Submission to the Senate Standing Committee on Economics' Inquiry:

Influence of International Digital Platforms

February 2023

.auDA

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Introduction

Who is auDA?

.au Domain Administration Ltd ("auDA") is the administrator of the .au country code Top Level Domain (ccTLD). The .au ccTLD includes the following namespaces: .au, com.au, net.au, org.au, asn.au, id.au, vic.au, nsw.au, qld.au, sa.au, tas.au, wa.au, nt.au, act.au, edu.au, gov.au.

auDA's role

As a critical part of the digital economy, auDA's role is to ensure the .au ccTLD remains stable, reliable and secure.

auDA performs the following functions:

- Ensure stable, secure and reliable operation of the .au domain (including the registry database, WHOIS service and Domain Name System (DNS) service at the top level and second levels), as part of Australia's suite of critical infrastructure.
- administer a licensing regime for .au domain names based in multi-stakeholder processes
- respond to enquires with regards to the licensing rules
- maintain and ensure compliance with the licensing rules
- maintain appropriate compliance and dispute resolution processes associated with the licensing rules
- license the .au registry operator
- accredit and license registrars
- Advocate for, and actively participate in, multi-stakeholder Internet governance processes both domestically and internationally.

auDA's stakeholders

auDA operates under an multi-stakeholder model, working closely with suppliers, business users, non-profit organisations, consumers and the Australian Government.

It seeks to serve the interests of the internet community as a whole and takes a multi-stakeholder approach to internet governance, where all interested parties can have their say.

auDA belongs to a global community of organisations and plays an active role in representing .au at international fora, such as the Internet Corporation for Assigned Names and Numbers (ICANN) and the Asia Pacific Top Level Domain Association (apTLD).

auDA's advocacy principles

auDA's local and international advocacy is undertaken in accordance with the following key principles:

1. **Purpose driven** – we are a for purpose organisation. Our purpose is to:
   - administer a trusted .au domain for the benefit of all Australians
   - champion an open, free, secure and global internet.

   Our purpose serves our vision, which is to unlock positive social and economic value for Australians through an open, free secure and global internet.

2. **Multi-stakeholder Approach** - We take a multi-stakeholder approach to our work, and we advocate for multi-stakeholder approaches to internet governance and policy matters. This involves us working closely with domain industry stakeholders, businesses, not-for-profit organisations, education and training providers, consumers, and Government entities to serve the interests of the internet community as a whole.
   This approach is founded on strong relationships locally and globally.

3. **Independence** - We are independent from government and from the corporate sector. This means we operate transparently and openly in the interests of all Australians.

4. **Leadership** – We seek to lead Australia's internet community to work better together on our shared work to actively advance an open, free, secure and global internet and positively influence policy and outcomes related to internet governance.
   We do this through quality policy advice and analysis, through research and information, and by sharing this insight with those can benefit from it. Partnership is integral to our way of working – we often seek to work together with others who support our goal, to multiply our impact.

5. **Encouraging Innovation** – We support an innovative digital economy, and through our work we foster innovation across the technology sector, recognising its benefit to growing our digital economy and, in turn, benefitting all Australians.
   Legislative burdens can have a negative effect on innovation in the technology sector, so we encourage the use of incentives and self-regulation where possible and a consultative approach to regulation where that is needed.

Background

In response to the Senate Standing Committee on Economics' (the Senate Committee) Inquiry into the "*Influence of International Digital Platforms*", auDA is pleased to offer the below comment.

Submission

Ensuring Australia's regulatory settings are fit for purpose in the digital age is crucial to promote public trust and confidence in digital platform services and the adoption of new technologies.

We believe that the overall regulatory approach taken by the Australian government needs to be viewed in the context of the internet as global infrastructure and an ecosystem, which digital platforms form part of. We advocate for Australian regulation that encourages an open, secure and global approach to the internet. It is through this lens that we respond to the Senate Committee's Issues Paper.

auDA recognises that the ACCC as part of its Digital Platform Inquiry 2025 has already undertaken a substantial amount of work in relation to digital platforms regulation and has made several recommendations, which Treasury has most recently consulted on. In this submission to the Senate Committee, we reiterate key concerns raised in our submission to Treasury and address specific Terms of Reference the Senate Committee put forward.

Key considerations

We propose three key considerations we wish to see the Government and regulators to pay attention to when addressing digital platform regulation and internet governance more broadly.

1. Multi-stakeholder approach

We advocate for policy and regulatory processes that are open, transparent, multi-stakeholder, and evidence-based. Closer engagement with stakeholders at all stages – from the early phase of policy development to the implementation of such policies by the Government – is a valuable and vital way to promote the people-centric approach to digital connectivity, to which Australia and other jurisdictions aspire.

