



Digital Platform Services Inquiry – Report 5: Regulatory reform

Presentation to the ICN Unilateral Conduct Workshop – Plenary 2
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[accc.gov.au](https://www.accc.gov.au)

Background: ACCC digital platform reports



**Digital Platforms
Inquiry
2017-19**



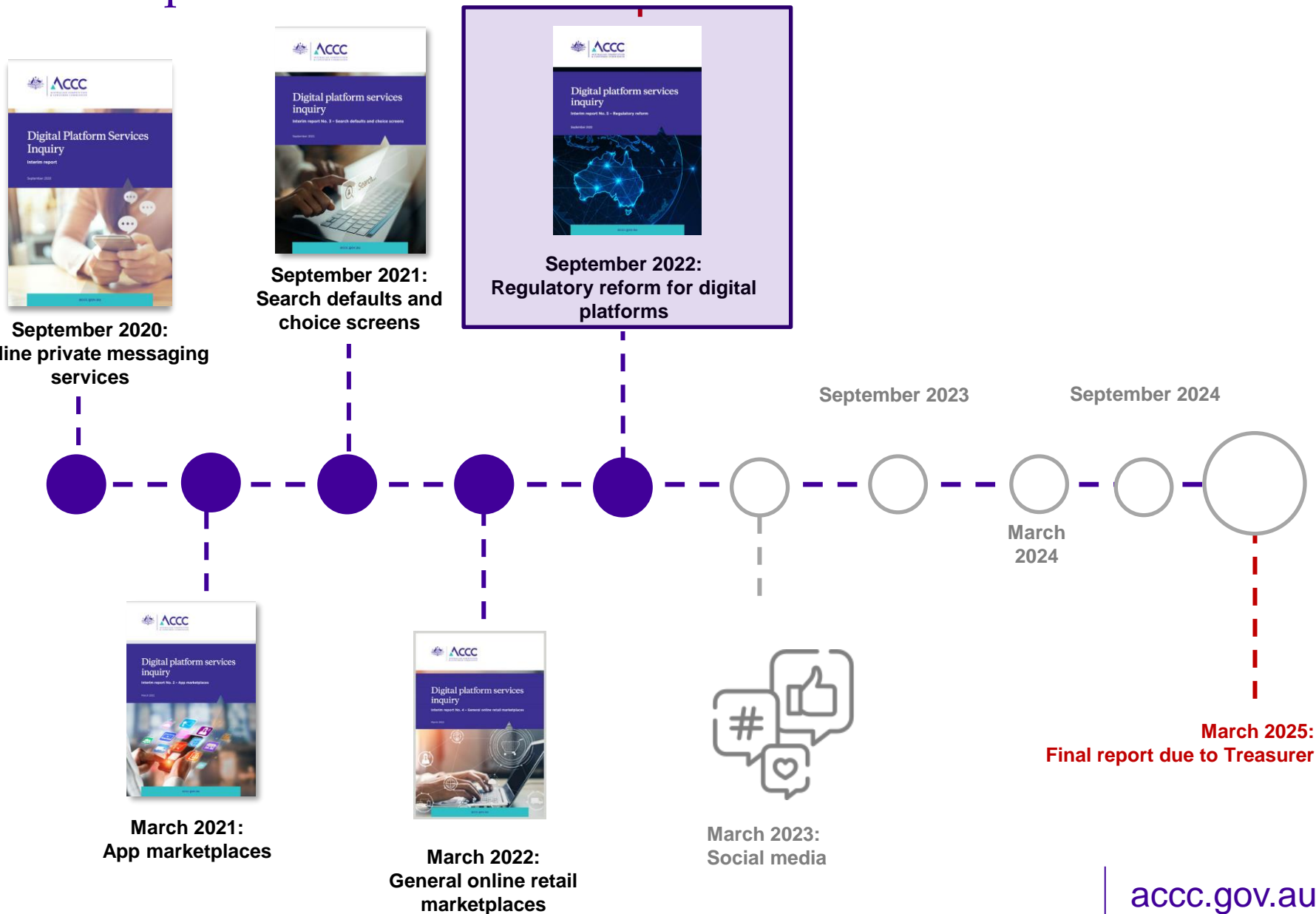
Digital Platforms Services Inquiry (DPSI) 2020-25

On 10 February 2020, the Treasurer directed the ACCC to conduct a five-year inquiry into markets for the supply of **digital platform services**.



Ad Tech Inquiry 2021

DPSI reports



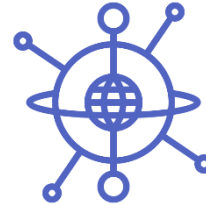
Scope: why consider regulatory reform now?



Identified
significant
consumer &
competition harms



Limitations of
enforcement of
existing laws



International
momentum is
building



Scope and scale
of harms suggests
reform is needed
now



We thought it was time to consider:

1. Whether **new regulatory tools are needed** to address competition and consumer harms in the supply of digital platform services in Australia?
2. If so, what **form** should these take, **who** should they apply to and what is **the content of the rules** required?

Recommendations provided to Government

Consumer measures

1. Economy wide

Prohibition on unfair trading practices

Improved unfair contract term laws

2. Digital platforms providing intermediary services

Mandatory processes for scams, harmful apps and fake reviews

Mandatory dispute resolution processes

Competition measures

3. Codes of conduct for designated digital platforms

- Power to make mandatory service-specific codes of conduct based on principles in legislation
- Codes to apply to designated firms

4. Competition obligations in codes of conduct

Codes to include targeted obligations to address:

- anti-competitive conduct
- barriers to entry
- unfair treatment of business users

Two key elements in the competition framework

A digital platform is **designated** in respect of a service

- **Designated digital platforms** are platforms that meet certain criteria reflecting their critical position in the Australian economy and ability and incentive to harm competition
- Criteria could be based on:
 - **Quantitative criteria**
 - **Qualitative criteria** or
 - A **combination** of both
- Designation is in respect of a digital platform and one or more digital platform services it provides

A **code of conduct** is developed for a particular service

- New targeted up-front competition obligations in **mandatory service-specific codes** to work alongside Australia's existing competition laws
- Obligations of the code are guided by **high level principles**

The development of a code of conduct is informed by high level principles set out in legislation

High level principles

Fair trading & transparency for digital platform users

Competition on the merits

Informed & effective consumer choice

Code sets out targeted competition obligations to address anti-competitive conduct

Anti-competitive self-preferencing

Anti-competitive tying

Exclusive pre-installation and defaults

Frustrating consumer switching

Denying interoperability

Data advantages

Lack of transparency

Unfair dealings with business users

Exclusive agreements and price parity clauses

Next steps and future reports of the Digital Platform Services Inquiry

- The Australian Government's [consultation](#) on the report's recommendations closed on 15 February 2023
- We expect a **response in the coming months**
- The next DPSI interim report due March 2023 will examine **social media services**
- The topic of the 7th report should be made public soon