

Dear Reviewing Committee Members:

Thank you for the opportunity to provide feedback on the exposure draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

I am in support of the purpose of such a Bill to manage and combat misinformation and disinformation. This proposed Bill to combat the threat of online misinformation and disinformation is a step in the right direction.

However, the draft Bill (hereafter referred to as “Bill”) requires further consultation and review. In its current draft, it is a significant overreach by the Government and the Bill should not be passed. In its current form:

1. The Bill places too much regulatory powers in the hand of the ACMA to hold digital platforms to account.
 - a. One of the recommendation in the ACMA misinformation report in late 2020 and early 2021 was “The ACMA recommended that government should provide it with reserve powers to register industry codes, enforce industry code compliance and make standards relating to the activities of digital platforms.”
 - b. The Bill will give ACMA power to compel digital platforms to provide information and evidence about misinformation and disinformation. This is a breach of freedom of speech and privacy.
 - c. The Bill endeavours to balance between free speech online and the role of digital platforms. However, the Bill does reserve the ability for the ACMA to force digital platforms into compliance where current self-regulatory voluntary codes (DIGI disinformation code of practice) fail.
2. The Bill violates Australia’s commitment to human rights.
 - a. Article 19 of the Universal Declaration of Human Rights (UDHR) states that 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.
 - b. The UDHR was ratified by Australia.
 - c. During Australia’s term as a member of the UN HRC (2018 – 2020 term), Australia built its engagement around ten pillars and priorities which included good governance, freedom of expression and freedom of religion or belief.
 - d. The Bill violates the rights of good governance and individual’s freedom of expression by controlling what is expressed on digital platforms. The Bill does not take into account that Public education and awareness coupled with good governance protects the rights and freedom of the Australian people.

3. The Bill fails to protect the rights and freedom of the Australian people to freedom of expression.
 - a. The fact sheet key points that is made available to the General Public (<https://www.infrastructure.gov.au/sites/default/files/documents/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023-factsheet-june2023.pdf>) has not provided clarity on what is misinformation and disinformation.
 - b. The intent of the Bill is to address the need to address online harm. However, the Bill includes a number of exceptions including:
 - i. Content produced in good faith for entertainment, parody or satire;
 - ii. Professional news content and authorised electoral content;
 - iii. Content authorised by the Commonwealth, State or Territory governments;
 - iv. Content produced by or for accredited educational providers.
 - c. The exceptions provides provision for organisations and interest-groups including the Government to control and manage the perception of the General Public on issues through censorship.
4. The Bill does addresses intent of harm as a result of misinformation and disinformation. The Bill is silent on the extent of harm.
 - a. For information on digital platforms to be classified as misinformation or disinformation, it must be reasonably likely to cause or contribute to serious harm with severe and wide reaching impact on the Australian people.
 - b. The role of the Australian Government eSafety Commissioner (<https://www.esafety.gov.au/key-issues/how-to/remove-images-posts-other-content>) provides the avenue to report abusive content and request that verified abusive content be removed from digital platforms.
 - c. The removal of such content is currently managed by digital platforms under the “DIGI disinformation code of practice” (<https://digi.org.au/disinformation-code/>). Today, there are 8 major digital platforms which are signatories to this code. They are Adobe, Apple, Google, Meta, Microsoft, Redbubble, TikTok and Twitter.
 - d. Under the DIGI disinformation code of practice, these signatories agree to submit annual progress reports to the ACMA on their commitment to safeguard against harm arising from the spread of misinformation and disinformation on their platforms.
5. The Bill lacks a holistic approach to the management of misinformation and disinformation on digital platforms. The Australian Human Rights Commission submission to the Senate Select Committee on Foreign Interference through Social Media has such a holistic approach.
 - a. A submission by the Australian Human Rights Commission dated 16 February 2023 “Inquiry into the risk posed to Australia’s democracy by foreign interference through social media” was made to the Senate Select Committee on Foreign Interference through Social Media.
 - b. In the submission, a wider range of recommendations were made. Highlighting some of the recommendations are:

- i. The Australian Government establishing a permanent “whole-of-government” taskforce dedicated to preventing and combating cyber-manipulation in Australia.
- ii. Addressing and proposing recommendation to the risks to privacy through digital literacy and transparent frameworks that apply to all social media and internet companies.
- iii. Transparency of censorship where social media platforms must publicly disclose the content they have censor and making it an offence to censor content whether that has not publicly disclosed to the users.

The Bill in its current draft requires further consultation and review before it is ready to be considered for legislation. The greatest danger to this Bill is that it provides sufficient safeguards. The Bill is a provision for organisations and interest-groups including the Government to control and manage the perception of the General Public on issues through censorship.

Regards,
Malcolm