



22 November 2022

[REDACTED]  
[REDACTED]

Ref: OIA-2022/23-0150

Dear [REDACTED]

**Official Information Act request relating to censorship of information about COVID-19 on Facebook**

Thank you for your Official Information Act 1982 (the Act) request received on 16 September 2022. You requested:

*It is now clear from US court proceedings that the US government met regularly with representatives of Facebook to discuss censorship of information about the Covid response and questions about the safety and effectiveness of the Covid vaccines.*

- 1. Please provide copies of information about all meetings between any representative of the NZ government and any representative of Facebook about government expectations about the way social media would censor or otherwise manage public posts which contradicted the government narrative.*
- 2. Please include any meeting arrangements, agendas, minutes and any other communications relevant to this request*
- 3. Please also include any reports from government representatives at these meetings to the Prime Minister and/ or any member of cabinet or to the Minister of health whether direct or via third parties.*
- 4. Please provide any equivalent media for communications with representatives of any other social media platform including for example You Tube, Instagram etc"*

**Information being released**

On 14 October 2022, the time frame for responding to your request was extended under section 15A of the Act by 25 working days because it necessitated consultations to be undertaken before a decision could be made on the request. Following this extension, we are now in a position to respond.

I am refusing the first three parts of your request under section 18(g)(i) of the Act as the information requested is not held by the department and we have no grounds for believing that the information is held by another department.

In response to the fourth part of your request please find enclosed Attachment A which includes emails identified as within scope of your request. Some information is out of scope of your request, and some information has been withheld under section 9(2)(a) of the Act to protect the privacy of individuals.

Additionally, please find attached the briefing titled, '*Meeting with Facebook Representatives – 28 September 2021*' some information has been withheld under the following sections of the Act:

- Section 9(2)(a) to protect the privacy of individuals;
- Section 9(2)(b)(ii), to protect the commercial position of the person who supplied the information, or who is the subject of the information;
- Section 9(2)(ba)(i), to protect the supply of similar information in the future;
- Section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion; and
- Section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials

In making our decision, we have considered the public interest considerations in section 9(1) of the Act.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

This response may be published on the Department of the Prime Minister and Cabinet's website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Yours sincerely



Tony Lynch  
**Deputy Chief Executive**  
**National Security Group**

Out of Scope



**From:** s9(2)(a) @parliament.govt.nz>

**Sent:** Tuesday, 21 September 2021 4:10 pm

**To:** s9(2)(a) @dpmc.govt.nz>

**Cc:** s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>; s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>

**Subject:** Facebook meeting

Hi s9(2)(a),

Out of Scope

following possible agenda:

- Current issues (including their work around COVID misinformation, vaccinations etc.)
- **Out of Scope**
  - [Redacted]
  - [Redacted]
- [Redacted]
- [Redacted]

Could these topics please be reflected in the briefing.

Thanks,

s9(2)(a)

Private Secretary, Cyber Security Policy

Office of Hon. Dr David Clark, Minister for the Digital Economy and Communications

M: s9(2)(a) Email: s9(2)(a) @parliament.govt.nz

Released under the Official Information Act 1982

**From:** s9(2)(a)  
**To:** s9(2)(a)  
**Cc:** s9(2)(a) [DPMC]  
**Subject:** COVID-19 Support  
**Date:** Thursday, 8 April 2021 11:05:16 am

---

Kia ora s9(2)(a) and s9(2)(a),

I hope this finds you both well.

I would be very eager to have a brief call with you, if feasible from your end, to discuss the range of measures Facebook is deploying and is further able to deploy in New Zealand as we head towards the mass vaccination roll-out. This includes areas such as misinformation, advertising credit support, campaign support, misinformation and harm policies, reporting functions and in platform tools to assist with the promotion of authoritative information.

Out of Scope

Ngā mihi,

s9(2)(a)

Head of Public Policy, New Zealand & Pacific Islands  
email: s9(2)(a)@fb.com | mobile: s9(2)(a)

Released under the Official Information Act 1982

**From:** s9(2)(a)  
**To:** s9(2)(a)  
**Cc:** s9(2)(a) [DPMC]; s9(2)(a) @parliament.govt.nz; s9(2)(a) [DPMC]; s9(2)(a) ; s9(2)(a)  
**Subject:** Facebook - Covid-19 Information campaign assistance  
**Date:** Monday, 23 March 2020 12:09:25 pm

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Kia ora s9(2)(a),

I hope this finds you well. I know that the New Zealand Government and the Ministry of Health in particular are in the midst of a Covid-19 information campaign, including through our platforms.

Out of Scope

Out of Scope

You may also know that for some days now, we have been running a prompt in New Zealand in Facebook newsfeed directing New Zealand users to the Government's official Covid-19 health information. This will extend to our Instagram platform shortly and will link to <https://covid19.govt.nz/>

Out of Scope

Further details on our global response to Covid-19 can be found [here](#) and we will be regularly updating our [ANZ Policy page](#).

Out of Scope

Thank you for all the work you and your teams are doing in these unprecedented times.

Ngā mihi,

s9(2)(a)

Public Policy Manager, New Zealand and Pacific Islands

s9(2)(a) | s9(2)(a) [@fb.com](#)

Released under the Official Information Act 1982

**From:** s9(2)(a)  
**Subject:** Facebook - expansion of policy efforts to remove misinformation relating to COVID-19 vaccinations  
**Date:** Tuesday, 9 February 2021 3:07:21 pm  
**Attachments:** [Outlook-signature .png](#)

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Tēnā koe,

I trust this finds you and your team safe and well.

We wanted to let you know that today, we are expanding our efforts to remove false claims on Facebook and Instagram about COVID-19, COVID-19 vaccines and vaccines in general. This morning Facebook updated our policies **in order to keep people informed and limit misinformation in relation to COVID-19 and vaccinations.**

Full details of the policy update can be found [here](#).

In summary:

- We are expanding the list of false claims we will remove to include additional debunked claims about COVID-19, COVID-19 vaccines, and vaccines in general during the pandemic.
- Facebook Groups, Facebook Pages and accounts on Facebook and Instagram that repeatedly share these debunked claims may be removed altogether.
- We are enforcing this policy immediately, with a particular focus on Pages, Groups, and accounts that violate these rules, and will continue to expand our enforcement over the coming weeks.
- Claims about COVID-19 or vaccines that generally do not violate these policies will still be eligible for review by our third-party fact-checkers, and, if they are rated false, will be labelled and demoted. Between March and October 2020, we put these warning labels on 167 million pieces of content.
- This includes claims such as the following: COVID-19 is man-made or manufactured, Wearing a face mask does not help prevent the spread of COVID-19, Vaccines are not effective at preventing the disease they are meant to protect against, It's safer to get the disease than to get the vaccine, Vaccines are toxic, dangerous, or cause autism
- **We are also improving our Search results across Facebook and Instagram to make it easier to connect people with authoritative information about vaccinations, while making it harder to find accounts in Search that discourage people from getting vaccinated.**

We also announced some updates in relation to how we are continuing to work with health partners to help people get access to accurate information and increase general public confidence in the COVID-19 vaccine.

