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19 July 2023

The proposed *Combating Misinformation and Disinformation Bill* threatens the very essence of our democratic rights. It grants the government the power to define truth and empowers regulatory bodies to enforce it, while exempting the government and mainstream media from the same rules.

The Bill empowers the Australian Communications and Media Authority (ACMA) to determine what qualifies as “misinformation” or “disinformation”. This subjective definition leaves room for abuse of power, and suppresses public debate and diverse opinions and perspectives.

The Bill effectively enables tech companies to become tools of government censorship, stifling free speech and undermining the open exchange of ideas.

The Bill paves the way for ideological conformity, suppressing dissenting voices and hindering independent thought. This goes against the principles of a democratic society that thrives on diversity and freedom of expression.

I urge the government to withdraw this Bill and uphold the fundamental rights of every Australian citizens as stated in the Universal Declaration of Human Rights – ***Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.***

Anything less will cause serious, detrimental, implications for free speech and democracy in Australia. We urge the Australian government to uphold the principles of transparency and accountability, and foster an environment where open debate and diverse opinions are welcome.

The Bill puts too much power in the hands of unelected bureaucrats to silence speech in the public square without transparency or accountability.

The Bill includes a vague and ideological definition of “harm” which risks it being weaponised to shut down legitimate speech on pressing social issues.

The Bill does not require mechanisms that will hold digital service providers liable for excessive and onerous policing of legitimate speech.

The exclusion of government-authorized content from this censorship regime is hypocritical and inconsistent and will establish an asymmetry that results in one rule for government and another rule for Australians in what they can say.

The Bill gives ACMA excessive powers to compel owners and private users of digital platforms to provide information and evidence about misinformation and disinformation that is a worrying breach of privacy.

The Bill does not provide a sufficient standard of accountability and oversight for misuse of censorship powers.

The few provisions that have been included to acknowledge the competing right to freedom of expression are tokenistic and do not satisfy the high bar required in international law for the interference with fundamental rights of freedom of expression.

The severity of the penalties for failing to comply with the misinformation codes and standards and for failing to provide evidence requested by ACMA is excessive and will provide a 'chilling effect' on free speech.

The Australian government "Australian Human Rights Commission" clearly states: -

### **Constitutional law protection**

The Australian Constitution does not explicitly protect freedom of expression. However, the High Court has held that an implied freedom of political communication exists as an indispensable part of the system of representative and responsible government created by the Constitution. It operates as a freedom from government restraint, rather than a right conferred directly on individuals.

In [Nationwide News Pty Ltd v Wills](#) (1992) 177 CLR 1 and [Australian Capital Television Pty Ltd v the Commonwealth](#) (1992) 177 CLR 106, the majority of the High Court held that an implied freedom of political communication exists as an incident of the system of representative government established by the Constitution. This was reaffirmed in [Unions NSW v New South Wales](#) [2013] HCA 58.

<https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression>

IT IS MY WILL that this Bill be withdrawn and never be implemented in any form whatsoever in the future.

This submission may be made public.

Yours sincerely

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