A recent guide that underpins this approach is the United Nations Educational, Scientific and Cultural Organization's (UNESCO's) Guidelines for regulating digital platforms: A multistakeholder approach to safeguarding freedom of expression and access to information. Overall, we recommend that relevant regulatory issues raised by the Senate Committee are addressed through:

- Multi-stakeholder and whole-of-government approaches involving strong collaboration and coordinated efforts between relevant regulators and policymakers, the private sector, technical community, academia, and the civil society.
- Efficient and effective domestic and international cooperation, both intergovernmental, multilateral and multi-stakeholder.

A multistakeholder and whole-of-government approach is warranted considering the cross-sectoral nature of digital platforms and global operations of Big Tech companies. Digital

platform services provided by such organisations cut across several policy areas and affect a multitude of stakeholders. We believe that by encouraging more diverse perspectives to be incorporated in the policy-making process, more effective fit-for-purpose policies and regulatory frameworks can be developed.

2. Internationally coherent and fit-for-purpose regulatory frameworks

Australian businesses and consumers are participants in the global digital economy through the internet, and more specifically through their widespread use of digital platform services provided by Big Tech companies as well as smaller players.

In line with 'best practice' regulatory principles proposed by bodies such as the Organisation for Economic Cooperation and Development (OECD) and the UNESCO, we suggest that regulation addressing Big Tech and digital platform service providers more broadly should be:

- Consistent and globally coherent and harmonised where possible;
- Fit-for-purpose and targeted at identified risks and issues;
- Technology-neutral and innovation-friendly;
- Relevant and necessary, i.e., address gaps in existing regulatory frameworks;
- Cost-effective for those impacted, i.e., impose no or minimal additional compliance costs on businesses.

Given the global nature of modern economies, the formulation of new technology regulation should be consistent with internationally recognised guidelines and frameworks.

Where appropriate, regulatory harmonisation and alignment across jurisdictions promote regulatory certainty and reduce regulatory burden for digital platforms and their users, enable and encourage regulatory enforcement co-operation across borders, and increase business and consumer confidence and protection.

3. Competition, fair trading and consumer protection

We acknowledge and support the Government's important role in addressing competition concerns and mitigating consumer harm, including through evaluating existing rules and providing proportionate and targeted interventions to protect consumers and encourage fair competition.

auDA supports these principles and operates the .au domain name space consistent with them: under auDA's Terms of Endorsement one of our key objectives is to "promote principles of competition, fair trading and consumer protection". Through such policies, auDA seeks to improve the utility of the .au domain for all Australians and facilitate equitable access to the market.

We emphasise that a regulatory framework for the digital economy is a complex area that will require careful navigation of interrelated elements including inconsistent international regulatory developments and a multitude of stakeholders including internet users,

policymakers, the technical community, academia and the civil society. For these reasons, it is best addressed through a multi-stakeholder approach.

Below, we provide more specific responses to selected Terms of Reference.

Addressing selected Terms of Reference

c. Algorithms used by international digital platforms: lack of transparency, manipulation of users, regulatory attempts

In line with UNESCO's guidelines, we believe that a technology-neutral approach should be a key principle underpinning any new regulation and/or the amendment of existing regulation that relates to digital platform services. Regulatory approaches should mitigate against harms, rather than focus on specific technologies such as algorithms.

auDA holds the view that the pending changes to the Privacy Act arising out of the current review, provide an opportunity to address the challenges presented by the use of algorithms by digital platform service providers. For example, the Attorney-General's Department proposes to make it a requirement that entities "provide information about targeting, including clear information about the use of algorithms and profiling to recommend content to individuals" (see **Proposal 20.9** in the Privacy Act Review Report).

d. Collection and processing of children's data for the purposes of profiling, behavioural advertising, or other uses

To register a domain name, one must be over the age of 18. As such, auDA does not seek to comment on the collection and processing of children's data.

However, on a general note, we highlight that other societal groups may also be at risk of experiencing harms caused by profiling, targeting and other methods. More precisely, recent auDA research Digital Lives of Australians 2022 found that older Australians are generally less confident in their ability to undertake common online activities. The report also found that fewer than half of respondents aged 70+ are very confident making online purchases or using online tools for social connection such as instant messaging apps and video calls.[1]

These and other groups including but not limited to, indigenous Australians, people from culturally and linguistically diverse communities and people with disability, may lack the technical, critical and social skills to engage with the internet and more specifically digital platforms in a safe and beneficial manner. Certain practices performed by digital platforms

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[1] auDA (2022): Digital Lives of Australians 2022 – Research Report, 2022, p. 17, available at: auda_digital_lives_of_australians_2022_research_report_171122.pdf (accessed on 24 February 2023).

including profiling or targeting based on identified or inferred vulnerabilities may magnify the harms these vulnerable consumers could face.

