



# Submission on the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023



Dear Minister,

Thank you for the opportunity to make a submission to the Australian Government regarding its *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*.

As the background to our submission, the Australian Government has prepared the Bill in response to ACMA's June 2021 Report to the government on the adequacy of digital platforms/ disinformation and news quality measures.<sup>1</sup> The Communication Minister has since proposed the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023* (hereafter referred to as the *Misinformation Bill*) to empower ACMA to enforce stricter codes of conduct on Australian digital platform platforms in dealing with misinformation and disinformation.

The Democratic Labour Party has serious concerns about the proposed Bill and the devastating impact it would have on our democratic freedoms as Australians.

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<sup>1</sup> Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 2023.



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## Totalitarian Control of Permitted Speech

The guiding principle of the Misinformation Bill is that individuals are unable to correctly decipher between truth and lies and therefore it is the Government (ACMA) that must protect them from falsehood. At the same time, the Government is exempt from this Bill.

This means that the Government could potentially use taxpayer funds to spread misinformation and disinformation without any consequence while those taxpayers are forced to pay the Government through ACMA to control their own online speech and restrict alternate views that ACMA deems is misinformation or disinformation.

This is the control of speech and open debate by the Government and it is an attack on the basis of our democracy. It is totalitarian in the extreme and Josef Stalin would be proud.

This is in contrast to the basic principle of freedom of speech. We believe that Australians must be able to speak their minds and have open debate, regardless of whether the Government agrees with those views or not.

Free speech is the best way to deal with misinformation and disinformation. In a free society, bad ideas can be expressed freely, counteracted in the court of public opinion and critically examined by the voting public. Generally speaking, misinformation will not pass the “pub test” and will be dismantled by open debate.

ACMA’s own 2021 Misinformation Report claims that

- 78% of Australians believe individuals should take responsibility for misinformation;
- 76% believe it is up to the platforms to manage this; and
- Only 58% believe that the Government should have a part to play.

Clearly, the voting public does not overwhelmingly support Big Brother Government intervention as more people believe individuals and business should take the lead on this. This is also our view.

We believe that there is a serious likelihood that this Bill, if passed, will allow the Government to weaponize ACMA and digital platforms to silence dissenting opinions and only permit speech that supports their policies.

As a political party, we have the right to campaign against the Government, including where we disagree with the Government on our analysis of the facts. Our reading of this Bill suggests that ACMA would be allowed to ensure that digital platforms remove our pages and information if the Government determines that they contain “misinformation” or “disinformation.”

This means we could only campaign on topics where ACMA approves of the facts we present, which would render opposition parties as mere sycophants of the Government narrative, just like in Communist China.

This silencing of rival political parties is the hallmark of authoritarian regimes and cannot be tolerated if our democracy is to continue.



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## Attack on the Rights of Private Enterprise

The Misinformation Bill would empower ACMA to use digital platforms as its hitmen to enforce its version of permitted speech on the people of Australia. This is an attack on the independence of these platforms and has parallels to previous totalitarian regimes in Italy and Germany leading up to and during World War II.

Section 32-33 demonstrate that the aim of the Bill is to ensure digital platforms develop codes “to implement measures to prevent or respond to misinformation and disinformation.” If those platforms fail to adhere to the codes to ACMA’s satisfaction, they can be severely punished, and if they do not develop the codes, ACMA will step in and create the codes itself and enforce them on the platforms.

The 2021 ACMA misinformation report raised concerns that individuals with alternative views on Covid-19 were moving to uncensored social media platforms “such as Telegram, Gab, Parler and Rumble.” ACMA was concerned that free speech platforms were allowing so-called “misinformation” which challenged the Government narrative and the Department indicated that the Misinformation Bill is intended to address this.

Currently, individuals or bodies corporate who feel that they have been defamed or misrepresented have recourse to the legal system to stop the publication of defamatory material and claim damages if successful. This includes defamation via digital platforms. There is no need for the Government to step in to deal with these cases.

Instead, this Misinformation Bill is a takeover by stealth of the privately owned digital platforms with ACMA using Government powers to weaponize those platforms against speech with which it disagrees.

## Scope of the Bill

The definitions in this Bill empower the Government to define truth across an enormous range of areas.

The exposure draft of the Misinformation Bill defines misinformation as:

“content [that] contains information that is false, misleading or deceptive ... [where] ... “the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm.”

Disinformation is defined as

“content [that] contains information that is false, misleading or deceptive ... [where] ... the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm; and ... the person disseminating, or causing the dissemination of, the content intends that the content deceive another person.



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The Bill would give ACMA the right to determine what is truth and enforce it in the areas of race relations, sexuality, religion, nationality, democratic processes, health, the environment, economics and finance. In addition, ACMA can enforce standards in relation to public order or society.

On even a basic examination, this shows that ACMA has almost universal scope to determine what is truth in almost every area of society and enforce its standards in these areas on digital platforms.

Of particular concern is “public order or society in Australia.” Does this give the Government the right to use ACMA to prevent digital platforms from hosting information about rallies and protests against the Government, as they could be construed as an attack on public order?

In the area of health, it is clear that this Bill was partly created with the Covid-19 pandemic in mind. Does this Bill mean that ACMA, which has no health credentials, could determine what is “truth” in the field of health and declare various alternative medicine as “misinformation” and have it removed from the internet?

It is telling that issues of “ethnicity” and “race” are included in the Bill during a referendum on the Indigenous Voice to Parliament. Will the Government use ACMA and the digital platforms to silence the “No” campaign on the basis of what it deems to be “misinformation” and “disinformation”?

We know that the area of religion is a very controversial one. Giving ACMA power to make rulings about what constitutes “hatred” on the basis of religion appears to be a breach of the separation of religion and state.

The Bill lists “harm to the integrity of Australian democratic processes or of [Government] institutions” as another area where ACMA may make rulings on misinformation codes. Does this mean that legitimate concerns about voting integrity, and corruption in public office, could be shut down as “misinformation”?

All of these concerns demonstrate the almost unfettered powers this Bill would give to ACMA and underline the potential that ACMA will become the new Australian Orwellian “Ministry of Truth.”

We cannot allow this to happen. Again, we ask that the Government withdraw this Bill.



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## Summary

The *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023* will give ACMA, a government body, the power to decide what constitutes fact and what does not. It will then be able to enforce this determination on the Australian people via digital platform codes.

If nothing else, the last three years of the Covid pandemic have demonstrated that the Government, digital platforms and our media institutions play fast and loose with the facts when it suits them, including to the detriment of society.

It is totally inappropriate to entrust the determination of fact to a Government body, and it parallels the infamous “Ministry of Truth” from George Orwell’s *1984*.

If this Bill is successful, ACMA will be able to control *all* digital platforms and have total control of what it determines to be truth. Dissenting voices will be silenced as will effective political debate.

The Government using private businesses to enforce its control of the population is a hallmark of fascist totalitarianism and we condemn it utterly.

## Recommendations

We recommend that the Government immediately withdraw the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 from Parliament.

Thank you for taking the time to review our submission.

On behalf of the Democratic Labour Party of South Australia,

Patrick Amadio (State Secretary and National Vice President);  
Peter Heidenreich (State President).