

## *The Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 (Cth)*

The Bill is an attack on free speech and is significant overreach by the government.

It is an attack on freedom of speech that is inconsistent with Australia's international human rights obligations and is out of step with equivalent European laws. The Bill enables government bureaucrats and big tech to silence and censor speech that goes far beyond reasonable limitation.

- The Bill sets out a framework to restrict speech that is deemed to be 'misinformation' or 'disinformation' which is vaguely defined in the Bill as anything that Australian Communications and Media Authority (ACMA) determines is false, misleading or deceptive. Digital platforms such as Facebook, Instagram and Google will be required by ACMA-regulated codes and standards to police and remove 'misinformation' and 'disinformation'.
- However, government communications are exempted from the Bill. The Bill will give government the power to silence religious and political speech that contradicts prevailing ideologies and political messaging. The Bill fails to include mechanisms to protect valid expression of opinion and belief or to ensure that there are clear and defined limits on suppression of speech.
- The Bill is inconsistent with fundamental freedoms of speech and communication under international human rights instruments like the UN Declaration of Human Rights and the International Covenant on Civil and Political Rights.

*This Bill will impose some of the most draconian controls on free speech in the Western world.*

### The Bill fails to address the potential for misuse of censorship power

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 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 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 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 Bill does not require mechanisms that will hold digital service providers liable for excessive and onerous policing of legitimate speech. The Bill does not provide a sufficient standard of accountability and oversight for misuse of censorship powers.
- 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.