

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

6 August 2023

Dear Sir/Madam,

RE: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

As an Australian citizen of a democratic nation, the values of which include freedom of thought and expression, I am writing to express my deep concern and outrage at the government's proposed Communications Legislation Amendment Bill 2023.

In the first instance, this bill goes against all the principles of an inclusive society in the way it purports to determine what is correct information.

Should this bill be passed, it will create two classes of citizens. There will be those who apparently have no capacity to analyse information and come to their own conclusions (in other words, the capacity to think for themselves), versus selected politicians, journalists, academics, and experts who apparently are entitled to do all the thinking and analysis for us.

It makes a mockery of our highly educated society, where individuals are empowered by high levels of tertiary education to make their own thoughtful assessments of the data and facts.

It not only presents a patronising attempt to exclude the average citizen from making their own considered assessment of situations, but it also excludes any academics and experts who may have opinions, facts and experiences that contradict the government's chosen guardians of information. Thus, a vast majority of the population, in what is apparently meant to be a democratic society will have their own expertise and experience suppressed by this bill.

Legislation that aims to suppress content on digital platforms deemed to be misleading or deceptive risks harming Australian citizens.

Such harm is not hypothetical when the previous three years have demonstrated very clearly that the challenging task of accurately judging what is true or untrue cannot be in the hands of an elite few people. The lesson learned from our experience with Covid-19 is that no one expert, no single panel of academics, no political party, has a full and complete understanding and is in possession of all the facts about a situation.

We recall the censorship of dissent on various social media platforms since 2020 and have recently learnt via FOI that such suppression of free speech was directed by our democratically elected government. In addition to active suppression of information on social media, recent senate committees, both in Australia and overseas, as well as expertise now being published in the scientific literature has demonstrated that much of what the government considered 'misinformation' two years ago has proved to be accurate and factual. Medical experts' understanding of COVID-19 and its treatments continues to evolve even now, and this clearly

demonstrates why it was wrong to censor voices that offered alternative paths of action at the time when it was most crucial to saving lives - and livelihoods. The general populace is now living with the harms caused by the promotion of ignorance by official government information channels.

History shows us quite clearly that the best response, in times where the facts are still evolving, is to open the channels of information, not shut them down. Open and honest discussions require the freedom to be wrong and for truth to be debated until common ground is reached.

Thus, the proposed Bill's scope of controlling "misleading" or "deceptive" information raises concerns about the government's infringement on freedom of speech and citizens right to know. The government claims to be on the side of truth and against censorship, yet even renowned medical experts like Dr. Nick Coatsworth have expressed serious concerns about the scope and application of this bill.

This bill demonstrates an overreach by the Australian government because it imposes extraterritorial jurisdiction across the global internet.

The internet offers the most powerful democratic platform for regular people to express their opinions and share their knowledge. The voices of regular citizens often provide valuable insights, experience, and knowledge across a broad range of industries, and the government should not be stifling its citizens rights to communicate their insights and knowledge via a restrictive bill, which lacks "pressure escape valves."

Additionally, there are unintentional outcomes that result from the bill's broad definitions, one example being that numerous community websites are exposed to significant legal risk and fines. This disregard for the unintended consequences of the bill reflects an ignorance of the digital landscape and the diversity of platforms it encompasses. Foreign websites, unaware of Australian industry codes, cannot reasonably be expected to comply with a bill that applies to an extensive range of websites and services. And they should not be expected to comply with legislation for which they have no knowledge or representation.

Moreover, the freedom of speech of Australians abroad is also jeopardised if other countries were to implement similar legislation requiring compliance from Australian websites. Australians would not accept being held legally accountable in another country for content published in Australia, thus it follows that foreign entities should not be expected to comply with Australian industry codes.

When the Australian government criticises other countries, such as Hong Kong and Saudi Arabia, for their extraterritorial laws, it is hypocritical to propose a bill that employs a similar extraterritorial reach.

This bill not only limits the ability of citizens to engage in public discourse but also threatens digital platform providers with severe penalties and reputational damage. The imposed threats, including fines, reputational damage, and inefficient reporting standards, undermine the principles of freedom and democracy that our nation upholds.

Australians understand the importance of freedom of expression and assembly, and the proposed legislation undermines these democratic values.

Either this proposed bill is based on the absurd assumption that the general public are incapable of critical analysis and discernment therefore we require selected elite 'information sources' to determine what is correct versus what is 'disinformation', or it is intended to impinge on political speech the government does not agree with. It is overreach to legislate a Bill that restricts speech on matters which concern the public when there are already a number of legal safeguards in place to control harmful speech, fraud and libel.

If only designated experts are granted the power to determine what is information and what is 'misinformation', while regular citizens - or academic experts - who disagree are subjected to excessive fines and restrictions, this bill disproportionately harms the voices of every citizen.

The suppression of facts deemed to be 'misinformation' or 'disinformation' is not an attempt to sort truth from lies, it is an attempt to silence dissent.

History tells us most clearly that this is the first step to Totalitarianism.

People are not protected from hatred or abuse by the suppression of information. On the contrary democracy can only be kept alive by open and diverse discussion, and consideration of all viewpoints, because it is only in such a scenario that logic and reason can lead us to better understandings and enable us to make the best choices in challenging situations.

In conclusion, the proposed Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 is an affront to freedom of speech and democratic values. It disregards the power of the internet in facilitating open and diverse discussions and imposes undue restrictions on the voices of ordinary citizens who have a right to make their own decisions and choices.

I urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider and reassess this bill due to the very clear risk of negative consequences.

Sincerely,

Sheridan Kennedy Ph.D

