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DP-REG Digital Technologies Working Group

8 February 2023, 2:00pm – 3:31pm AEDT

Attendance:

- ACCC – [REDACTED]
- eSafety – [REDACTED]
- OAIC – [REDACTED]
- ACMA – [REDACTED]

Minutes prepared by the ACCC

Open Meeting and confirm minutes

The Chair opened the meeting, and the minutes of the previous meeting were approved.

Agency updates, including attendance at any events and/or any upcoming events

ACMA

- The Government [has announced plans to legislate](#) new ACMA powers around oversight of mis- and disinformation. The ACMA is hopeful an exposure draft of this legislation will be released around April 2023, followed by a Bill in winter.
- In January, the ACMA opened consultation on a new [framework for measuring news media diversity](#). Submissions close on 17 March 2023.
- The ACMA recently met with its counterparts in the EU to discuss their experience with the Digital Services Act.
- The ACMA noted there has been some initial discussion around possible amendments to the [Broadcasting Services Act 1992](#), including whether the [pre-election media blackout laws](#) in Schedule 2 should be extended to also cover the First Nations Voice to Parliament referendum and/or other referenda in future. Note that these laws currently do not apply to online advertising on digital platforms.

eSafety

- eSafety noted it had published a [transparency report](#) summarising the responses it had received on the first round of Basic Online Safety Expectations (BOSE) notices.
 - These notices were issued to 7 platforms – Apple, Meta, WhatsApp, Microsoft, Skype, Omegle and Snap.
- eSafety said it was now preparing to issue a second round of BOSE notices, keeping the focus on child sexual exploitation and abuse material for now. Relevantly for the working group, some of the questions in this next round may ask high-level questions about how algorithms and large language models are being used in this area.

OAIC

- The OAIC and ACCC mentioned they had received invitations from the Digital Regulation Cooperation Forum (**DRCF**, the UK's DP-REG analogue) to its [Quantum Symposium](#) event on 28 February 2023. The ACCC noted it had requested a recording of this event, given the time difference, but it has since been confirmed that the event will not be recorded.
- The OAIC noted the [Enforcement and Other Measures](#) amendments to the *Privacy Act* came into effect on 13 December 2022. Separately, the OAIC has also recently published some privacy [guidance for not-for-profits](#).
- The High Court's hearing of the OAIC case against Meta is set to begin on **7 March**. **[NOTE: Since the date of this meeting, the Attorney-General's Department published its [Privacy Act Review Report](#) on 16 February 2023, [inviting consultation until 31 March](#) on what the Government's response should be.]**

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ACCC

- [Treasury's consultation](#) on the ACCC's 5th DPSI report has now closed. As well as Treasury's roundtables held on 8 and 10 February, the ACCC has been briefing a range of international counterparts on its recommendations.
- Work on the 6th report is underway, and after this meeting the ACCC shared some draft text about DP-REG from that report with the members of this working group.
- All members of this working group are also invited to the upcoming presentation from Mark Sanderson and his team at RMIT about search engines. Note that since this meeting, this presentation has been postponed to **8 March 2023** from 3 pm AEDT.

OAIC presentation – Australian Community Attitudes to Privacy Survey (ACAPS)

██████ of the OAIC's Strategic Communications team delivered a presentation on the 2023 **ACAPS**, which is currently in the questionnaire drafting phase. Key points from this presentation are summarised in the slides and notes below.



Overview

ACAPS is a longstanding study to evaluate the perceptions and awareness of privacy.

First conducted in 2001, it provides longitudinal information on Australians' attitudes about key and emerging privacy issues and their experiences, as well as actions taken to protect their privacy.

The OAIC has commissioned Lonergan Research to conduct the 2023 survey.



Objectives

- Provide insights on Australians' attitudes towards privacy
- Understand the changes in Australians' attitudes and behaviours over time
- Identify awareness of and concern about emerging privacy issues
- Collect data to assist the OAIC across policy, compliance, and communications initiatives





