Question 1 - Demonstrating regulatory thought leadership for digital transformation

Supporting the digital economy to grow sustainably requires regulators and policy makers to find an appropriate balance between facilitative actions to promote digital transformation while ensuring enduring social policy objectives are met. An enabling environment is needed with the right infrastructure, skilled workers, an adaptive fit-for-purpose regulatory ecosystem along with open and competitive markets. In 2019, the Australian and New Zealand productivity commissions jointly commissioned a report examining priority areas for growth in the digital economy along with opportunities to strengthen regulatory settings that will support the greater use of digital technologies. This report found that to maximise benefits and to minimise harms of digital technology, governments should design regulatory regimes to enable innovation while controlling harms, use data and digital technologies to improve the efficiency and effectiveness of government services, work together to develop and promote regional and global standards that enable greater use of technologies.[1]

Over the next 20 years, the increasing reliance on digital infrastructure by global economies means regulators will need to switch focus beyond regulating within traditional sectoral frameworks to regulatory frameworks which are outcomes-based and technology neutral. Increasing globalisation of markets and blurring of traditional sectoral boundaries will mean that international cooperation and collaboration are integral in ensuring our regulatory frameworks can adapt and respond to new and emerging regulatory challenges. In this context, fora such as the Global Symposium for Regulators can help regulators explore areas of common interest and opportunities for greater collaboration.

- ***Learnings from the COVID-19 pandemic***

The COVID-19 pandemic has highlighted the importance of digital infrastructure to support social and economic outcomes along with flexible and adaptive policy responses. Lockdown measures and social distancing restrictions have transformed household and business environments. The Australian Bureau of Statistics Business Impacts of COVID-19 survey, May 2020 found that 74 per cent of Australian businesses are operating under modified conditions. Internet traffic has increased with more people working or studying from home. On 17 April 2020, the Government and Australia's major telecommunications companies issued a joint statement with a set of principles to help Australians remain connected during this period.

The COVID-19 pandemic has also highlighted the need for agile, responsive regulatory action. Through the pandemic the ACMA recognised the challenges for the media and communications sectors and established an agile, multidisciplinary taskforce to respond to industry requests for regulatory forbearance. Regulatory forbearance requests were considered on a case by case basis and balanced against the potential risk of consumer harm, the seriousness of any breach, along with all other relevant considerations.

- ***Regulatory settings should be collaborative, evidence based and forward looking***

To respond to the challenges of digital transformation regulatory settings must be fit-for-purpose, evidence-based and forward looking. The ACMA has a strong focus on building our research and data analytics capabilities to inform regulatory decision making and identify emerging regulatory issues. Our research program covers industry, consumer and market research. The ACMA tracks key industry metrics relating to the state of digital infrastructure in Australia, which are published in our Communications Report series. The ACMA also monitors market developments and we report on the main interests in major commercial television and radio networks and associated newspapers via our media interests snapshots. In April 2020, the ACMA examined the impact the Australian bushfires had on the telecommunications network which highlighted ways to improve network resilience and preparedness for national disasters.

More broadly, the Australian government is committed to creating an environment where technology developments such as Artificial Intelligence (AI) support social and economic outcomes. Having regard to Australia's AI ethical framework and technology roadmap, the ACMA is completing research which examines the impacts of AI within the Australian communications and media environment and considers future activity to ensure regulatory settings remain effective.

Question 2 - Vectors of regulatory action: Inclusiveness, agility, and resilience

Regulatory approaches which are technology neutral and can readily adapt to changing market conditions and different business models should be considered to enhance the inclusiveness, agility, and resilience of digital networks.

- ***Outcomes-based approaches can support bold and innovative approaches to digital regulation***

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[1] Australian Government Productivity Commission and the New Zealand Productivity Commission, *Growing the Digital Economy in Australia and New Zealand: Maximising opportunities for Small Medium Enterprises*, January 2019, pg 2

communicate | facilitate | regulate

The ACMA considers that its work in responding to misinformation and news quality over digital platforms demonstrates how outcomes-based approaches can be both bold and innovative in addressing the challenges of digital regulation.