We note that in the Privacy Act Review Report, the Attorney-General's Department proposes several additional protections for children (see **Proposals 16.2-16.5**) and people experiencing vulnerability (see **Proposal 17.1-17.3**). We recommend the Senate Committee reviews and assesses proposals made in the Privacy Act Review Report, including global opt-ins for the collection of personal information for profiling purposes or sharing personal information with third parties for targeted advertising purposes (see **Proposal 20.2**) and the unqualified right to opt-out of receiving targeted advertising (see **Proposal 20.3**).

e. Adequacy and effectiveness of recent attempts to regulate digital platforms

We provide no comment on the adequacy or effectiveness of recent attempts undertaken by regulators in Australia and internationally. However, we acknowledge the work undertaken by various domestic regulators including members of the Digital Platform Regulators Forum (DP-REG) and Council of Financial Regulators (CFR) in addressing matters related to digital platform regulation. Additionally, we note the degree of overlapping issues raised in recent government and departmental consultations including:

- Senate Standing Committee on Economics: Influence of International Digital Platforms
- ACCC: Digital Platform Services Inquiry 2025
- Treasury: Digital Platforms – Government consultation on ACCC's regulatory reform recommendations
- Attorney-General's Department: Privacy Act Review Report

Harms and consumer protection, market share and competition concerns, data collection and privacy issues, and automated decision-making and the use of algorithms by digital platforms are only some of the policy matters highlighted in those consultations. The extent of this overlap indicates siloes within and amongst government portfolios and departments. These siloes and subsequent consultations have the propensity to lead to regulatory overlap, and a lack of certainty amongst industry and consumers.

auDA suggests a preferred approach would see all relevant regulators and government departments actively participate in a multi-stakeholder policy development approach. This would help to avoid siloes and overlapping consultation processes facilitated by different government entities and drive greater certainty amongst industry and consumers.

By way of example, privacy, digital identity and cyber security remain priority policy items on the ministerial agenda.[2] Reforms in each domain will directly impact the others. Despite this, each

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[2] See Department of Finance (2023): Data and Digital Ministers Meeting Communique, 24 February 2023, available at: data-and-digital-ministers-meeting-communique-240223.pdf (finance.gov.au) (accessed on 27 February 2023).

will be subject to different approval processes within government. The Tech Policy Design Centre's (TPDC) Tech Policy and Regulation Coordination (TPRC) Model[3] seeks to improve the overall effectiveness of regulation of the tech-ecosystem by enhancing coordination, improving transparency and democratic oversight of *all* actors in the tech-ecosystem, while respecting and preserving the independence of regulators.

Thus, we suggest the government considers the TPRC Model, which does not change any existing mandates of Ministers, departments or agencies, but helps cultivating coordination at all stages of tech policy development.

The consultations listed above consider and assess regulatory proposals in other jurisdictions. In our view, it is appropriate for the Government to consider the approaches in the United States, United Kingdom and the European Union's Digital Markets Act and DSA. We suggest the Government also considers Singapore's regulatory approach. Whilst we are aware of recent changes to Singapore's framework, we have not yet carefully assessed those:

- Effective from 1 February 2023, the Online Safety (Miscellaneous Amendments) Act comprises a new section that regulates online communication services specifically, social media platforms.
- The local regulator Infocomm Media Development Authority (IMDA) has drafted a [Code of Practice for Online Safety](#) for social media platforms.

The recently released [ANU Tech Policy Design Centre's (TPDC) Global Tech Policy Atlas](#), a public repository of national and international tech policy, strategy, legislation and regulation, is suggested as a useful way in which stakeholders may remain abreast of international policy developments and overseas regulators' experiences.

Conclusion

We suggest that a multi-stakeholder approach becomes the 'default' approach when the Australian Government consults on cross-border internet and digital platform policy matters.

We recommend that a harmonised approach is taken across regulators to ensure consistency and avoid duplication or fragmentation of regulation.

We thank you for considering these matters. If you would like to discuss our submission, please contact auDA's Internet Governance and Policy Director, Jordan Carter on jordan.carter@auda.org.au.

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[3] See TPDC (2023): Cultivating Coordination – Research Report, available at [TPDC_Cultivating_Coordination_2_20230221.pdf (techpolicydesign.au)](#) (accessed on 27 February 2023).