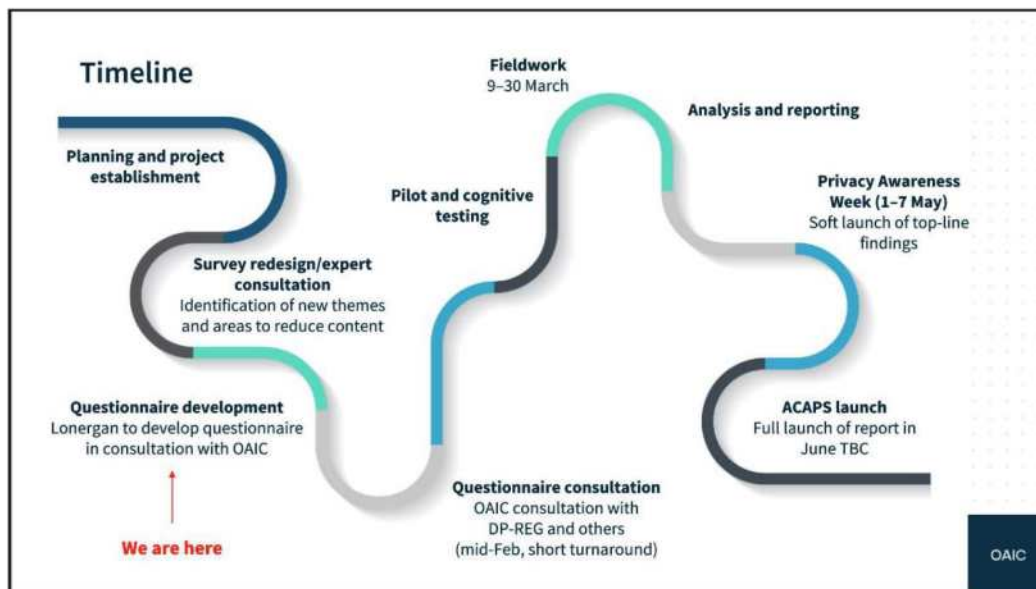
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Themes

Theme group	Themes
General knowledge, awareness	<ul style="list-style-type: none"> Attitudes, awareness and behaviours
Legal considerations	<ul style="list-style-type: none"> Privacy Act and exemptions Consumer rights Privacy policies
Fair and reasonable	<ul style="list-style-type: none"> Trust and handling of data by org/sector Comfort with using and sharing personal information Value of privacy AI and algorithms Digital services, data collection and usage
Privacy breaches	<ul style="list-style-type: none"> Risks, breaches, misuse Harm Responsibility
Biometrics	<ul style="list-style-type: none"> Biometrics Facial recognition technology Surveillance
Children	<ul style="list-style-type: none"> Unique concerns

OAIC

- In 2023, the survey questions will move away somewhat from a focus on notice and consent to consider what proactive privacy measures Australians think organisations should have in place (with a privacy policy being just part of this picture).
- The survey will also ask people whether they believe certain data collection and usage practices are fair and reasonable (such as organisations using AI to make decisions about people without their knowledge).



OAIC

- The OAIC said it intends to share the questionnaire with this working group around mid-February, but given tight timeframes and questionnaire budgets they will be seeking feedback on the framing of the questions rather than adding new questions.

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- In response to questions from working group participants, the OAIC indicated:
 - the survey will be a nationally representative sample size of at least 1,500 people per module, for a total of around 4,500 people across all modules, and
 - it could potentially share relevant, de-identified survey data with this working group.

Algorithms literature review

Working group members discussed a possible structure for the literature review and next steps following the recently completed 'Draft 1' work.

Summary of discussion

[For a more detailed record, please refer to the 'Draft 2' document in GovTeams and the email dated **9 February 2023** from [REDACTED] to working group members].

- Members noted the overlaps in the harms identified by different regulators and agreed a strategy to address this.
- Members agreed to place each risk under an overarching theme – Fairness, Trust or Safety. The 'Draft 2' document in GovTeams includes a proposal for how to do this.
- Members agreed to progress work on section 3 (regulatory initiatives) as part of Draft 2. A table for recording these initiatives is included in the Draft 2 document.
- To save space, members agreed to reference using endnotes (not footnotes).
- The Draft 2 document in GovTeams also includes some minor comments and requests for clarification arising from Draft 1.

Next steps

1. Members will finalise Draft 2 work and upload it to GovTeams by **COB 24 February**.
2. The ACCC will then draft text to follow the table in section 3, along with the conclusion for the Literature Review, by **COB 1 March**.
3. This working group will meet on **3 March** to review draft 2 and finalise the Review.
4. The working group Chair will submit the finalised Literature Review to the DP-REG Secretariat ahead of the Steering Committee meeting on **24 March**.
5. The horizon-scanning workshop will occur on **27 March**, with a view to taking the pilot 'examination of technologies' document to the Steering Committee on 2 June.

Date of next meeting

The next meeting of this working group will be at **10am AEDT on Friday 3 March 2023**.