

Christian Science Committees on Publication for Australia

ABNs 85385186430 and 12174542998

Contacts: Edwina Aubin email: [REDACTED] mobile: [REDACTED] postal: [REDACTED]
Ariane Newton email: [REDACTED] mobile: [REDACTED] postal: [REDACTED]

Re: Exposure Draft
Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

To Whom It May Concern:

As the appointed representatives of Christian Science in Australia, we submit this letter in response to the Government's request for comments on the Exposure Draft of the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* (the "Bill"). We appreciate the objective of this legislation to protect individuals from harmful information disseminated online, as well as the Government's decision to solicit public input on a wide variety of issues related to this significant proposal at such an early stage.

Our comments on the Bill focus on the definition of ***misinformation*** and how that definition might be construed in ways that could inadvertently chill the expression of statements of religious belief made in good faith. For the reasons detailed below, we would ask that the Government amend the Bill to specify that the definition of ***excluded content for misinformation purposes*** applies to statements of religious belief that are made in good faith and not in violation of Federal, State, Territory, or local law.

1. About the Submitters: Background Information About Christian Science

We are filing this comment in our capacities as Christian Science Committees on Publication, which means that we have been appointed by branches of our church to ensure that the public (including Federal and State government officials) have accurate information about Christian Science, its teachings, and practice.

Christian Science is a religion that is based on the Bible, especially the life and ministry of Jesus Christ. It was founded in Boston, Massachusetts, USA at the end of the nineteenth century, and has been practised in Australia for more than a century. Today, there are Christian Science congregations in approximately sixty (60) countries, including twenty-eight (28) such congregations in Australia.

One of the central teachings of Christian Science is that individuals can experience healing of all kinds of problems, including those involving health, by developing a clearer understanding of God and one's relationship to Her/Him. This is accomplished through daily prayer, Scriptural study, and striving to put Jesus' teachings into practice in daily life. Importantly, the Christian Science Church does not dictate the decisions of its members regarding health care or in any other respect. However, the bylaws of our church do establish spiritual ministries through which individuals who feel called to serve others receive education and training to provide spiritual assistance, support, and practical care to those who have decided that they wish to address health needs through the teachings of Christian Science.

Although adherents of Christian Science are entirely free to make their own decisions, they will generally turn to prayer rather than conventional medical treatment when they experience problems with physical or mental health. This is usually because they have found this method to be successful and reliable.

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Generally speaking, in making decisions on matters of health, Christian Scientists are mindful of the needs of their loved ones and communities, as well as the laws of the land. Most importantly, they strive to put into practice the Golden Rule to: “do unto others as you would have them do unto you” and Jesus’ instruction to love one another.

2. Overview of Concerns Relating to the Bill’s Definition of Misinformation

We approach the Bill from the standpoint of a religious group that holds minority beliefs in certain respects, but which also has great appreciation for the legal framework administered by our Government and the motive behind this legislation. We do not take issue with the provisions of the Bill addressing the dissemination of disinformation (i.e., content produced with deceptive intent) online. Instead, we wish to raise issues regarding the definition of misinformation and how it might be construed as presently defined. The Bill amends the *Broadcasting Services Act 1992* to state:

dissemination of content using a digital service is ***misinformation*** on the digital service if:

- (a) the content contains information that is false, misleading or deceptive; and
- (b) the content is not excluded content for misinformation purposes; and
- (c) the content is provided on the digital service to one or more end-users in Australia; and
- (d) the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm.¹

Unlike the definition of disinformation, the above definition does not require that the information in question be disseminated with the intent to deceive. The Bill does not contain any criteria for determining whether information is “false, misleading, or deceptive,” nor does it specifically identify the party responsible for making that determination. Given the Bill’s focus on the granting of reserve powers to the Australian Communications and Media Authority (“ACMA”), we understand that this determination would be made by digital platform providers unless ACMA determines that there is a need to make rules either by registering a code made by the industry or making its own standard.²

The Bill would also amend the *Broadcasting Services Act 1992* to define the term ***excluded content for misinformation purposes*** as follows:

- (a) content produced in good faith for the purposes of entertainment, parody or satire;
- (b) professional news content;
- (c) content produced by or for an educational institution [that hold certain types of domestic accreditation];
- d) content produced by or for an educational institution [that holds certain types of foreign accreditation];
- (e) content that is authorised by: [the Federal Government, or a State, Territory, or local government]³

¹ Exposure Draft, p. 12, ll. 5-14.

² It is our understanding that compliance with a registered code or ACMA standard by digital platform providers would be compulsory.