We have local data for New Zealand in our [Data for Good tool](#) on the estimated percentage of people willing to be vaccinated.

These measures collectively represent the largest worldwide campaign to promote authoritative information about COVID-19 vaccines. Full details can be found [here](#).

This is in addition to the work we already do with third-party fact checkers - including New Zealand based journalists - and the education we proactively push to users who have engaged with information that has been fact-checked and rated as false.

**From:** s9(2)(a)  
**To:** s9(2)(a) [DPMCI]; s9(2)(a) [DPMCI]; s9(2)(a) [DPMCI]; s9(2)(a) [DPMCI]  
**Subject:** Facebook - New Zealand & Pacific Islands launch of Third Party Fact Checking - EMBARGOED UNTIL 5AM 30/3 NZT  
**Date:** Sunday, 29 March 2020 9:00:04 pm

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Kia ora s9(2)(a), s9(2)(a), s9(2)(a), and s9(2)(a).

Out of Scope

Out of Scope

We have had long-standing plans to launch this initiative locally at this time, however, it will potentially also be useful in relation to COVID19-related misinformation which does not otherwise violate our policies and which we remove.

In 2016, we started our [third-party fact-checking program](#), and now work with more than 55 independent [IFCN-certified fact-checking partners](#) around the world in 45 languages to rate and review content online.

We are working in New Zealand and the Pacific Islands in partnership with the Australian Associated Press (AAP), whom we pay to provide this service, and who will independently [review content](#) and [rate its accuracy](#) so we can continue to reduce the spread of misinformation on our platforms. Some of the team that is undertaking this review are based in New Zealand.

I wanted to reassure you that with respect to COVID-19 related content, we remove harmful health misinformation that contains false claims or conspiracy theories that have been flagged by leading global health organisations and local health authorities that could cause harm to people who believe them. We are doing this as an extension of our existing policies to remove content that could cause physical harm. Out of Scope

Out of Scope

Ngā mihi,

s9(2)(a)

Public Policy Manager, New Zealand and Pacific Islands

s9(2)(a) | s9(2)(a) [@fb.com](#)

Released under the Official Information Act 1982

**From:** s9(2)(a) [DPMC]  
**To:** s9(2)(a) [DPMC]; s9(2)(a) [DPMC]  
**Cc:** s9(2)(a) [DPMC]; s9(2)(a) [DPMC]; s9(2)(a) [DPMC]; s9(2)(a) [DPMC]; s9(2)(a) [DPMC]; Tony Lynch [DPMC]  
**Subject:** Facebook: Call with s9(2)(a)  
**Date:** Friday, 19 February 2021 9:15:00 am  
**Attachments:** [image001.png](#)  
[Misinformation materials.msg](#)  
[carson-fake-news.pdf](#)

[SEEMAIL][IN-CONFIDENCE]

Folks

## Out of Scope

s9(2)(a) covered off some misinformation topics as below:

- 1 **Covid-19 and misinformation.** Facebook has apparently expanded its policies, including in providing practical support to Covid-19 campaigns and vaccine rollouts. This includes new information centres on the platform, and new provision of advertising, etc... Facebook had previously engaged with MoH on this, but with restructuring of NZ government effort s9(2)(a) was keen to know where to dock best. Was this with MoH, MBIE, or with s9(2)(a) in DPMC?

s9(2)(a) – this could potentially be helpful; are you able to advise and I can then point in the right direction?

- 2 In Australia, the digital industry not-for profit DIGI <http://digi.org.au/> will next week release an agreed industry **voluntary code on disinformation and misinformation**. A link to the draft version is in s9(2)(a) attached follow-up email. s9(2)(a) was keen to tee up a conversation with folk working on these issues to discuss this work and how, following on from efforts in the EU and Australia, Facebook might contribute to efforts here. As s9(2)(a) put it, to see if the NZ response could improve on these...

s9(2)(a) – are you happy for me to tee up a conversation for us with s9(2)(a) ?

- 3 s9(2)(a) also provided a link to Facebook-commissioned **research on misinformation** conducted by independent academic Andrea Carson at La Trobe University (attached) that had been released last week, including comparative information on regulatory models. s9(2)(a) thought this might be of interest and was happy to discuss (and it does look interesting).

## Out of Scope

[REDACTED]

P

s9(2)(a)

Prime Minister's Special Representative on Cyber and Digital

Cyber Coordinator

National Security Group

Department of the Prime Minister and Cabinet

P s9(2)(a)

M s9(2)(a)

E s9(2)(a) [@dpmc.govt.nz](mailto:s9(2)(a)@dpmc.govt.nz)

cid:image002.png@01D43609.296F69C0

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# Out of Scope

**From:** s9(2)(a) [redacted]@fb.com]

**Sent:** Thursday, 16 April 2020 1:17 PM

**To:** K Faafoi (MIN) <k.faafoi@ministers.govt.nz>

**Cc:** s9(2)(a) [redacted]@parliament.govt.nz>; s9(2)(a) [redacted]

s9(2)(a) [redacted]@fb.com>; s9(2)(a) [redacted]@brg.co.nz>

**Subject:** Facebook briefing offer

Tēnā koe Minister,

We hope this finds you and your family safe and well during this challenging time.

I wanted to make sure you had seen our request for a virtual meeting with you so that we can brief you on our COVID19 response to connect people with official information, address misinformation (especially in relation to 5G) and to support Kiwi community groups and the small business economy.

We will shortly be sharing an update on this work by connecting with all Members of Parliament outlining our work in response to COVID-19 in New Zealand, and we wanted to ensure you had the opportunity to discuss this with us directly in a personal briefing.

Please do let us know if you would like to discuss.

Ngā mihi nui,

s9(2)(a) [redacted]

--

Director of Policy | Australia, New Zealand & Pacific Islands | Facebook + Instagram | M: + 61

s9(2)(a) [redacted] | E: s9(2)(a) [redacted]@fb.com

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Released under the Official Information Act 1982

# Out of Scope

**From:** s9(2)(a) [redacted]@fb.com>

**Sent:** Tuesday, 15 September 2020 11:04 am

**Subject:** Facebook Misinformation Measures

Tēnā koe,

Out of Scope

We are connecting with you now on this issue as we have recently partnered with NetSafe, on a new media literacy campaign currently running in New Zealand, which focuses on educating kiwis on how to spot and respond to misinformation. You may have seen the campaign "[Your News Bulletin](#)".

We are proud to support Netsafe in launching this campaign. We know that it can be challenging sometimes to identify misinformation on social media, especially when linked to COVID-19 and electoral processes, which is why this campaign is timely for Kiwis. Connecting people to accurate information is extremely important to Facebook and this campaign aims to provide people with new skills to make informed decisions on what to read, trust and share.

