Australian Code of Practice on Disinformation and Misinformation

Code Review

Submission by the Alannah & Madeline Foundation

July 2022

For their right to be safe

Contents

Executive summary

We welcome the opportunity to comment on the Australian Code of Practice on Disinformation and Misinformation following its first year of operation. Disinformation and misinformation pose serious and growing concerns and we welcome the industry's commitment to preventing and reducing these problems and addressing their outcomes.

DIGI's discussion paper raises substantial questions, notably in response to a series of recommendations by the Australian Communications and Media Authority. The Alannah & Madeline Foundation (the Foundation) is not in a position to respond to all of these here. Rather, our submission focuses on question 8 of DIGI's discussion paper: 'Is the code meeting the needs of industry and the community to balance concerns about misinformation and disinformation with the need to protect freedom of expression online?'[1]

In answering this question, we highlight two ways in which we believe the Code could be refined to better meet the needs of Australian children and young people. Namely:

- By including a clear recognition of the rights of the child.
- By encouraging signatories to support digital literacy interventions which are designed with a strong evidence base and evaluated to assess their impact and improve their approach.

We also recognise the new focus of the Digital Platform Regulators Forum on addressing the impacts of algorithms, including in relation to disinformation. We trust this work will be utilised to help refine and improve the Code.

About us

The Foundation was established the year after the Port Arthur tragedy, by Walter Mikac AM in memory of his two young daughters, Alannah and Madeline. Our vision is that all children and young people are safe, inspired and have freedom to flourish.

Over the last 25 years our work has grown and evolved but our purpose remains the same. We have three program streams:

- Safe and Strong: recovering and healing from trauma. Very much linked to our origin story, we have a specialist trauma recovery and therapy service for children who have experienced significant trauma. This has grown in recent years to include working with early childcare providers, kindergartens and now primary schools to help them build their trauma informed capability and practices. Most of our work in trauma healing and recovery is Victorian based, with our therapists and consultants working from our client's homes, education and care settings and places of work.

- Safe and Strong: building positive digital citizens. The Foundation works with schools, families and communities nationally to help children build the digital intelligence, skills and competencies they need to stay safe online and to be active, positive digital citizens. With over 10 years' experience working in online bullying and wellbeing, as technology has become ubiquitous, our work has developed into building digital intelligence, digital ethics and media literacy for all children aged 3-18.

- Safe and Strong: bringing children's rights to life. As a rights-based organisation, this is our policy and advocacy work. Since inception, we have advocated for firearms safety, and we convene the Australian Gun Safety Alliance. In other key policy matters related to our programs, we work closely with the Officer of the eSafety Commissioner, the Prime Minister's National Office for Child Safety, and other major agencies such as the Australian Federal Police.

In 2018, we partnered with Kate and Tick Everett, after the tragic suicide of their daughter, Dolly. With them we worked to establish Dolly's Dream.

- Safe and Strong: Dolly's Dream, changing the culture of bullying. The purpose is the same, but the programs and services (Parent Hub, telephone help line, school and community workshops etc.) are specifically designed for remote, rural and regional families and communities, to meet their unique needs and contexts.