As part of its response to the Australian Competition and Consumer Commission's Digital Platforms Inquiry, the Australian government requested that digital platforms develop a voluntary code (or codes) to address misinformation and news quality, and tasked the ACMA with overseeing this process. The need for a voluntary code has been heightened following the 2019-20 Australian bushfire season and the COVID-19 pandemic which has seen a significant increase in false and misleading information spread over digital platforms.

The ACMA has published a position paper outlining its expectations for the development of the code. This position paper was developed to assist digital platforms to develop the code and considered international regulatory approaches and builds on the EU Code of Practice on Disinformation. The ACMA's positioning and expectations have been informed by discussions with digital platforms and feedback from peer-regulators.

In developing a code, the ACMA considers that platforms should adopt an outcomes-based approach. Signatories would be expected to develop meaningful commitments to achieve outcomes that are carefully defined, clearly linked to the objectives of the code and supported by a strong performance reporting regime. This approach is both flexible and fit-for-purpose as it recognises that it may not be appropriate to assess each platform's performance against a single or uniform set of industry-wide performance metrics. This approach is also consistent with the seven core principles outlined in the GSR best practice guidelines which were developed to assist regulators to understand new technology paradigms and guide them towards appropriate regulation.[2]

- ***Regulatory frameworks need to be fit for purpose, agile and reviewed regularly***

Regulatory frameworks should be regularly reviewed to ensure they remain fit for purpose. Regulatory frameworks may need to adapt to ensure they are continuing to meet public policy objectives in an evolving digital environment.

The Australian Government's Deregulation Taskforce aims to drive improvements in the design, administration and effectiveness of the stock of government regulation to ensure it is fit-for-purpose. The Taskforce will develop and recommend solutions to lower the costs of regulation while retaining the benefits, making it easier for businesses to invest, create jobs and grow the economy.

Question 3 - Collaboration across sectors, cooperation across borders, and engagement across the board

Regulating in a digital context recognises transboundary issues in the digital ecosystem and the need for greater cooperation between regulators, industry and across government.

This is highlighted in Australia through our work combating scam activity on telco networks. Consistent with other jurisdictions, scam activity has a significant social and economic impact on Australians. Scam activity is increasingly sophisticated and hard to detect. It usually originates offshore, readily adapts to disruption measures and ruthlessly exploits new opportunities and vulnerabilities. In response to the problem, the ACMA established the cross-agency Scam Technology Project (the Project) with the Australian Competition and Consumer Commission and the Australian Cyber Security Centre to explore ways to reduce scam activity.

While the Project has focussed on industry-led technological solutions, these solutions are likely to be ineffective in isolation. Promoting information-sharing across industry and between industry and government has been vital, supported by strategic coordination, domestic and international engagement between regulators and law enforcement agencies, improved consumer awareness and regulatory enforcement.

The Scam Technology Project has resulted in the establishment of a Scam Telecommunications Action Taskforce to provide government and industry coordination and oversight of telecommunications scam minimisation strategies. It has also seen the development of enforceable obligations for telco providers to take action to reduce scam calls and commenced trials of industry-wide scam reduction initiatives. One such initiative has been the sharing of scam call data between telco network operators which resulted in over 2.9 million scam calls being identified and successfully blocked in a single month.

The ACMA also recognises that coordination and action across sectors is increasingly important to address consumer harms. Memoranda of Understanding can be an important tool to promote collaboration and cooperation. For example, the ACMA has entered into an Memorandum of Understanding with Australia's finance sector regulator, the Australian Security and Investment Commission, to guide and facilitate the agencies' collaboration, cooperation and mutual assistance in the performance of their respective functions.

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[2] ITU Global Symposium of Regulators, *GSR 2019 Best Practice Guidelines*, July 2019, p. 3-4