This education campaign and our fact-checking measures are just some examples of the measures we are taking to both protect the integrity of the New Zealand election and referendums in relation to the use of our services, and to combat harmful health misinformation in relation to COVID-19, as well as other types of misinformation.

Further information on these and other measures can be found on our local [New Zealand & Australia policy page](#).

If you or your team would like further information on these or other measures, please do not hesitate to be in touch.

Ngā mihi,

Released under the Official Information Act 1982

# Out of Scope

**From:** s9(2)(a) [redacted]@google.com>  
**Sent:** Wednesday, 19 August 2020 2:42 pm  
**To:** ^Parliament: s9(2)(a) [redacted]@parliament.govt.nz>  
**Cc:** s9(2)(a) [redacted] [DPMC] s9(2)(a) [redacted]@dpmc.govt.nz>; s9(2)(a) [redacted] [DPMC] s9(2)(a) [redacted]@dpmc.govt.nz>  
**Subject:** YouTube's Policy Against COVID-19 Misinformation  
Hi s9(2)(a) [redacted]

Just a heads up that I noted the questions to the PM today about misinformation and thought it might be helpful to share that YouTube has created a specific [Policy to help prevent COVID-19 Medical Misinformation](#).

We have shared this Policy with the Digital Safety Unit, Department of Internal Affairs, Netsafe and Internet NZ.

In essence, the Policy states that YouTube doesn't allow content that spreads medical misinformation that contradicts the World Health Organization (WHO) or local health authorities' medical information about COVID-19. This is limited to content that contradicts WHO or local health authorities' guidance on:

- Treatment
- Prevention
- Diagnostic
- Transmission

For example, YouTube does not allow:

- Denial that COVID-19 exists
- Claims that people have not died from COVID-19
- Claims that there's a guaranteed vaccine for COVID-19
- Claims that a specific treatment or medicine is a guaranteed cure for COVID-19
- Claims that certain people have immunity to COVID-19 due to their race or nationality
- Encouraging taking home remedies instead of getting medical treatment when sick

- Discouraging people from consulting a medical professional if they're sick
- Content that claims that holding your breath can be used as a diagnostic test for COVID-19
  - Videos alleging that if you avoid Asian food, you won't get the coronavirus
  - Videos alleging that setting off fireworks can clean the air of the virus
  - Claims that COVID-19 is caused by radiation from 5G networks
  - Videos alleging that the COVID-19 test is the cause of the virus
  - Claims that countries with hot climates will not experience the spread of the virus
  - Videos alleging that social distancing and self-isolation are not effective in reducing the spread of the virus

Please feel free to share this [Policy to help prevent COVID-19 Medical Misinformation](#) and the fact that any concerning videos can be [flagged](#) for review.

Out of Scope

Cheers  
s9(2)(a)

s9(2)(a) | Government Affairs and Public Policy | s9(2)(a)@google.com |  
s9(2)(a)

Released under the Official Information Act 1982

**From:** s9(2)(a)  
**To:** s9(2)(a) [DPMC]; s9(2)(a) [DPMC]  
**Cc:** s9(2)(a) [DPMC]  
**Subject:** Minister Clark meeting with Facebook Sydney team  
**Date:** Thursday, 16 September 2021 2:22:05 pm  
**Attachments:** image002.png

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Hi team,

As per my email yesterday afternoon, Minister Clark will be meeting with representatives from Facebook's Sydney team on the **28 September 2021** at 4:15pm to 5:00pm.

The issues to discuss are COVID-19, misinformation, Out of Scope

Specifically, with regards to the stuff around COVID-19 and Out of Scope

Thanks,

s9(2)(a)

Private Secretary, Cyber Security Policy

Office of Hon. Dr David Clark | Minister for the Digital Economy and Communications

M: s9(2)(a) Email: s9(2)(a) @parliament.govt.nz

Out of Scope

**From:** s9(2)(a) [mailto:s9(2)(a)@brg.co.nz]

**Sent:** Tuesday, 27 July 2021 9:47 AM

**To:** s9(2)(a) @parliament.govt.nz>

**Cc:** s9(2)(a) @parliament.govt.nz>

**Subject:** Facebook

Morning s9(2)(a),

Out of Scope

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Out of Scope

. Among the issues to discuss are COVID, misinformation, scams education and online safety campaigns, insights about the Pacific and out of scope and content regulation.

Out of Scope

s9(2)(a)

s9(2)(a)

Senior Consultant

BRG Ltd

s9(2)(a)

[www.brg.co.nz](http://www.brg.co.nz)

email-logo

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**From:** s9(2)(a) [DPMCI]  
**To:** s9(2)(a) [DPMCI]; s9(2)(a) [DPMCI]; s9(2)(a) [DPMCI]  
**Subject:** notes from last week  
**Date:** Tuesday, 14 April 2020 11:22:43 am

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[IN-CONFIDENCE]

Out of Scope

[Redacted]

Take us through FB's approach to misinformation.

Try to provide people through news feed prompts to Covid19.govt.nz website – FB and Insta. Where people search for Covid info, they are directing people to NZ government source. Collate all official resources and pages, info about lockdown restrictions, send prompts when there is new info in the news centre. Also a WhatsApp resource hub. **Out of Scope**

**Out of Scope**

General approach to misinformation: remove accounts and content that violate policies, reduce distribution of content that doesn't violate policies, and inform. Removing fake accounts reduces harmful info a lot.

**Out of Scope**

[Redacted]

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out of scope

[Redacted text block]

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Out of Scope

**From:** s9(2)(a) @mfat.govt.nz>  
**Sent:** Tuesday, 15 September 2020 11:15 am  
**To:** s9(2)(a) [DPMC] s9(2)(a) @dPMC.govt.nz>  
**Cc:** s9(2)(a) @dPMC.govt.nz>  
**Subject:** RE: Aust NZ facebook lead [IN-CONFIDENCE:RELEASE EXTERNAL]  
[SEEMAIL] [IN CONFIDENCE]

Cheers s9(2)(a) !!

Out of Scope

I don't want to take up too much of your time s9(2)(a) on this, but if you're able to – it might be good if I facilitate a meeting between you and s9(2)(a) before he goes forth and engages. Just to give him a lay of this land – particularly as it relates to vaccines and misinformation.

