

Statement of Intent

by the Australian members of the Electoral

Council of Australia and New Zealand (ECANZ)

concerning electoral management

arrangements with online platforms for

Australian Elections



1. Context for this Statement of Intent

- 1.1. The Australian members of the Electoral Council of Australia and New Zealand (ECANZ) are all the electoral management bodies (EMBs) in Australia. These EMBs are responsible for delivering Australian elections and referenda at a federal, state and territory, and local government level.
- 1.2. ECANZ has adopted this Statement of Intent concerning electoral management arrangements in Australia. This Statement of Intent is modelled closely on the statement adopted by relevant electoral commissions and a number of digital media companies prior to both the 2022 Australian Federal election and the 2022 Victorian State election. All digital platforms that make online social media and other digital services available to users in Australia (Online Platforms) are invited to endorse this Statement of Intent.
- 1.3. Australian EMBs are responsible for enforcing Australian electoral laws within each of their jurisdictions, including in relation to content posted on Online Platforms. In some instances, this law enforcement function is undertaken in conjunction with a relevant local police service, security agencies, other law enforcement agencies and public prosecution agencies. Australian EMBs are also responsible for promoting public awareness about electoral matters.
- 1.4. Conduct on the Online Platforms is also subject to the terms and conditions of use of the specific platform.
- 1.5. Campaigning to influence the way people vote, and the expression of individual political views through open and transparent public debates, is a natural and important part of a democratic society. In a globally connected society, it is to be expected that both citizens and non-citizens participate in election debates. It is also now common practice for political parties, candidates, and other election participants to engage with electors and local communities via social media platforms, to promote issues that are important to them and their electoral prospects.
- 1.6. This transformation of electoral campaigning has created additional challenges for Australian EMBs and Online Platforms in the administration and regulation of Federal, State and Territory, and Local government elections. In particular, users of platforms may post content during an election period that undermines the integrity of the election by interfering in the electoral process - for example, by breaching transparency rules or by misleading voters about how to cast their vote. By issuing this Statement of Intent, ECANZ invites Online Platforms to recognise the importance of democracy to Australia and the impact content posted on online media platforms can have on the democratic process and public institutions.
- 1.7. In February 2021, several Online Platforms signed up to the voluntary industry code of practice called The Australian Code of Practice on Disinformation and Misinformation (the Code), which is administered by the industry association DIGI. Specifically, Online Platforms have committed to (among other things) contribute to reducing the risk of harms that may arise from the propagation of disinformation and misinformation on digital platforms by adopting a range of scalable measures.
- 1.8. Many Online Platforms publish information and reports, both under the Code and independently, that demonstrate and quantify actions taken to combat misinformation and disinformation under their own policies and community guidelines.

- 1.9. This Statement of Intent is intended to complement the Code by setting out preferred working arrangements between Online Platforms and Australian EMBs for general elections (including referenda) and by-elections. It may also be used as a guide to arrangements for larger local government elections, such as state/territory-wide local government elections.
- 1.10. It is acknowledged that some Online Platforms have already participated in bi-lateral processes to collaborate with some Australian EMBs. This Statement of Intent is intended to provide further clarity and transparency on how these sorts of arrangements promote the integrity of electoral events.

2. Scope

- 2.1. This Statement of Intent sets out how Australian EMBs intend to work with Online Platforms to address the following issues concerning electoral events:
 - 2.1.1. breaches of Commonwealth, State and Territory electoral and related laws that apply to the online environment; and
 - 2.1.2. breaches of the Online Platforms' own terms of service insofar as these relate to the integrity of electoral processes, including any terms of service that give effect to a platform's commitments under the Code.
- 2.2. The ECANZ Secretariat will inform any Online Platforms that endorse this Statement of Intent, as soon as is practicable, of any material legislative changes to electoral laws in Australia that are made after the date this Statement is published by ECANZ.
- 2.3. Online Platforms may take additional steps that go beyond the working arrangements described in this document, as is relevant for their products and services.
- 2.4. Nothing in this Statement of Intent will have the effect of limiting, varying, or suspending the participants' legislative rights, powers, or legal obligations, or varying how participants may discharge those legal obligations. This document does not give rise to a legal relationship between the participants and does not create any new legally binding rights or obligations.
- 2.5. Any Online Platform that endorses these arrangements may withdraw any time or for any reason by giving ten (10) business days' notice to the ECANZ Secretariat.
- 2.6. An Online Platform may endorse these arrangements by notifying the ECANZ Secretariat in writing. ECANZ will publish a list of platforms that have endorsed the Statement on its website.
- 2.7. This Statement of Intent will expire on 31 December 2025. It is intended that this Statement of Intent will be reviewed by ECANZ and Online Platforms prior to the expiration date. This Statement of Intent can be renewed, at any point, with the agreement of, and for a period deemed appropriate by, ECANZ and Online Platforms.

