digital platform rules*

4 (4A) Applications may be made to the Administrative Appeals Tribunal
5 for review of decisions of the ACMA under the digital platform
6 rules, so long as those rules provide that the decision is a
7 reviewable decision for the purposes of this section.

8 **16 Subsection 204(5) (heading)**

9 Repeal the heading, substitute:

10 *Definitions*

11 **17 Subsection 204(5)**

12 Insert:

13 *digital platform rules* has the same meaning as in Schedule 9.

14 **18 At the end of section 205E**

15 Add:

16 Note: This section does not apply in relation to a civil penalty provision in
17 Schedule 9 (see clause 76 of Schedule 9).

18 **19 Subsection 205F(4)**

19 Omit “or subclause 25(1) or 26(4) of Schedule 8”, substitute “,
20 subclause 25(1) or 26(4) of Schedule 8 or a provision in Schedule 9”.

21 **20 After subsection 205F(5D)**

22 Insert:

23 (5E) The pecuniary penalty payable by a person in respect of a
24 contravention of a civil penalty provision in Division 2 of Part 2 of
25 Schedule 9 or Subdivision A of Division 3 of Part 2 of Schedule 9
26 must not exceed:

27 (a) if the person is a body corporate—5,000 penalty units; or

28 (b) if the person is not a body corporate—1,000 penalty units.

- 1 (5F) The pecuniary penalty payable by a person in respect of a
2 contravention of subclause 33(4) or 34(5) of Schedule 9 must not
3 exceed:
4 (a) if the person is a body corporate—40 penalty units; or
5 (b) if the person is not a body corporate—30 penalty units.
- 6 (5G) The pecuniary penalty payable by a person in respect of a
7 contravention of subclause 52(1) or 53(3) of Schedule 9 must not
8 exceed:
9 (a) if the person is a body corporate—the greater of:
10 (i) 10,000 penalty units; and
11 (ii) 2% of the annual turnover of the body corporate during
12 the period (the *turnover period*) of 12 months ending at
13 the end of the month in which the conduct constituting
14 the contravention occurred; or
15 (b) if the person is not a body corporate—2,000 penalty units.
- 16 (5H) The pecuniary penalty payable by a person in respect of a
17 contravention of subclause 62(1) or 63(3) of Schedule 9 must not
18 exceed:
19 (a) if the person is a body corporate—the greater of:
20 (i) 25,000 penalty units; and
21 (ii) 5% of the annual turnover of the body corporate during
22 the period (the *turnover period*) of 12 months ending at
23 the end of the month in which the conduct constituting
24 the contravention occurred; or
25 (b) if the person is not a body corporate—5,000 penalty units.

26 **21 At the end of section 205PA**

27 Add:

- 28

<ul style="list-style-type: none">• The Federal Court may also grant injunctions in relation to
<ul style="list-style-type: none">contraventions of civil penalty provisions in Schedule 9
<ul style="list-style-type: none">(which deals with digital communications platform services).
- 29
- 30

1 **22 Section 205Q**

2 Omit “or subsection 121FG(3) or section 136A, 136B, 136C, 136D or
3 136E or subclause 49(3) of Schedule 6”, substitute “,
4 subsection 121FG(3), section 136A, 136B, 136C, 136D or 136E,
5 subclause 49(3) of Schedule 6 or a civil penalty provision in
6 Schedule 9”.

7 **23 Section 205XA**

8 After “Part 9E”, insert “or Schedule 9”.

9 **24 At the end of subsection 205Y(5)**

10 Add “or Schedule 9”.

11 **25 After paragraph 205ZA(1)(aa)**

12 Insert:

- 13 (ab) if the infringement notice relates to subclause 33(4) or 34(5)
14 of Schedule 9 and the person is a body corporate—8 penalty
15 units; or
16 (ac) if the infringement notice relates to subclause 33(4) or 34(5)
17 of Schedule 9 and the person is not a body corporate—6
18 penalty units; or
19 (ad) if the infringement notice relates to a provision of Schedule 9
20 other than subclause 33(4) or 34(5) of Schedule 9 and the
21 person is a body corporate—60 penalty units; or

22 **26 Paragraph 205ZA(1)(a)**

23 Before “and the person”, insert “, or a provision mentioned in
24 paragraph (ab), (ac) or (ad)”.

25 **27 Section 216E (heading)**

26 Omit “(online content services)”, substitute “(online content
27 services—gambling promotional content)”.

28 **28 Schedule 8 (heading)**

29 After “services”, insert “(gambling promotional content)”.

30 **29 After clause 30 of Schedule 8**

31 Insert:

1 **31 This Schedule does not limit Schedule 9 (digital communications**
2 **platforms)**

3 This Schedule does not limit the operation of Schedule 9.

4 ***Online Safety Act 2021***

5 **30 Section 231 (heading)**

6 After “Schedule 8”, insert “or 9”.

7 **31 Section 231**

8 After “Schedule 8”, insert “or 9”.

9 ***Telecommunications Act 1997***

10 **32 Section 116 (heading)**

11 Omit “codes and standards under Part 9 of”, substitute “**certain**
12 **codes and standards under**”.

13 **33 At the end of section 116**

14 Add “or a code approved, or standard determined, under Schedule 9 to
15 that Act”.

16 **34 Transitional provisions**

17 ***Misinformation and disinformation***

18 (1) Subclauses 13(1) and (2) of Schedule 9 to the *Broadcasting Services*
19 *Act 1992* as amended by this Act apply in relation to any content
20 disseminated using a digital service, whether disseminated before or
21 after the commencement of this item.

22 ***Information gathering***

23 (2) For the purposes of subclauses 33(1) and 34(1) of Schedule 9 to the
24 *Broadcasting Services Act 1992* as amended by this Act, it does not
25 matter whether the information or document came into existence before
26 or after the commencement of this item.

Schedule 2 Consequential amendments and transitional provisions

Part 1 Main amendments and transitional provisions

1

Annual reporting

2

- (3) Clause 69 of Schedule 9 to the *Broadcasting Services Act 1992* as amended by this Act applies in relation to any financial year starting at or after the commencement of this item.

3

4

1 **Part 2—Contingent amendments**

2 ***Broadcasting Services Act 1992***

3 **35 Subsection 204(4A)**

4 Omit “Administrative Appeals Tribunal”, substitute “Administrative
5 Review Tribunal”.