When they speak below of looking for “social media equivalents to editors”, that's in the context of us engaging with editors in the hopes that we can facilitate some level of editorial direction, as to the quality of information that's put out there. Out of Scope

s9(2)(a)

Out of Scope

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To: s9(2)(a) <s9(2)(a)@mbie.govt.nz>  
Cc: s9(2)(a)@mfat.govt.nz; s9(2)(a)  
s9(2)(a)@mbie.govt.nz; s9(2)(a)@health.govt.nz

Subject: Aust NZ facebook lead

Hi s9(2)(a)

Out of Scope

s9(2)(a) and the team may have already discussed anti vax social media challenges with s9(2)(a). If not it would be worth making contact. Out of Scope

Out of Scope

Cheers

s9(2)(a)

s9(2)(a) | Senior Communications Advisor

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PHARMAC | PO Box 10 254 | Level 9, 40 Mercer Street, Wellington

M: s9(2)(a) P: +s9(2)(a) | [www.pharmac.govt.nz](http://www.pharmac.govt.nz)

We are constantly updating our website with information about medicine supply issues and other Covid19 issues. For the latest info see [pharmac.govt.nz/covid19](http://pharmac.govt.nz/covid19)



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Out of Scope

**From:** s9(2)(a) [redacted]@fb.com

**Sent:** Thursday, 8 April 2021 11:05 am

**To:** s9(2)(a) [redacted] [DPMC] s9(2)(a) [redacted]@dpmc.govt.nz>; s9(2)(a) [redacted]@dpmc.govt.nz>

**Cc:** s9(2)(a) [redacted] [DPMC] s9(2)(a) [redacted]@dpmc.govt.nz>

**Subject:** COVID-19 Support

Kia ora s9(2)(a) and s9(2)(a) [redacted]

I hope this finds you both well.

I would be very eager to have a brief call with you, if feasible from your end, to discuss the range of measures Facebook is deploying and is further able to deploy in New Zealand as we head towards the mass vaccination roll-out. This includes areas such as misinformation, Out of Scope [redacted], misinformation and harm policies, reporting functions and in platform tools to assist with the promotion of authoritative information.

Out of Scope [redacted]

Ngā mihi,

s9(2)(a) [redacted]

Head of Public Policy, New Zealand & Pacific Islands

email: s9(2)(a) [redacted]@fb.com | mobile: s9(2)(a) [redacted]

Out of Scope



From: 's9(2)(a) @fb.com>  
To: s9(2)(a) @health.govt.nz' s9(2)(a) @health.govt.nz>  
Cc: s9(2)(a) @dpmc.govt.nz" s9(2)(a) @dpmc.govt.nz>, s9(2)(a) @parliament.govt.nz" s9(2)(a) @parliament.govt.nz>, s9(2)(a) [DPMC]" s9(2)(a) @dpmc.govt.nz>, 's9(2)(a) @fb.com>, s9(2)(a) "s9(2)(a) @parliament.govt.nz>, s9(2)(a) @health.govt.nz" s9(2)(a) @health.govt.nz>, s9(2)(a) "s9(2)(a) @fb.com>  
Date: 03/23/2020 12:09 PM  
Subject: Facebook - Covid-19 Information campaign assistance

---

Kia ora s9(2)(a),

Out of Scope



Out of Scope



You may also know that for some days now, we have been running a prompt in New Zealand in Facebook newsfeed directing New Zealand users to the Government's official

Released under the Official Information Act 1982

Covid-19 health information. This will extend to our Instagram platform shortly and will link to <https://covid19.govt.nz/>

Out of Scope

Out of Scope

Thank you for all the work you and your teams are doing in these unprecedented times.

Ngā mihi,

s9(2)(a)

Public Policy Manager, New Zealand and Pacific Islands

s9(2)(a) | s9(2)(a) | [@fb.com](#)

\*\*\*\*\*

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**From:** s9(2)(a) @fb.com>  
**Sent:** Sunday, 29 March 2020 8:59 PM  
**To:** s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>; s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>; s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>; s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>  
**Subject:** Facebook - New Zealand & Pacific Islands launch of Third Party Fact Checking - EMBARGOED UNTIL 5AM 30/3 NZT  
Kia ora s9(2)(a), s9(2)(a), s9(2)(a), and s9(2)(a).

Out of Scope

I wanted to let you and your team know that tomorrow we are launching third-party fact-checking across New Zealand and the Pacific Islands. Out of Scope

We have had long-standing plans to launch this initiative locally at this time, however, it will potentially also be useful in relation to COVID19-related misinformation which does not otherwise violate our policies and which we remove.

Out of Scope

I wanted to reassure you that with respect to COVID-19 related content, we remove harmful health misinformation that contains false claims or conspiracy theories that have been flagged by leading global health organisations and local health authorities that could cause harm to people who believe them. We are doing this as an extension of our existing policies to remove content that could cause physical harm. Out of Scope

Out of Scope



Released under the Official Information Act 1982

**From:** s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>

**Sent:** Wednesday, 8 September 2021 4:52 pm

**To:** s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>; s9(2)(a) [DPMC] s9(2)(a) @dpmc.govt.nz>

**Subject:** RE: Message from Nick Clegg

Out of Scope



Tena koe s9(2)(a)

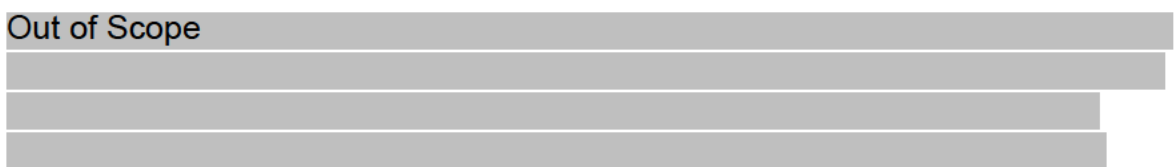
Out of Scope



. Sadly

the outbreak has spurred a spike in COVID-19 disinformation circulating online here in New Zealand.

Out of Scope



# Out of Scope

Out of Scope

**From:** s9(2)(a) s9(2)(a) [mailto:s9(2)(a)@brg.co.nz]

**Sent:** Tuesday, 27 July 2021 9:47 AM

**To:** s9(2)(a) [mailto:s9(2)(a)@parliament.govt.nz]

**Cc:** s9(2)(a) [mailto:s9(2)(a)@parliament.govt.nz]

**Subject:** Facebook

Morning s9(2)(a),

Out of Scope

They have a lot to discuss with him so we thought a slightly longer meeting that was less formal would be a nice idea. Among the issues to discuss are COVID, misinformation, Out of Scope

Out of Scope

Thanks in advance,

s9(2)(a)

s9(2)(a)

Senior Consultant

BRG Ltd

s9(2)(a)

[www.brg.co.nz](http://www.brg.co.nz)

email-logo

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Out of Scope

**From:** s9(2)(a) s9(2)(a) @google.com>

**Sent:** Thursday, 30 September 2021 9:29 am

**Subject:** YouTube's new vaccination misinformation policy

Kia ora

I hope this email finds you safe and healthy. I'm writing to share an update we recently made to YouTube's policies on vaccine-related misinformation.

Today we have a [COVID-19 Vaccine misinformation](#) policy which allows us to remove a limited list of verified false claims about COVID-19 vaccines.

We just announced that we will be introducing a new policy that prohibits content that includes harmful misinformation about the safety, efficacy, or ingredients for **other vaccines** that are approved and confirmed to be safe and effective by local health authorities and by the World Health Organization (WHO).

You can learn more about the announcement we made [here](#) and a detailed overview of our policy in our help center [here](#).

Should you have any questions or would like to discuss further please feel free to contact me.