Recommendations

1. Articulate a stronger expectation that Code signatories will work to prevent and address disinformation and misinformation within a human rights framework, and that they will articulate this approach in their annual transparency reporting.
2. Update the Code's Guiding Principles and guidance concerning proportionality of measures to recognise the particular need to uphold the rights of the child as set out in the United Nations Convention on the Rights of the Child, especially Articles 13, 14, 15 and 17. A vision for how children's rights can be realised in the digital world (including in relation to misinformation) is articulated in the U.N. General comment No. 25 (2021) on children's rights in relation to the digital environment.
3. Update the Code's item 5.20.D to encourage the promotion of digital literacy interventions which are designed with a strong evidence base and a clear, high-quality definition of digital literacy, and are evaluated to assess and improve their efficacy. Ideally, we would like to see Code signatories encouraged to support digital literacy interventions which are informed by the frameworks of the DQ Institute and/or the Australian Media Literacy Alliance. Signatories might also find it easier to make impactful choices if guided by the research led by Prof. Lee Edwards et al for Ofcom (2021) which identifies common characteristics of successful interventions to address media literacy and misinformation, and makes recommendations for how researchers, media literacy practitioners and cross-sector collaborators can improve their design and evaluation of interventions.
4. Ensure that any refinements to the Code have regard to, and align with, the work being undertaken this year by the Digital Platform Regulators Forum (Australian Competition and Consumer Commission, Australian Communications and Media Authority, eSafety Commissioner, Office of the Australian Information Commissioner) to address the impacts of algorithms, including in the promotion of disinformation. The 'Safety by Design' work led by the eSafety Commissioner should also inform any refinements to the code.

Upholding the rights of the child

We welcomed the Code's recognition of the Universal Declaration of Human Rights, its inclusion of freedom of expression as a guiding principle, and its encouragement of signatories to take into account the need to protect freedom of expression in balance with other human rights.[2]

However, the first transparency reports by Code signatories (2021) contain few mentions of human rights based interventions and no overall assessment of how the actions taken that year functioned to uphold human rights.[3]

We would welcome the inclusion in the Code of a stronger expectation that signatories will work within a human rights framework and articulate this approach in their annual transparency reporting.[*]

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[*] An example at the level of the Commonwealth Government: all Bills and legislative instruments must be accompanied by an assessment of their compatibility with Australia's obligations under the international human rights treaties to which Australia is a party, including the Convention on the Rights of the Child. There is no prescribed form that these statements must take, but the Attorney-General's Department provides an

The impacts of disinformation and misinformation on the rights of the child warrant particular consideration. Digital technologies are fully integrated into the lives of children and young people, and while this brings many benefits, it also creates risks – risks that can be especially high in light of children's early stage of development and high engagement with technologies. For example:

- Recent research by the eSafety Commissioner found that 3 in 10 Australian children aged 10-17 look at news online once a week or more; 1 in 8 say they discuss political or social problems online; and almost half have looked online for information about physical health. While many of these experiences were presumably beneficial or neutral, there are risks of misinformation and disinformation in these (and many other) contexts.[4]
- In their 2019 report of the Digital Platforms Inquiry, the Australian Competition and Consumer Commission (ACCC) listed children as one of the groups at higher-than-average risk from the negative effects of 'information disorder'.[5]
- A recent youth consultation commissioned by eSafety found that young people's top online safety concerns encompassed some issues relating to disinformation: fake accounts and scams. Young people also mentioned misinformation and fake news in their broader list of online safety worries.[6]
- A large study of Australians' experiences of COVID-19 misinformation found that compared to older Australians, young adults were less trusting of official sources of information (e.g. scientists, doctors, government), more likely to agree that they had encountered misinformation, more likely to feel concerned about misinformation, and more likely to believe that misinformation was unavoidable. The proportion of young Australians found to be highly misinformed about COVID-19, while small (16%), was higher than that of older cohorts.[7]
- Research from the UK suggests that young people who are highly vulnerable in their offline lives are also more vulnerable than their peers to harmful engagement with false information online. While researchers did not address disinformation and misinformation specifically, they found that vulnerable young people were three or four times more likely than their peers to be tricked online into buying fake goods, falling for scams, or being deceived about someone else's identity. (Vulnerable young people included those living in out-of-home care and those affected by eating disorders, physical illness or speech difficulties.)[8]

As such, we encourage the Code to recognise the importance of upholding children's rights, as set out in the United Nations Convention on the Rights of the Child. Specifically:

- Article 13 – The child's right to freedom of expression
- Article 14 – The child's right to freedom of thought, conscience, and religion
- Article 15 – The child's right to freedom of association
- Article 17 – The child's right to information and material from a diversity of national and international media sources, especially those aimed at the promotion of children's health and wellbeing.[9]