3. Overarching intent

- 3.1. Australian EMBs and any Online Platforms that endorse this Statement of Intent will work together to promote and support the integrity of election events in the relevant jurisdiction. They will be transparent with each other, and broader stakeholders, about the steps they are taking to protect elections and work in good faith to address risks.

4. Detailed operational arrangements

- 4.1 The detailed operational arrangements for promoting and supporting electoral integrity during electoral events at any jurisdictional level will be agreed between each Online Platform and the relevant EMB.
- 4.2 The detailed arrangements for each Online Platform and each electoral event may vary depending on factors such as the nature of the platform, the platform's terms of service, the size of the platform and the degree of notice provided to the platform of the relevant electoral event. Operational arrangements to be agreed between an EMB and each Online Platform may cover:
- i. the points of contact that should be used by the EMB to refer instances of potentially problematic content or accounts for an Online Platform's review under the platform's terms of service and/or applicable electoral laws (see also 4.3);
 - ii. the form of referrals of potentially problematic content (for example, an Online Platform may require the EMB to cite the legislative basis on which the requested action is based, and detail the specific URLs or identifiers of the problematic content so that the platform is provided with sufficient detail to identify and review the content);
 - iii. the estimated time frames for platforms to respond to the EMB about the outcomes in non-critical and critical cases;
 - iv. the set-up of allow-list email addresses, trusted flagger status, portal access, and direct phone and email contact points for appropriate EMB staff - as is appropriate for the particular Online Platform;
 - v. how Online Platforms will respond to valid legal requests by the EMB for data disclosure and/or preservation of evidence;
 - vi. the types of actions Online Platforms may take in the event content referred to them by the EMB violates their terms of service or is unlawful under applicable Commonwealth or State or Territory electoral laws (or related laws); and
 - vii. how public communications about any detected disinformation (as defined under the Code) campaigns on platforms will be handled.
- 4.3. Any Online Platforms that endorse this Statement of Intent will provide communication channels for EMBs to raise requests for action in accordance with the detailed operational arrangements they agree for making requests or providing notices, as well as nominated individual staff contact details, particularly for use when an EMB considers escalation is necessary in urgent circumstances. The

communication channels and resourcing of Online Platforms that endorse this Statement during an election period will take into account the needs of the EMB, the type of action requested, the actual or potential impact of the matter on the applicable Federal, State or Territory election and the time sensitivity of the requested response.

- 4.4. An EMB's primary points of contact will be senior executives within the EMB and will be notified to any Online Platforms that endorse this Statement prior to the election event. Upon establishing dialogue in relation to an identified issue, the primary points of contact may delegate day to day communications to other nominated and qualified members of the EMB's staff, where appropriate. The EMB's contacts will remain available and responsive to resolving open referrals to Online Platforms within the relevant time periods.
- 4.5. The referral of an issue by an EMB to a platform for action in accordance with agreed working arrangements should generally be made via any communication channels that the Online Platforms specify. An Online Platform may request the EMB to provide the referral in an agreed form, but it is not intended that in an urgent case assistance will be refused or delayed for formal reasons only.
- 4.6. Online Platforms will respond expeditiously and diligently to all reasonable requests from EMBs for action, noting the importance of dealing with harmful content during election periods quickly and correctly. Online Platforms will provide status updates to EMBs about specific actions, as requested.
- 4.7. Online Platforms that endorse this Statement may continue to promote the safety and security of their services and election integrity through their own initiatives, for example, by promotion of civic participation and media literacy and by publishing information about the steps they will be taking to address the issues set out in 2.1 (noting that this may involve less detail than in correspondence with the EMB to preserve confidentiality of Online Platforms' enforcement approaches.) The arrangements that are put in place in accordance with this Statement of Intent are in addition to, and will complement, any other proactive work Online Platforms already do around elections.
- 4.8. Online Platforms will make available to the relevant EMB, current information about any individual platform efforts to combat harmful content that may arise during a specific election period.

5. Evaluation and future action

- 5.1. ECANZ intends to continue to work with online platforms and industry peak bodies to assess proposals for refining and improving these working arrangements for future elections.
- 5.2. EMBs may include assessments of the effectiveness of these working arrangements, including references to individual platforms, in its post-election reporting. EMBs will share any feedback or assessment of the effectiveness of these working arrangements with the relevant Online Platform concerned in the first instance, if practicable and appropriate.