Kind regards

s9(2)(a)

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**From:** s9(2)(a)  
**Subject:** Recent announcement about news from Facebook Australia  
**Date:** Thursday, 18 February 2021 9:44:45 pm

---

Tēnā koe,

Out of Scope

Out of Scope

Out of Scope

We recognise it's important to connect people to authoritative information and we will continue to promote dedicated information hubs like the New Zealand [COVID-19 Information Centre](#), that connects people with relevant health information. Our commitment to remove harmful misinformation and provide access to credible and timely information will not change. Full details of our expanded efforts to combat misinformation can be found [here](#). Please don't hesitate to contact me should you have any questions.

Ngā mihi,

s9(2)(a)  
Head of Public Policy, New Zealand & Pacific Islands  
email: s9(2)(a)@fb.com | mobile: s9(2)(a)

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**From:** s9(2)(a)  
**Subject:** Update to YouTube's Hate and Harassment and COVID-19 Medical Misinformation Policies  
**Date:** Tuesday, 20 October 2020 10:54:37 am

---

Kia ora

I am writing to share updates about YouTube's policies to address hate & harassment and medical misinformation about COVID-19.

### **Hate and Harassment Policy Update**

#### **Out of Scope**

[Redacted]

[Redacted]

### **COVID-19 Medical Misinformation policy**

From 14th October YouTube will also prohibit content that includes claims about COVID-19 vaccinations that contradict expert consensus from local health authorities or the World Health Organization (WHO).

For example, content claiming that a vaccine will kill people or that a vaccine would implant a microchip in a recipient's body will be removed under this expanded policy. As vaccine development progresses, we will continue to work closely with experts and local health authorities to amend and update our policy according to medical consensus. More information is available in our [blog post](#).

Nga mihi nui

s9(2)(a)

---

s9(2)(a) | Head of Government Affairs and Public Policy, Google New Zealand |  
s9(2)(a) [@google.com](#) | s9(2)(a)

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**From:** s9(2)(a)  
**Subject:** YouTube's new vaccination misinformation policy  
**Date:** Thursday, 30 September 2021 9:30:03 am

---

Kia ora

I hope this email finds you safe and healthy. I'm writing to share an update we recently made to YouTube's policies on vaccine-related misinformation.

Today we have a [COVID-19 Vaccine misinformation](#) policy which allows us to remove a limited list of verified false claims about COVID-19 vaccines.

We just announced that we will be introducing a new policy that prohibits content that includes harmful misinformation about the safety, efficacy, or ingredients for **other vaccines** that are approved and confirmed to be safe and effective by local health authorities and by the World Health Organization (WHO).

You can learn more about the announcement we made [here](#) and a detailed overview of our policy in our help center [here](#).

Should you have any questions or would like to discuss further, please feel free to contact me.

Kind regards

s9(2)(a)

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# Briefing

## MEETING WITH FACEBOOK REPRESENTATIVES - 28 SEPTEMBER 2021

<b>To</b> Minister for the Digital Economy and Communications and Commerce and Consumer Affairs (Hon Dr David Clark)			
<b>Date</b>	27/09/2021	<b>Priority</b>	Routine
<b>Deadline</b>	27/09/2021	<b>Briefing Number</b>	2122NSP/034

### Purpose

This brief provides you talking points and background ahead of your meeting with Facebook representatives on 28 September 2021. We expect the meeting will cover COVID-19 misinformation, the Digital Strategy for Aotearoa, encryption, the Digital Identity Trust Framework, the Consumer Data Right, privacy and ethics.

### Recommendations

1. **Note** the contents of this briefing

<p>Tony Lynch Deputy Chief Executive National Security Group</p>
<p>27/09/2021</p>

<p>Hon Dr David Clark Minister for the Digital Economy and Communications and Commerce and Consumer Affairs</p>
<p>...../...../.....</p>

<b>MEETING WITH FACEBOOK REPRESENTATIVES ON 28 SEPTEMBER 2021</b>	<b>Report No.</b> 2122NSP/034
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Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Halia Haddad	Acting Manager National Cyber Policy Office	s9(2)(a)	✓
s6(a)	Principal Policy Advisor National Cyber Policy Office		

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

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# MEETING WITH FACEBOOK REPRESENTATIVES - 28 SEPTEMBER 2021

## Introduction

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1. You are meeting with Facebook representatives s9(2)(a) [REDACTED] on 28 September 2021 from 4:15pm to 5:00pm.
2. You met s9(2)(a) [REDACTED] previously, on 3 June 2021, and discussed how Facebook can dock into the Digital Strategy, and its moves towards end-to-end encryption across its messaging services.
3. Facebook continues to be one of the most popular social media platforms in New Zealand, with almost three quarters of the population being active users.<sup>1</sup>
4. We expect the main topics to discuss with s9(2)(a) [REDACTED] include:
  - a) COVID-19 misinformation
  - b) Encryption
  - c) Digital Strategy
  - d) Digital Identity Trust Framework / the Consumer Data Right
  - e) Privacy and ethics
  - f) Online scam awareness

## Talking points

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5. The talking points below are included at the start of the briefing to focus on the headlines for each topic. More background is included for each topic from page 6.

### General

- Thank you for reaching out – we appreciate the constructive engagement.
- I understand that Facebook is engaging with officials on issues including the Christchurch Call, CERT NZ's Cyber Smart Week, the Digital Boost Alliance and encryption.

### Christchurch Call

- I'd like to express my gratitude for the constructive and collaborative spirit with which Facebook has approached the Christchurch Call
- The response from the tech sector to the Christchurch Call has underscored the importance of constructive relationships between government and industry.
- Facebook has also been involved in our domestic conversation on countering violent extremism online, led by the Department of Internal Affairs. We will continue to work closely with you and digital industry on ensuring our domestic systems and regulation are fit for purpose.

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<sup>1</sup> <https://gs.statcounter.com/social-media-stats/all/new-zealand>



*COVID-19 and misinformation*

- Thank you for the positive cooperation offered to a range of agencies involved in our COVID-19 response.
- This remains a pressing concern for government. We appreciate the work you have done in reducing the spread of COVID misinformation through de-amplification, post deletion and temporary bans.
- We have also appreciated the amplification of our official COVID communication campaign and look forward to working with you as this continues to evolve.
- Mis- and disinformation is not going to disappear. It is important that we build on this relationship to address the more difficult aspects, such as algorithms and processes that amplify harmful material. It is only through a multi-stakeholder approach, engaging government, civil society, online service providers and others, that we will be able to mitigate the worst effects of mis- and disinformation

*Encryption and content regulation*

- I am aware of Facebook’s plans to consolidate, and provide end to end encryption, on its messaging services.
- New Zealand acknowledges the privacy drivers for this. We are also concerned that unless workable solutions are developed, this could reduce ours and Facebook’s ability to protect citizens from harm.
- Can you update me on Facebook’s work and thinking in this area?
- New Zealand remains committed to working constructively, collaboratively, and creatively with Facebook on safety issues in end-to-end encrypted environments .

