

Director, Digital Competition Unit
Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: digitalcompetition@treasury.gov.au

Digital Platforms: Government consultation on ACCC's regulatory reform recommendations

The Financial Services Council (FSC) is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers and financial advice licensees.

The financial services industry is responsible for investing more than \$3 trillion on behalf of over 15.6 million Australians.

The Financial Services Council (FSC) welcomes the ACCC's recommendations in the *Digital Platform Services Inquiry report* as pertain to the advertising of financial products on digital platforms, and we would support their adoption by the Federal Government. The ACCC's recommendations echo the FSC's submission to the *Digital Platform Services Inquiry Discussion Paper for Interim Report No 5*. In particular, we are supportive of:

- All digital platforms being required to verify that financial advertisements come from ASIC-licensed entities, and
- A legislated duty for digital platforms to act on removing scam content when notified.

We know that scammers who purport to offer reputable investment options and target people through social media advertisements, paid search engine results and messenger applications are on the rise.

These recommendations would prevent further financial harm to millions of Australians each year. Australians are estimated to have lost \$377 million from investment scams in 2022 – a 113% increase from 2021.¹

We think it is appropriate that large digital platforms, who have the necessary resources, should act to reduce the risk to their consumers of online scams. While we are pleased that Google has voluntarily agreed to authorise only financial advertisements from ASIC-licensed entities, other major platforms are yet to make the same commitment. We submit that in the absence of voluntary commitment, there is an important role for legislation in providing clear obligations for all digital platforms to prevent fraudulent advertisements from unauthorised entities, and to act to remove financial scams when notified.

¹ <https://www.scamwatch.gov.au/scam-statistics>

FSC Recommendations

Recommendation 1: In the absence of voluntary commitment, legislate an obligation for digital platforms to allow only financial services advertisements from ASIC licensed providers.

The FSC's submission to the ACCC called on digital platforms to only allow financial advertisements if they are from an entity authorised by ASIC to provide the relevant financial service it is advertising. Currently, only Google has agreed to do this. But other platforms such as Facebook, Instagram, LinkedIn and TikTok, which together represent a significant share of platforms on which there is digital advertising spending, are yet to make this commitment. The FSC would like the Federal Government to encourage these entities to voluntarily make this commitment, and if they don't, then government should legislate the requirement to do this.

We would support the ACCC's recommendation that digital platforms should take additional steps to verify the legitimacy of the advertiser and the product or service, which at a minimum should require platforms to check that a prospective advertiser of financial products and services holds an appropriate licence from the Australian Securities and Investments Commission (ASIC). In addition, we submit that the advertiser should have a license from ASIC to provide the particular financial service it is seeking to advertise.

Recommendation 2: Digital platforms should be required, by voluntary code or by legislation, to promptly act when notified about financial scams. They should also have internal dispute resolution processes that allow escalation to a human representative. There should be an independent external ombudsman scheme.

We are supportive of the ACCC's recommendation that digital platforms should be required to provide a channel through which entities and individuals can notify the platform of suspected financial scams. Once notified, there should be an obligation, whether by voluntary code or legislation, for digital platforms to act promptly in response to remove the scam content, whether paid or unpaid content. We support the ACCC's recommendation for the 'notice and action' mechanism, which would include:

- (1) Providing a mechanism for notice.
- (2) Requiring platforms to respond promptly to the notice by removing the content or responding with why they believe the content should be permitted.
- (3) Communicating with the entity or person who provided the original notification with the actions they have taken.
- (4) Sharing information with other platforms and relevant government agencies.

With the final element in the mechanism, we submit that when other platforms are notified by the original platform, they should then have a duty to act promptly in response to this information to remove the relevant content.

We also support the ACCC recommendation to require a mandatory internal dispute resolution standard that ensures accessibility, timeliness, accountability, the ability to escalate to a human representative and transparency. We also support ensuring consumers and small business have access to an independent external ombudsman scheme. Having a clear channel of escalation is beneficial in the event that the notice

may end up in the incorrect channels or not acted on promptly enough or appropriately. Good IDR standards and access to external ombudsman schemes would bolster the 'notice and action' mechanism.

Recommendation 3: Digital platforms covered by these proposals should include 'user to user' services and 'search services'.

Given that Australians across various age demographics consume digital content across a wide variety of platforms, we would support broad coverage by potential legislation.

The UK *Online Safety Bill* proposes to impose duties on 'user to user services' (such as Facebook Instagram or Youtube) and 'search services' (such as Google and Microsoft Bing). We submit the definitions in the UK Bill provide adequate broadness and appropriate applicability for the reforms recommended by the ACCC:

- A 'user to user' service is defined as 'an internet service by means of which content that is generated directly on the service by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service.'²
- A 'search engine' is defined as 'an internet service that is, or includes, a search engine' which includes 'a service or functionality which enables a person to search some websites or databases (as well as a service or functionality which enables a person to search (in principle) all websites or databases) but does not include a service which enables a person to search just one website or database. A search engine is not to be taken to be included in an internet service or a user-to-user service if the search engine is controlled by a person who does not control other parts of the service.'³

If you wish to follow up on this submission or have any questions, please contact **Chaneg Torres, Policy Manager** at ctorres@fsc.org.au.

Yours sincerely,

Chaneg Torres
Policy Manager

² *Online Safety Bill* (UK) s 2(1)

³ *Online Safety Bill* (UK) s 2(4) and s 201