

30 July 2023

The Hon. Michelle Rowland, MP

Minister for Communications

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Subject: Submission on the 'Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023'

Dear Minister,

I am writing to submit feedback on the draft '*Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023*'.

The draft Bill's reliance on an amorphous, bendable, and discretionary definition of misinformation and disinformation is deeply concerning. The broad definitions, subjective criteria, and potential for abuse risk chilling effects on freedom of expression.

By potentially targeting content that challenges dominant narratives or encourages critical thinking, the draft Bill undermines individuals' ability to analyse ideas for themselves and fosters a culture of dependency on external authority figures. This approach contradicts the principles of freedom of speech and expression, which demand the preservation of open discourse and a free marketplace of ideas.

In a democratic society, no single entity or individual should have arbitrary and unilateral control over determining what information is true or false and what should be allowed on the internet. Freedom necessitates that no Government or other parties have the power to remove content on any digital platform solely on the basis of its alleged falsity if the content would not otherwise be unlawful.

The terms "misinformation" and "disinformation" can be used as a false guise to censor content on digital platforms that is controversial or unpopular. The subjective nature of determining what constitutes misinformation or disinformation can be exploited to suppress dissenting opinions, alternative perspectives, or content that challenges established narratives or powerful interests.

This misuse of the terms can lead to a disturbing effect on freedom of speech and expression, stifling open dialogue and the free exchange of ideas. It raises concerns about censorship and the concentration of control over online information, as certain individuals or entities may attempt to manipulate the narrative by labelling dissenting views as misinformation or disinformation.

Furthermore, the potential harm of censorship and the concentration of control that the Australian Communications and Media Authority (ACMA) would wield over online publications, should this draft Bill become legislation cannot be understated.

Such centralised authority risks creating a dystopian society reminiscent of George Orwell's cautionary novel, "Nineteen Eighty-Four," where mass surveillance and repressive regimentation subjugate individual freedom.

This Bill risks facilitating an environment of totalitarian government control and information manipulation. Therefore, I strongly urge the rejection of the 'Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023' on the following grounds:

1. Broad Definitions and Subjective Criteria:

The Bill's broad definitions of misinformation and disinformation, without clear and objective standards, raise concerns about potential limitations on freedom of speech. Subjective criteria for determining what constitutes false or misleading information can lead to subjective interpretation and potential suppression of legitimate expression and the free exchange of ideas.

2. Overreach and Potential for Abuse:

The provisions in the Bill, particularly those compelling individuals to provide potentially incriminating information or evidence, raise concerns about the protection of individual rights, regulatory overreach and potential abuse of power. The Bill lacks transparency, accountability, and safeguards measures against such misuse and fails to uphold and protect freedom of expression and prevent unwarranted censorship.

3. Abrogation of International Covenant on Civil and Political Rights (ICCPR):

The provisions of the Bill are incompatible with the ICCPR, particularly regarding freedom of expression under Article 19, the presumption of innocence under Article 14(2), the right against self-incrimination under Article 14(3)(g), fair trial rights under Article 14, and the protection of privacy under Article 17. This Bill limits and essentially fails to adhere to ICCPR principles that are vital for a just and democratic society.

4. Impeding the Open and Free Exchange of Ideas:

The proposed bill disproportionately regulates digital platform providers, restricting their ability to facilitate the open exchange of opinion, speech, information, and debate across the Australian community. This hampering of digital platforms impedes the democratic ideals of free expression, inhibits the dissemination of alternative perspectives, and stifles the creative and intellectual potential of our society.

In summary, the exposure draft of the 'Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023' presents significant concerns and risks compromising fundamental rights and democratic principles. It is essential to emphasise that Australians cherish the primary means of information sharing in our current society as a relatively censorship-free and open marketplace of ideas. It is imperative to protect this vibrant exchange of diverse viewpoints, opinions, research, and creative expressions for the betterment of our society.

The draft Bill deviates from ICCPR international human rights standards and tramples upon individual freedoms of Australians, the free exchange of ideas, and the necessity of diverse perspectives in maintaining a healthy democracy. The potential consequences of its passage would create scope for information control, manipulation, and authoritarian censorship.

Individual responsibility and critical thinking skills are vital in determining the veracity of online content. Encouraging these skills empowers individuals to make informed judgments, assess credibility, and differentiate between reliable and misleading information.

Balancing individual responsibility with supportive educational initiatives promotes a more resilient and informed society without relying solely on subjective determinations of harmful content contained in the draft Bill.

Rather than relying solely on ACMA subjective determinations of harmful content, emphasising individual responsibility places the onus on individuals to take an active role in navigating the online

space. It encourages a sense of agency and autonomy, enabling individuals to make informed choices about the information they consume and share.

Individual responsibility and critical thinking skills are essential when it comes to determining the veracity of online content. Encouraging individuals to be discerning consumers of information and promoting critical thinking skills can play a significant role in combating misinformation and evaluating the credibility of online content.

Government should not police opinion but rather empower individuals with the tools to assess the accuracy, reliability, and credibility of information promoting a culture of active engagement, intellectual autonomy and informed decision-making. By equipping people with critical thinking skills, media literacy, and digital literacy, they become better equipped to evaluate sources, verify information, and differentiate between credible and misleading content.

Therefore, I implore all Australians to reject the 'Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023' and call upon our elected representatives in Parliament to also reject the draft Bill and ask them to commit to protecting the diversity of voices and perspectives in the digital realm and uphold the fundamental values of freedom of speech and expression that are vital for maintaining a robust and democratic society.

Thank you for your attention to this matter. I trust that you will carefully consider these concerns and act in the best interests of preserving our democratic ideals.

Yours faithfully,

JF