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## **Submission regarding the exposure draft of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023**

I do not believe that the proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 strikes an appropriate balance in terms of freedom of expression and the protection of the public from mis or disinformation.

The proposed Bill suffers from a serious flaw, in that, who decides that a piece of information is 'misinformation'? The proposed Bill defines 'Misinformation' as information that is false, but NOT intended to mislead. There are not many things in this world that are certain and even facts, including scientific and historical facts, are subject to change when new details come to light.

It is extremely dangerous to curtail such expression and allocating an entity the right to deem what is 'misinformation' can only result in harm to the public. Some argue that the proposed Bill does not give any entity, namely the Australian Communications and Media Authority, power to determine what information is deemed to be 'misinformation'. In this case, I fail to understand how the proposed Bill will function, as we must know the apparent 'misinformation' that we are combatting...

The High Court of Australia has stated that freedom of speech is 'a common law freedom' and 'the ultimate constitutional foundation in Australia', as it allows citizens to challenge the exercise of power by the government. It is evident that totalitarian countries curtail this freedom and it is concerning that countries that currently identify as democratic, including Australia, are increasingly attempting to restrict free speech, such as with this proposed Bill. Should this sound dramatic, we have a recent example of where similar legislation, titled "Crime of publicly spreading misleading information", was introduced in 2022 in Turkey. The legislation was used to restrict criticism of the government in the lead up to the May 2023 Turkish presidential election. Similarly to Australia's proposed Bill, Turkey's law does contain a clear definition of "false" or "misleading" information, but makes broad statements such as information that is "suitable for disrupting the public peace".

Naturally, freedom of speech is not absolute. All citizens must use their right to free speech responsibly. Hence, Australia already has legislation in place to prevent the abuse of free speech. This includes the Criminal Code Act 1995, which makes it an offence to urge by force or violence to overthrow the Constitution or lawful authority of the government or communicating in a way that is intentionally menacing, harassing or offensive. Free speech is also restricted by common law, including obscenity and sedition, defamation, blasphemy, incitement and passing off. This is not to mention restrictions on commercial and corporate communication, including broadcasts and advertising, as well as anti-discrimination laws, such as the Racial Discrimination Act 1975, which prevents communication that is likely to offend, insult, humiliate or intimidate another person or group if done due to a person's race, colour or national or ethnic origin.

The proposed Bill, in effect, introduces an entirely new category of restricted speech, where free speech is conflated with government-opposed speech to facilitate a new category of 'misinformation' and, as such, justify censorship.

A healthy democracy should encourage an aware and educated population. Should an individual make a misinformed statement, this should be addressed by presenting opposing information and forming clear arguments as to why the statement is incorrect. The government also plays an important role in supporting democracy by running literacy programmes in schools, including on the use of social media, so that citizens are able to think critically and not be easily swayed. Social media platforms can also combat misinformation by enabling features such as 'community notes', for example, those that have recently been introduced by Twitter. Community notes allow people to add context to potentially misleading Tweets. This is a great way to build democracy via social media, rather than repress it.

The other issue with the proposed Bill is the exemption of media and the government. It is difficult to understand the rationale behind this exemption, as neither institution has a moral high-ground in relation to truth and the proposed Bill could be weaponised against the population. The recent royal commission into the government's illegal robo-debt scheme illustrates that Australia's government is able to collaborate with professional media to mislead the public. It is reported that the government used friendly media to counter reporting on the scheme and attempted to silence victims in an abuse of government power.

Considering the above, I strongly object to the proposed Bill.