The United Nations General Comment No.25 on children's rights in relation to the digital environment provide guidance on how the Convention can be applied in the context of the digital world, stating 'Businesses should respect children's rights and prevent and remedy abuse of their rights in relation to the

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optional template which agencies can use to describe the most significant human rights issues arising in relation to the legislation and conclusions made on compatibility with human rights. See: Australian Government Attorney-General's Department, 'Statements of Compatibility Templates', https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/statements-compatibility-templates

digital environment. States parties have the obligation to ensure that businesses meet those responsibilities.'[10]

In particular, General Comment No.25 urges:

- That child rights impact assessments be undertaken and disclosed by the business sector;
- That automated search and information filtering (including recommendation systems) do not prioritize paid content with a commercial or political motivation over children's choices or at the cost of children's right to information;
- That any restrictions on children's right to freedom of expression be lawful, necessary and proportionate;
- That automated processes of information filtering and marketing do not supplant, manipulate or interfere with children's ability to form and express their opinions in the digital environment.[11]

Ideally, we would like to see such priorities reflected in the Code.

Investing in high-quality digital literacy interventions

High-quality education in digital literacy[†] is an important tool in countering disinformation and misinformation. The United Nations General Comment No.25 notes the importance of states ensuring that digital literacy is taught in schools; that educators are supported to develop their skills, knowledge and practice in relation to the digital environment; and that parents and caregivers have opportunities to build digital literacy too.[12]

Similarly, in the 2019 report of their Digital Platforms Inquiry, the ACCC recommended measures to strengthen digital media literacy in schools and the wider community, to ensure all Australians are well equipped to identify and appropriately scrutinise purported news content which is poor-quality or unreliable.[13] Much valuable work has commenced in this space.

However, the need to address gaps in digital literacy has become more urgent than ever since the start of the COVID-19 pandemic. A recent survey of Australian adults funded by the Australian Communications and Media Authority (ACMA) concluded 'there may be a need for more media literacy and education programs to assist people to discern misinformation online and to raise awareness of the kinds of strategies that are already in place or that could be developed in the future.'[14]

To this end, we support Objective 4 of the Code of Practice on Disinformation and Misinformation: 'Empower consumers to make better choices of digital content', with its stated outcome 'Users are enabled to make more informed choices about the source of news and factual content accessed via digital platforms and are better equipped to identify Misinformation.' The Code recognises that work done under this objective could include promotion of digital literacy.[15]

However, we submit that there is more work to be done to strengthen how the Code functions to help signatories achieve these ends. In the first set of annual transparency reports, five Code signatories stated that they had created or supported initiatives in areas such as digital literacy curricula for schools and online fact-checking campaigns.[16] These commitments are very welcome. However, relatively little information was provided about the reach, findings, impact, improvement, or future of these interventions.

[†] We use the term 'digital literacy' here for consistency with the terminology of the Code. However, we recognise this is a space where language and concepts continue to evolve.

This is, perhaps, indicative of a broader challenge in the field of digital literacy. A recent report on misinformation and media literacy commissioned for Ofcom in the UK (Edwards et al) found that, historically, relatively few interventions in this space have included robust evaluation of results and efficacy.[17]

As such, we suggest that the Code could be strengthened by explicitly encouraging signatories to support interventions to build digital literacy which are designed with a strong evidence base and a clear, high-quality definition of digital literacy, and which are evaluated to assess and improve their efficacy.

