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To: Director, Digital Competition Unit
Market Conduct Division
The Treasury

Langston Crescent
Parkes ACT 2600

By email: digitalcompetition@treasury.gov.au

**RE: Digital Platforms: Government Consultation on ACCC's Regulatory Reform
Recommendations – Consultation Paper**

INTRODUCTION

Thank you for the opportunity to express the Internet Association of Australia's (**IAA**) perspective on the Consultation Paper on Digital Platforms: Government Consultation on ACCC's Regulatory Reform Recommendations.

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet Service Providers. Our response is primarily in representation of our members, as well as for the public good of the Internet more broadly.

We recognise the importance of having an appropriate regulatory framework in place to help protect Australian consumers and industry from anti-competitive and otherwise unfair practices via digital platforms. However, we emphasise the need for such regulations to be measured so as to ensure they do not result in unintended consequences.

OUR RESPONSE

9. What digital platform services should be captured in the ACCC's recommendation?

Our primary concern is the risk that a very broad class of online services and/or organisations providing online services will be covered by regulations applying to digital platforms. We note that the Consultation Paper does not define "digital platforms". However, this is defined in the ACCC's September 2022 report as "A network that enables users (either consumers, businesses, or both) to interact with one another."

We note that this definition is very broad and could capture unintended service providers. In particular, we strongly emphasise that ISPs – when providing carriage between internet end points – should not be regulated under any regulation developed for digital platforms. The new regulation should be clearly for over-the-top content and digital services providers, and not the underlying internet infrastructure. We stress that networks that are layer 3 and below (carriers,

carriage service providers, ISPs) are already extensively regulated under the *Telecommunications Act 1997*. Including such telecommunications networks will amount to duplication and over-regulation, resulting in confusion and inefficiency.

10. Is a new independent external ombuds scheme to resolve consumer disputes with platforms warranted? Can any or all of the functions proposed for the new body be performed by an existing body and, if so, which one would be most appropriate?

We do not find that a new external ombuds scheme is necessary. There are already a number of regulators who carry out certain roles and have powers with relation to digital platforms, including the ACCC, eSafety Commissioner, and TIO. The setting up of a new ombudsman – which is in itself a resource intensive process – will result in confusion and duplication, and is ultimately inefficient.

We recommend expanding the powers and responsibility of existing bodies, and clearly setting out the remit of each to ensure a well-rounded framework, that also appropriately covers dispute resolution. We understand that the University of Technology Sydney’s Centre for Media Transition has already issued a report to this effect.¹

15. Do you agree with the proposed principles for designating platforms for the regime?

17.1 Should codes be targeted at individual companies, a specific service, or all digital platform services?

In general, IAA supports regulation to be technology neutral as much as possible and do not prefer individual companies being designated. An appropriate balance must be struck to capture intended service platforms, without specifically naming organisations so as to risk regulation soon becoming redundant. Given the speedy nature of Internet platforms and services, designating classes of organisations and services as opposed to individual platforms will be more effective. An additional concern would be in ensuring safety and privacy by design principles are adopted by any new players, without overburdening them with regulation such as to stifle innovation. IAA would therefore consider it reasonable to exempt service providers with small user numbers.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the Consultation Paper on Digital Platforms: Government Consultation on ACCC’s Regulatory Reform Recommendations. We support the efforts of government, industry and civil advocates in collaborating as Australia faces challenging issues arising from digital platforms. We reiterate our support for a measured framework that appropriately addresses concerns, and sincerely look forward to cooperating with stakeholders in the development of such a framework.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

¹ Centre for Media Transition 2022, *Digital Platform Complaint Handling*.
<https://www.uts.edu.au/sites/default/files/2022-08/CMT%20DPCH%20Report%20-%20electronic%20version.pdf>.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia