

Kirralie Smith

[REDACTED]

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

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

To whom it may concern,

I am writing to express my deep concern and outrage regarding the draft bill titled "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023". As an Australian citizen and a firm believer in the fundamental principles of freedom of speech, I am appalled by the implications and consequences this bill could have on our democratic society.

Firstly, the existence of this bill itself is indicative of the Australian Government's lack of respect for the freedom of speech of its citizens. By creating two distinct categories of citizens, this bill perpetuates an unjust power dynamic, wherein politicians, journalists, and members of educational institutions are granted the authority to spread information, regardless of its accuracy, while the rest of the citizens are subject to draconian restrictions.

The Internet, being the most powerful democratic invention of humanity, has empowered regular people by giving them a voice. This law, however, poses a significant risk to the ability of regular citizens to exercise their democratic right to expression. The excessive fines imposed by this bill will undeniably lead to greater speech restrictions on digital services, surpassing even the most stringent limitations currently in place. Furthermore, the wide-ranging application of the code without any "pressure escape valves" intensifies the detrimental impact on free speech.

Moreover, the task of accurately discerning what is true or false is an impossible one. New information is constantly emerging, challenging previously held beliefs and expert consensus. It is crucial to acknowledge that many statements, which were once considered authoritative and factual, have later turned out to be false. Examples such as the initial beliefs about mask effectiveness and the transmission of COVID-19 highlight how the boundaries of truth are ever-evolving. Under this legislation, content disseminating such evolving information may be mistakenly flagged as public health misinformation, leading to censorship.

What is even more concerning is that this bill targets not only false information but also information that may be deemed as "misleading" or "deceptive". Freedom of speech allows for open and honest discussions, enabling truth to be debated and common ground to be found. By restricting the right to be wrong, this bill infringes upon this essential element of free speech. Even experts, like Dr. Nick Coatsworth, have raised justifiable concerns about the scope and implementation of this bill, further highlighting the problematic nature of this legislation.

The bill's focus on larger platforms such as Facebook, Reddit, and Twitter neglects the unintended consequences it may impose on thousands of community websites constituting the "social web". The broad definitions within the bill inadvertently expose countless website owners, including those overseas, to exorbitant fines and legal risks. The international implications of this bill, particularly in relation to the Mastodon social media network, raise questions about the enforcement and compliance measures that would potentially hinder freedom of speech across borders.

This bill, which claims to protect minorities, may, in fact, suppress them. Often, minorities challenge established beliefs and drive progress by presenting alternative perspectives. By imposing a single code and stifling diverse viewpoints, this bill denies minorities the potential to challenge the status quo. This move contradicts the principles upon which progress is built and undermines the core values of a democratic society.

The delegation of legislative power to private entities under this bill raises significant constitutional concerns. Granting companies the ability to create Misinformation Codes, which then become law, bypasses parliamentary oversight and potentially infringes upon the implied freedom of political communication. The broad definition of "harm" within the bill further reinforces the potential curtailment of this constitutional freedom, as political debates and matters of public interest become subject to arbitrary and contested judgments.

Furthermore, the assumption that government and authorized media and educational institutions possess the ultimate truth, disregarding the experiences and viewpoints of ordinary Australians, undermines the democratic principles of inclusion and diversity. Deplatforming certain views before they can be shared inhibits the process of sense-making and suppresses the exploration of all possibilities. This bill unjustly portrays ordinary people as incapable of engaging in public discourse without the risk of causing harm, while simultaneously assuming that the viewpoints of the government and accredited entities are inherently less harmful.

The provisions within the bill that threaten Digital Platform Providers and ordinary users, often referred to as "Deplorables", with reputational damage, financial penalties, and interference are deeply concerning. The harsh consequences imposed on Digital Platform Providers could result in significant financial loss and undermine the very foundations of these businesses. Similarly, summoning citizens before ACMA and urging them to report on their friends and families reeks of a totalitarian system, reminiscent of oppressive regimes.

The repercussions for independent media organizations, journalists, and bloggers are equally distressing. Subjecting them to complex reporting standards and misinformation reports, with the intention to damage their reputations, creates an imbalanced playing field. This imbalance favors government-approved publications and restricts free and independent journalism.

As an Australian citizen, it is disheartening and deeply concerning to witness the proposed erosion of our fundamental freedoms and the subsequent infringements upon our democratic values. The draft bill, in its current form, undermines the principles of freedom of speech, diversity, and open dialogue that form the bedrock of our democratic society.

I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts to reconsider the implications of this bill and its potential consequences for Australian citizens. Critical engagement and open discussion with various stakeholders are essential to ensure that any legislation enacted truly upholds the values we hold dear as Australians.

Thank you for considering my submission. I trust that you will take into account the concerns raised herein, and I hope to see a constructive dialogue surrounding this bill in the coming months.

Yours sincerely,

Kirralie Smith