- s9(2)(ba)(i)  
 [Redacted text block]

- s9(2)(g)(i)  
 [Redacted text block]

*Digital strategy*

- The Digital Strategy for Aotearoa is being released at the end of this month. It will be our blueprint for a higher productivity, lower emissions future where all New Zealanders can flourish in a digital world.
- We know that, for people and businesses to embrace digital technology, they need to trust and be confident in how these technologies are created, used, and governed, so openness and transparency will be key to the Strategy.
- Our intention is for this to be a living strategy that continues to evolve and change with technology, ensuring that we can adapt to new issues and opportunities.

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- We hope that the Digital Strategy will put in place the right foundations to enable New Zealand to be a world leading digital nation built on trust and known for the ethical deployment of emerging technologies.
- We are grateful for your membership of the Digital Boost Alliance that amplifies our efforts to drive productivity, wellbeing, and social inclusion in a way that benefits everyone.
- What are the 'compliance requirements' that prevent Facebook from making advertising credits available to the private small business trainees (as a way to start their social media advertising) involved in the Digital Boost programme, when Facebook regularly provides such credits to small businesses directly?

#### *Digital identity*

- It is important that people trust the way their identity data is handled and know how their data is being used.
- The upcoming Digital Identity Services Trust Framework is a regulatory regime that will promote the provision of secure, adaptable and trusted digital identity services in Aotearoa.
- We are working towards international mutual recognition of our digital identity trust frameworks, which is the critical first step to full interoperability.
- The Digital Identity Services Trust Framework Bill will be introduced to Parliament this year. We are developing the Trust Framework rules that accredited participants will need to meet. The prerequisites for accreditation are being developed and will be the subject of stakeholder engagement.
- As a member of the Digital Identity Alliance, what are your priorities for the future of handling identity data?

#### *Consumer Data Right*

- You're probably aware the Government has agreed to establish a Consumer Data Right framework for New Zealand.
- I'd be interested in any views you might have on Australia's implementation of the Consumer Data Right. Do you see any lessons New Zealand can draw from Australia's experience so far?
- My officials at MBIE are continuing to engage with interested parties as part of the CDR policy process and would be happy to engage with Facebook that would be useful.

#### *Privacy and ethics*

- Facebook has received a lot of criticism regarding privacy since 2018. I note it has also progressed user control of privacy settings since 2018, which I understand was driven both by Europe's strict privacy laws but also compliance action taken against Facebook.
- What is unique to Facebook with letting users take control of their privacy settings that other social media platforms do not do?
- New Zealand updated its privacy legislation in December last year, with the Privacy Act 2020. This Act allows the Privacy Commissioner to take more direct action against agencies that breach New Zealand's privacy laws.

- How will Facebook work with the Office of the Privacy Commissioner to ensure New Zealanders' personal information is safe and secure and that Facebook acts in accordance with our privacy law?
- **Trust** is one of the three pillars for the Digital Strategy for Aotearoa I announced earlier this year. How does Facebook plan to build, maintain and grow New Zealanders' trust in Facebook services?
- I am concerned about the use of facial recognition technology in New Zealand, following an academic report released in December last year that proposed legal and ethical frameworks for the use of this technology.
- As Facebook has the ability to tag users in other's photos using facial recognition technology, what settings, controls and assurances can Facebook provide that this technology is used appropriately?
- I would be interested to hear what improvements Facebook is implementing to mitigate and prevent divisive content that impacts the mental health of teens in New Zealand.

#### *Online scam awareness*

- We look forward to your collaboration with CERT NZ on your campaign to promote awareness of online scams and to extend audience reach during CERT NZ's Cyber Smart Week commencing on 18 October 2021.
- This important collaboration supports our efforts to build a culture where New Zealanders can operate securely online

## Background

### COVID-19 and misinformation

---

6. COVID-19 misinformation is spread in New Zealand through multiple channels, including social and traditional media (television, radio and print), pamphlets, posters and letterbox drops, and word of mouth.
7. As the global vaccine roll out began, CERT NZ became aware of cyber criminals using public interest in the vaccine to scam individuals out of money or personal information. CERT NZ, DPMC, and the Ministry of Health (MoH) identified the need for a single mis/disinformation reporting point for the public.
8. To simplify reporting lines, CERT NZ agreed to collect reports and pass them to the relevant authority. This coordination role is part of work by all government agencies to support the Unite against COVID-19 effort.
9. CERT NZ requested that New Zealanders submit reports of vaccine scams, so advice could be provided to the public on how to avoid them. New Zealanders also started to report what they thought to be misinformation or disinformation.
10. CERT NZ does not determine if reports contain misinformation or disinformation. It refers reports to agencies with relevant subject matter expertise, such as MoH or DPMC, to determine accuracy and inform strategic or public awareness work.

11. A weekly summary of COVID-19 scam and mis/disinformation reports is also shared with other government agencies. This approach has demonstrated the benefits of a central reporting point for understanding volume, impact, and development of public messaging.

*Social media and dissemination of COVID-19 misinformation*

12. Social media platforms (e.g. Facebook, YouTube, Twitter, Telegram etc.) are the most common means of disseminating and amplifying vaccine misinformation and disinformation, often with international reach.
13. Vaccine-related misinformation on social media can include:
  - a) Rumours on social media about 'consequences' of the vaccine, which can be spread by those who think it is genuine, out of interest or concern.
  - b) Misinformation about certain treatments or medicines designed to look like genuine medical advice.
  - c) Mask-wearing conspiracies that are not underpinned by science.
14. Facebook has taken some positive steps to reduce the spread of COVID misinformation using existing tools, such as de-amplification, post deletion and temporary bans. Through DPMC's COVID-19 Group, DIA and the Ministry of Health (with the Chief Censor and NetSafe) we have established positive working relationships s9(2)(a) [redacted] to flag issues. We work closely with Facebook to remove harmful content and ensure the visibility of our official COVID communications campaign.
15. More can be done by social media companies such as Facebook to address algorithms that can promote and amplify mis- and disinformation. The response from Facebook, and the tech sector more generally, to the Christchurch Call has underscored the importance of building constructive relationships between government and industry. s9(2)(g)(i) [redacted]  
[redacted]  
[redacted]
16. Governmental work takes a whole-of-society, multi-stakeholder approach to strengthening resilience to mis- and disinformation. Government, civil society, tech companies, media, academia, business and the public all have a role to play in ensuring public safety.

## Encryption and content regulation

*Privacy First Policy*

17. In 2019 Facebook revealed its Privacy First Policy and integration of Facebook Messenger, Instagram, and WhatsApp to create an interoperable, end-to-end encrypted (E2EE) messaging system.
18. E2EE is a method to secure communications and uses encryption to exclude third parties from accessing content shared between communicating users. Policy making around safety and security in encrypted environments has proved highly contentious since encryption began to be widely used in the 1990s. The advent of E2EE last decade was greeted with a similar mixture of concern for online safety and advocacy of encryption as a tool to protect security and privacy.