When defining and framing digital literacy, the Foundation would like to see Code signatories recognise the work of key thought leaders in this space. For example, we are proud to work with the DQ Institute, an international think-tank dedicated to setting global standards for digital intelligence that ensures safety, empowerment, and well-being of individuals, organizations, and nations in the digital age. One of their 'DQ competencies' for children is digital literacy, with the sub-category of 'media and information literacy'. This is defined as encompassing:

- Knowledge – Individuals understand the basic structure of the digital media, how the use of digital media influences knowledge and information acquisition and management, the distinct and varied reasons for the construction of specific media messages, and the reasons behind campaigns of disinformation and misinformation online.
- Skills – Individuals have proficient computer operation skills and are able to use productivity software or applications that enable them to gather and organise digital content. Moreover, individuals are they are able to articulate their information and content needs, effectively navigate, critically evaluate and synthesise the information and content they encounter online.
- Attitudes / Values – Individuals are careful and critical of the information that they encounter when online, exhibiting discernment in their evaluation of the reliability and credibility of online information.[18]

Meanwhile, the Foundation has also been proud to work with the Australian Media Literacy Alliance. Using a somewhat tighter focus than the previous approach, the AMLA defines the ten competencies of a media literate citizen as:

- Reflects on their own media use.
- Is curious about how media are made.
- Knows that media influence and impact people and society.
- Knows that a range of institutions impact media participation.
- Understands that media construct versions of reality.
- Uses technologies to consume and produce media.
- Can use and critique a variety of media formats.
- Communicates using the language conventions of a variety of media forms.
- Successfully manages personal, social and public relationships using media.
- Confidently achieves personal objectives and goals through media.[19]

It would also be valuable for Code signatories to be guided by the recent work of Edwards et al for Ofcom (2021). By scoping evaluations of interventions to address misinformation and media literacy, they found that three skillsets have been shown to have positive effects on individuals' ability to engage critically with misinformation: critical thinking, evaluation strategies, and knowledge of the operation of news and media industries. Meanwhile, the researchers identified areas for improvement in the design and evaluation of interventions, including more testing of interventions under 'real world' conditions; longitudinal studies to track changes over time; measurement of behavioural changes rather than just knowledge and attitudes;

engagement with more representative population groups; and tackling of misinformation on a greater variety of digital platforms.[20] Edwards et al made a number of recommendations, encompassing:

- How researchers might broaden their approach to conceptualising and tackling media literacy and adopt more robust approaches to research and measurement;
- How media literacy practitioners might more effectively integrate critical-rational thinking, a gamification approach, and a commitment to evaluation into their interventions; and –
- How collaborators might facilitate regular, consistent dialogue between platforms and practitioners and use data ethically and effectively.[21]

We believe that stronger promotion to Code signatories of such rigorous approaches could assist signatories to deliver more strongly on Objective 4 and thus help deliver more positive outcomes for young Australians.

The wider context

Broadening our focus beyond the Code, we recognise there is more work to be done to ensure that Australian legislation and public regulatory bodies function optimally to help prevent, reduce, and counter harms caused by misinformation and disinformation via digital technologies.

For example, we advocacy the work of 5Rights Foundation, which raises concerns about the design of digital platforms, arguing that the commercial imperative to keep users engaged can inadvertently increase the spread of misinformation and disinformation. 5Rights have voiced particular concern about the role of algorithms, autoplay functions and ready-made suggested contact lists in connecting users with content on the basis of popularity and previous engagement. In practice, this can mean users are 'nudged' towards content which is more and more extreme. Concerns have also been raised about the role of trending lists, disappearing content, and fake accounts in increasing the spread of misinformation and disinformation.[22] Similar concerns were voiced to the recent Select Committee on Social Media and Online Safety – e.g. about 'bot farms' and 'troll farms' working in coordinated ways to generate and share content which is false and inflammatory.[23]

We welcomed the recent announcement by Australia's Digital Platform Regulators Forum that their priorities for 2022-23 will include a focus on the impact of algorithms, including in the promotion of disinformation. The Forum will conduct research, engage with industry, meet with expert stakeholders, and conduct workshops to this end.[24] We hope that any refinements to the Code of Practice on Disinformation and Misinformation will have regard to this work and align workably with it.

We are also supportive of the 'Safety By Design' work led by the eSafety Commissioner to anticipate, detect and eliminate online harms before they occur, and trust that this approach will also shape any amendments to the Code.

We would welcome the opportunity to discuss any of these matters further. Please contact:

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