³ Exposure Draft, pp. 5-6, ll 11-2.

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Notably, nothing in this section would extend the definition to statements of sincerely held religious belief.

We appreciate the reassurance given in the Guidance Note to the effect that '[t]he Bill does not seek to curtail freedom of speech, nor is it intended that powers will be used to remove individual pieces of content on a platform'.⁴ We also understand that a determination that content is misinformation requires a finding that it is likely to cause or contribute to serious harm based on a variety of factors that relate, among other things, to the subject matter, severity of the potential impact, and the reach of the information.⁵ However, the fact that the Bill vests ACMA with reserve powers could potentially incentivise digital platform providers to demonstrate the effectiveness of their voluntary code of practice (thereby discounting the need for action by ACMA) by removing content that they either disagree with or are concerned that others might consider false.

We are therefore concerned that, despite the Government's stated intent, the provisions of the Bill as currently drafted have the potential to chill freedom of expression, especially as it may relate to those who hold minority religious beliefs. For the reasons which follow, we submit that the following change would contribute to the objectives of the Bill by ensuring that individuals will be able to continue to make lawful expressions of religious belief in good faith online without being concerned that these will be deemed "false" and removed.

3. Request that Lawful Statements of Religious Belief Made in Good Faith Be Excluded from the Definition of Misinformation

We ask that the Bill be amended to include a reference to lawful statements of religious belief made in good faith in the definition of excluded content for misinformation purposes. Many individuals consider their religious beliefs to be an integral part of their being and guiding principles by which they seek to live their lives. We suggest that one's ability to express one's religious belief in good faith is at least as important as the ability to produce content in good faith for entertainment, parody, and satire.

We do not believe that it is the Government's intent to limit the lawful expression in good faith of subjective ideas, such as sincerely held religious beliefs. A belief or opinion that one person considers to be true may be viewed as completely false by someone else, and this contributes to the risk that the provisions of the Bill as drafted might be misapplied in ways that stifle or limit freedom of expression.⁶

⁴ Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023, Guidance Note, p. 7

⁵ Exposure Draft, pp. 12-13, ll. 29-12.

⁶ It is worth noting that the [Australian Code of Practice on Disinformation and Misinformation](#) at Section 3.6 defines misinformation as 'Digital Content that is *verifiably* false or misleading or deceptive' (emphasis added). The fact that the industry's voluntary code of practice provides a more qualified definition of misinformation was one factor that caused us to question whether the Bill's definition could be extended to lawful statements of religious belief made in good faith.

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Diversity of opinion and belief is a hallmark of a democratic society, and the expression of diverse views should be welcomed so long as this is done in a way that is in accordance with law (e.g., not to incite hatred or violent acts, etc.).

It is our understanding that Australia is a signatory to the International Covenant on Civil and Political Rights (ICCPR). Among other things, Article 18, Section 1 of the ICCPR includes within the right to freedom of thought, conscience, and religion the “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching’. Religious beliefs are deeply held and, in our experience, are sometimes misunderstood by those who do not share them. The ability to manifest one’s religious belief should include the ability to express that belief publicly without concern that a digital service provider may judge the truth of that belief and deem it unworthy of a hearing.

We are aware that the right to manifest one’s religion is not without limitation.⁷ For that reason, we do not request an unqualified exclusion from the definition of misinformation for the expression of good faith religious beliefs. Rather, we ask that such statements be excluded only if they are not made in violation of Federal, State, or Territory law. This would protect our citizens from illegal conduct done in the name of (or directed at) religion. It would also provide digital service providers with a clearer test to apply to determine whether religious content constitutes misinformation. This would mitigate the risk that content could be removed solely because a digital service provider disagrees with it or has concerns that others reviewing the information may consider it false.

4. Conclusion

Thank you for the opportunity to submit comments on this important legislation. We ask that the Government consider making the changes outlined in this letter to ensure that the provisions of this Bill will not be interpreted and applied in ways that could limit or restrict the lawful expression of religious beliefs made in good faith. We would also be grateful to be included in any dialogue that the Government chooses to have about these issues with religious organisations going forward.

Please feel free to be in touch with us if you have questions or can provide any additional information.

Respectfully submitted,

Edwina Aubin

Christian Science Committee on Publication for New South Wales, Queensland, Australian Capital Territory, and Northern Territory

Ariane F. Newton

Christian Science Committee on Publication for Victoria, Western Australia, South Australia, and Tasmania

⁷ Art. 18, § 3 of the ICCPR provides that ‘[f]reedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others’.