19. In December 2019, the UK, Australia and USA issued an open letter expressing concern at Facebook's E2EE proposals, asking Facebook not to proceed without including a means for lawful access to the content of communications. Facebook published an open response saying it hoped to work with governments on solutions that keep people safe and their communications private. Facebook also emphasised the privacy, security and user safety benefits of encryption, confirming it would not compromise user privacy by building in "back doors". A wide range (over 100) of civil society organisations, including InternetNZ, also published an open letter to Facebook in support of the move to E2EE.
20. The UK published a follow-up statement in April 2020 urging technology companies including Facebook, to embed public safety in system designs, to allow companies to act against illegal content on their platforms, and to enable law enforcement access to content. New Zealand supported the statement alongside a broad coalition of like-minded jurisdictions (see Briefing 1920NSP/066).

21. s9(2)(ba)(i)  
[Redacted]

*Impact of E2EE on child sexual abuse material and cybercrime*

22. When E2EE is enabled on Messenger (as it already is on WhatsApp) Facebook will be unable to directly access user content. This will make it more difficult to identify and prevent serious crimes and online harm through content moderation.
23. A specific concern raised in the April 2020 statement was the impact of E2EE on investigating child sexual abuse material (CSAM). Reporting of CSAM is a statutory requirement for US service providers through the US National Center for Missing and Exploited Children (NCMEC). Facebook presently uses photo-matching technology to match known CSAM with content on its servers.
24. If Facebook implements E2EE it will be unable to monitor CSAM images through its current photo-matching technology. This is a concern because the vast majority of the NCMEC referrals come from Facebook (20.3 million out of a total of 21.4 million reports in 2020). Facebook removes approximately 8 million CSAM images from its servers every three months and accounts for a significant proportion of referrals sent to New Zealand authorities.
25. Facebook has stated it wishes to work on solutions that could enable it to mitigate safety risks. Solutions suggested include the use of Artificial Intelligence, machine learning tools to assess harmful behaviour from user data and disclosure to law enforcement of the metadata, or "outside the envelope" information, such as sender and receiver identification, IP address, basic subscriber information, date, time, and location data.

26. We understand the Apple announcement on 6 August 2021 to introduce new child safety features for US users to detect CSAM through on-device machine learning s9(2)(g)(i)  
[Redacted]  
Apple has since decided to take additional time to consider and make improvements to its proposed child safety features. We understand Apple's announcement has been greeted with concern by some other providers, given that Apple's absence of engagement with

privacy and security advocates beforehand led to a backlash against the proposals and their subsequent postponement.

s9(2)(ba)(i)

[Redacted content]

**Digital Strategy for Aotearoa**

- 30. Our tech sector is the fastest growing industry in New Zealand and has grown 30 per cent faster than the economy overall. This sector offers us scope to foster a resilient, diversified and future focused economy.
- 31. The Digital Strategy for Aotearoa is being released at the end of this month. It will be our blueprint for a higher productivity, lower emissions future where New Zealanders have the opportunity to flourish in a digital world. Digital offers the opportunity for New Zealand to make a step change, by reducing our historical challenges of being small in scale and distant from major global markets, which have held back our economic development and prosperity.
- 32. The Digital Strategy consists of three key themes:
  - a) Mahi tika (trust) – Building the right foundations so that Aotearoa New Zealand can lead the world
  - b) Mahi tahi (inclusion) – Making sure all New Zealanders can ride the digital wave
  - c) Mahi ake (growth) – Leveraging what makes New Zealand unique
- 33. There will be a series of virtual hui in October to start the conversation with New Zealanders on what they think is important for New Zealand’s digital future. This includes making sure tangata whenua contribute to decisions about how we create the Strategy and the actions we take as a result, so that the Digital Strategy reflects Te Ao Māori and embodies Te Tiriti o Waitangi – the Treaty of Waitangi.

*Digital Boost Alliance*

- 34. Facebook is a member of the Digital Boost Alliance and has committed to:
  - a) Providing scholarships to small business professionals to upskill in Facebook Professional Certifications

- b) Providing free digital skills education to small businesses both virtually and in person across cities and towns New Zealand through the Boost with Facebook programme
  - c) Partnering with local organisations focussed on expanding the economic empowerment opportunities for Māori owned businesses
35. Facebook advises its 'compliance requirements' prevents it from making advertising credits available to the small business trainees (to start their social media advertising) involved in the Government's Digital Boost programme. We are aware Facebook regularly provides such credits to small businesses directly. s9(2)(g)(i)
- [REDACTED]

## Digital identity

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36. It is important people know and trust the way their identity data is handled and used. Providing people with greater control over their identity data will help build and maintain trust.
37. The upcoming Digital Identity Services Trust Framework is a regulatory regime that will promote the provision of secure, adaptable and trusted digital identity services in Aotearoa. The Trust Framework will complement the development of the Consumer Data Right (see below), by enabling people to securely access and share their personal information digitally.
38. The Digital Identity Services Trust Framework Bill will be introduced to Parliament this year. s9(2)(f)(iv)
- [REDACTED]
39. Key partners such as Australia and the United Kingdom are modernising their digital identity systems and are taking a similar approach to New Zealand. We are working towards international mutual recognition of our digital identity trust frameworks, which is the critical first step to full interoperability.
40. We have not recently engaged with Facebook about the Digital Identity Trust Framework. However, Facebook has expressed an interest in digital identity internationally.
41. With approximately two billion users worldwide, Facebook has the potential to be a significant participant in the international digital identity market. In August 2021, Facebook joined the Digital Identity Alliance, which is a global private public partnership focused on the future of digital identity.

## Consumer Data Right

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42. In July, the Government agreed to establish a legislative framework for a Consumer Data Right (CDR). This will give consumers the ability to request data held about them be shared with trusted third parties. MBIE officials are considering further aspects of the CDR, including institutional arrangements and the compliance and enforcement regime, with a view to introducing legislation to Parliament in mid-2022. The legislative framework will be designed to apply to the entire New Zealand economy and gradually deployed on a sector-by-sector basis.



43. This approach is broadly like that in Australia, where the banking sector is implementing the CDR, and the energy and telecommunications sectors will follow. Digital platforms are a potential priority sector for further roll-out of the CDR in Australia.

44. s9(2)(g)(i), s9(2)(b)(ii)

## Privacy

### *Cambridge Analytica*

45. Facebook has progressed privacy and ethics considerably since the events following the 2018 revelations that Facebook had shared data from potentially over 87 million profiles (including an estimated 64,000 profiles from New Zealanders)<sup>2</sup> to Cambridge Analytica without the user's knowledge or consent. This information was used to create micro-targeting advertisements for the 2016 presidential campaigns for Senator Ted Cruz and President Donald Trump. Facebook was fined by the Federal Trade Commission (FTC) for these activities and it agreed to pay a fine to the US Securities and Exchange Commission for misleading investors about the misuse of user's profiles and data.

