

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

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Subject: Feedback on the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

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

I am writing regarding your request for feedback on the draft bill titled "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023". While I appreciate the intention of combating misinformation and disinformation, I strongly believe that this bill lacks consideration for the freedom of speech and poses several fundamental flaws that need to be addressed. I am, to be direct, absolutely incensed by this bill, but will do my best to respond constructively and addressing the points within the bill.

Firstly, the bill seems to divide society into two classes of citizens; the first, which includes politicians, journalists, and members of educational institutions, while leaving ordinary citizens in the second, is concerning. It disproportionately harms the regular citizens who have utilized the power of the internet to express their voices. The internet has been an invaluable tool for empowering regular people, and this bill absolutely risks undermining their freedom of speech.

Moreover, the excessive fines and the broad application of the code across the entire industry will lead to more restriction on speech than currently exists. The lack of "pressure escape valves" further compounds the harm that this bill can cause. It is essential to strike a balance between combating misinformation and preserving the freedom of speech, and this bill does not achieve that balance.

Accurately judging what is objectively true or false is an impossible task, as new information is constantly being discovered, often contradicting what was once deemed absolute truth. The list of examples provided in the body of text demonstrates that even expert consensus can change over time. Imposing penalties on content that may be considered public health misinformation, even if it was once widely accepted, poses significant risks to open and honest discussions. Freedom of speech allows for the exploration of differing opinions and the pursuit of truth through debate, which is a healthy part of any democracy.

Furthermore, the bill's scope extends to a large number of websites, including community websites and social platforms. This appears to be an unintended consequence of focusing only on major platforms like Facebook, Reddit, and Twitter. The broad definitions included in the bill can unintentionally subject smaller websites, including those operated by individuals or companies, to significant fines. It is unfair and unreasonable to impose legal risks on website owners who may not even be aware of the industry codes they are expected to comply with.

The proposed bill's application without being limited to Australia's geography – and therefore on foreign entities is another concern. It is impractical and unrealistic to expect digital services from all around the world to comply with Australian laws, industry codes, and standards. This overreach of Australian law onto foreign entities may have unintended consequences, including Australia becoming isolated from the global internet. It is crucial to consider the global nature of the internet and maintain a respectful approach toward foreign entities.

In addition to these flaws, the proposed bill also delegates legislative power to private entities, which raises constitutional concerns. The power granted to the ACMA to create 'Misinformation Codes', along with the potential violation of the implied constitutional freedom of political communication, needs to be thoroughly reconsidered.

In conclusion, while misinformation and disinformation do exist, the current draft bill fails to adequately address the need for preserving the freedom of speech. I strongly urge you to reconsider the flaws highlighted in this submission to ensure that any legislation on this matter does not infringe upon fundamental and important democratic principles.

Thank you for considering my feedback. I hope this feedback is earnestly taken into consideration, and will contribute to the improvement or better yet, the complete rescindment of the draft bill.

Yours sincerely,

Chris Needham