### *Privacy programme and privacy controls*

46. In April 2018 Facebook announced that its global operations would follow the European Union's stringent General Data Protection Regulations (GDPR). GDPR has requirements that are more stringent than the protections and rights in New Zealand's Privacy Acts of 1993 and 2020.

The key elements of Facebook's privacy programme include:

- a) Implementing a governance structure that incorporates an independent Privacy Committee of their Board.
- b) Rebuilding the new privacy program from the ground up in consultation with experts.
- c) Standing up and continuing to grow a central privacy organisation.
- d) Developing new teams and processes to assess and mitigate risk, including a dedicated Privacy Review function to evaluate potential privacy risks posed by new or modified products or data practices.

47. As part of an agreement between Facebook and the FTC, a qualified, independent Assessor produces regular reports on the effectiveness of Facebook implementation and maintenance of their privacy programme. Several necessary improvements were identified in the Assessor's first report, including enhancing the central privacy organisation's oversight role, and bolstering privacy safeguards and controls using technology that builds on core strengths in automation and analytics.

48. Facebook gives users control over their privacy settings and claims to be transparent about how personal information is collected and used. Users can edit settings, including revoking permission for apps to continue accessing personal data and disable the ability for Facebook to run facial recognition algorithms on photos of users. Criticism remains that many of these settings are enabled by default and there are many settings.

<sup>2</sup> "Facebook notification of New Zealanders impacted by Cambridge Analytica breach", 9 April 2018, <https://www.privacy.org.nz/publications/statements-media-releases/facebook-notification-of-new-zealanders-impacted-by-cambridge-analytica-breach/>

*The Facebook Files – Wall Street Journal*

49. A series of Wall Street Journal articles published in mid-September 2021 based on internal Facebook documents describes how the company has created separate content moderation rules for VIP users, the negative effect of the company's Instagram platform on teen mental health, and how the company's tweaks to its algorithms have resulted in more divisive content on Facebook. Taken together, the articles contradict the company's public statements regarding rules governing content and their enforcement, its claims about its products' impact on user health, and the stated goals of algorithm tweaks.
50. The US Senate commerce subcommittee on consumer protection has announced plans to investigate Facebook over its knowledge of Instagram's impact on teens.

*Facebook in New Zealand*

51. The Office of the Privacy Commissioner named Facebook critically in its 2018 Annual Report, which it does to incentivise organisations' compliance with the Privacy Act. This followed Facebook's refusal to cooperate with an investigation into their compliance with the Privacy Act, as Facebook believed it operated under Irish GDPR laws and was thus not subject to New Zealand's Privacy Act. The Privacy Commissioner clarified that as it operates in New Zealand Facebook is subject to New Zealand privacy laws. Facebook continued to not comply.<sup>3</sup>
52. The Privacy Commissioner further criticised Facebook following the terrorist attack on the Christchurch masjidain of 15 March 2019, which was broadcast live on Facebook, noting that Facebook did not commit to any changes to its Facebook Live technology.

*The Office of the Privacy Commissioner (OPC) was asked to provide advice, as an independent regulator, for your meeting and provided paragraphs 52-57:*

53. "The Privacy Act 2020 applies to Facebook in relation to Facebook's handling of personal information when it undertakes business in New Zealand and provides services to New Zealanders. This is the case regardless of where Facebook's offices are located, or where it collects, holds or processes personal information relating to its business activities in New Zealand.
54. The Privacy Act is very clear about the Act's extra-territorial application, as a result of a deliberate reform to privacy legislation for the protection of New Zealand consumers. Clarification of the Act's application to overseas agencies brought it into line with comparable privacy laws, including Australia's.
55. OPC's previous engagement with Facebook under the Privacy Act 1993 was unsatisfactory, as Facebook declined to recognise the Privacy Commissioner's jurisdiction. While the Privacy Act has now been strengthened, s9(2)(g)(i)

[REDACTED]

<sup>3</sup> "Privacy Commissioner Annual Report 2018" and "Privacy Commissioner: Facebook must comply with NZ Privacy Act", 28 March 2018, <https://www.privacy.org.nz/publications/statements-media-releases/privacy-commissioner-facebook-must-comply-with-nz-privacy-act/>



- 56. Similar jurisdictional issues have arisen in other countries. In 2020, Facebook opposed service of pecuniary penalty proceedings by the Australian privacy regulator, claiming it did not carry on business in Australia.
- 57. As a global company, Facebook is subject to varying privacy regimes in different jurisdictions, and this can create enforcement challenges for regulators. OPC works with privacy regulators in other jurisdictions on facilitating enforceability and promoting compatibility of privacy laws across borders.
- 58. OPC has advocated for changes to the Privacy Act that would bring New Zealand law more into line with globally leading privacy regimes like the GDPR. These changes would also provide OPC with more effective tools for regulating powerful transnational entities such as Facebook. Changes to the Privacy Act recommended by the Privacy Commissioner, but which the Government has not yet agreed to implement, include:
  - a) a right to data portability (which may be implemented, at least partially, through current work on a consumer data right)
  - b) a right to erasure in appropriate cases, so that individuals can require the deletion of personal information about them that is inaccurate, misleading or out of date
  - c) requirements for algorithmic transparency in appropriate cases
  - d) an ability for the Privacy Commissioner to apply to the courts for civil penalties of up to \$1 million to be imposed for serious or repeated breaches of the Privacy Act (in line with the NZ Commerce Commission and the Australian privacy regulator)."

**Online scam awareness**

- 59. The recently published New Zealand Crime and Victims Survey (NZCVS) incorporates statistics on cybercrime and fraud (or scams). It is estimated that during 2019/2020 8.3% of adults (342,000 adults) had been victims of scams. However, 93% of all scams were not reported to the Police. Factors for failing to report include victim embarrassment and a lack of understanding if a crime has been committed.
- 60. Facebook is collaborating with CERT NZ, NetSafe and NZ Police on a campaign to promote awareness of online scams. The six topics covered are fake prizes and promotions, online shopping scams, romance scams, phishing, investment, and impersonation. The main aim of the videos is to raise awareness of the scams, so people know to avoid them.
- 61. The campaign will start at the beginning of October and run for approximately five weeks. It will be promoted through digital advertising on Facebook and Instagram, plus billboards. The campaign will overlap in part with CERT NZ's Cyber Smart Week campaign commencing 18 October 2021.

**Consultation**

- 62. DPMC consulted NZ Police, Department of Internal Affairs, Ministry of Business, Innovation and Employment, Office of the Privacy Commissioner and CERT NZ in preparing this brief.

<b>Attachments:</b>	
<b>Attachment A:</b>	Biographies Withheld in full under section 9(2)(a) of the Act

Withheld in full under section 9(2)(a) of the Act

Released under the Official Information Act 1982

<b>MEETING WITH FACEBOOK REPRESENTATIVES ON 28 SEPTEMBER 2021</b>	Report No. 2122NSP/034
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