



16/8/2023

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

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

Dear Sir/Madam,

I am writing this submission to express my deep concern and outrage regarding the proposed Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023. As an Australian citizen and a firm believer in the importance of freedom of speech, I find it highly distressing that the Australian Government would introduce a bill that undermines this fundamental right.

Firstly, the existence of this bill indicates a lack of respect for the freedom of speech of Australian citizens. By creating two classes of citizens, with certain privileged groups having the power to spread potentially false or misleading information online, while regular citizens are subject to excessive fines for expressing their opinions, the bill clearly discriminates against the majority of our democracy. It unjustly restricts the voice and influence of regular people, who often possess a wealth of knowledge on various topics, including industry insights.

The internet, in my strongly held belief, is the most powerful democratic invention in human history as it has given a voice to regular people. This law poses a significant risk to the empowerment of ordinary citizens, disproportionately harming the very individuals it should protect and serve.

Moreover, the proposed legislation's strict fines will undoubtedly lead to digital service providers adopting more restrictive speech policies, surpassing even the most stringent regulations currently in place. The lack of "pressure escape valves" within the system further compounds the harm caused by this bill. It is essential to acknowledge that accurately judging the veracity of information is an impossible task, as new discoveries often contradict previously accepted facts.

For instance, there have been numerous instances where authorities and expert consensus have provided misleading information. The examples of false claims related to COVID-19, such as the effectiveness of masks, human-to-human transmission, and vaccine-related aspects, demonstrate the challenges in determining what constitutes misinformation. Allowing an industry code or a mandatory code created by ACMA to dictate content removal would potentially suppress essential discussions and hinder the pursuit of truth through open and honest debates.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has expressed serious concerns about the scope and application of this bill. His statements on Twitter highlight the difficulty in implementing legislation that can easily levy fines on questionable grounds. If an expert of Dr. Coatsworth's caliber raises such issues, it raises doubts about the bill's objective alignment with truth-seeking rather than censorship.

The proposed bill also grants excessive influence to industry bodies, which are often shaped and funded by the largest players within a specific industry. This may create an environment where industry codes become anti-competitive tools used by dominant digital services to gatekeep the industry, stifling innovation and

preventing smaller competitors from entering the market. The potential for abuse becomes apparent when considering that the largest digital services can write their own regulations, while penalizing smaller competitors with onerous requirements.

Furthermore, it is worth noting that the free-market competition between platforms in addressing misinformation and disinformation has proven effective. Social media networks such as Mastodon and emerging Twitter competitors like BlueSky, Post.news, and Instagram Threads have gained momentum due to public dissatisfaction with the misinfo/disinfo policies and enforcement on Twitter. This demonstrates that users naturally gravitate towards platforms that align with their expectations, promoting competition and variety.

It is also troubling that the proposed bill primarily focuses on larger platforms like Facebook, Reddit, and Twitter, while inadvertently subjecting numerous community websites to its broad regulations. The failure to consider the impact on smaller platforms and the potential eradication of small websites due to compliance difficulties contradicts the efforts of competition regulators worldwide to reduce barriers to entry for digital service competitors.

The impact on freedom, liberty, and the right to freedom of speech and enterprise is concerning. The bill's broad nature, akin to setting a speed limit without providing information on it, places undue legal risks on individuals and companies who may unknowingly be in violation. It raises questions about whether foreign website owners would face fines or restrictions while accessing or operating within Australia. It is also vital to consider the potential consequences for the decentralization and open-source principles of platforms like Mastodon and their ability to comply with Australian industry codes.

Additionally, the proposed bill raises constitutional concerns regarding the abdication of legislative power to private entities that are not directly accountable to Parliament. Delegating legislative authority to companies through Misinformation Codes undermines the principles of democratic governance and the responsibility of ministers to the Parliament. The power granted to ACMA further violates the implied constitutional freedom of political communication, as limitations on legitimate discussions about matters of public policy and scientific investigations hinder the free exchange of ideas.

The bill's assumption that government and accredited institutions can determine absolute truth without considering the experiences and viewpoints of ordinary Australians is deeply problematic. It undermines diversity of perspectives and ignores the essential role of ordinary people in sense-making and decision-making processes. Silencing viewpoints arbitrarily and categorizing them as misinformation or disinformation undermines the principles of democracy and undermines trust in public discourse.

Moreover, the threats imposed on digital platform providers and regular users further disempower individuals and stifle open discussions. The potential reputational damage, financial penalties, and administrative burdens imposed on platform providers can have severe consequences for their operations. Simultaneously, the threat of being summoned before ACMA places significant stress on individuals, interferes with their personal lives, and disrupts the values of trust and camaraderie that are fundamental to our society.

Furthermore, this legislation jeopardizes the democratic process by hindering access to vital information necessary for informed voting decisions. The categorization of political party viewpoints as misinformation to be removed from digital platforms reduces transparency and limits the diversity of perspectives available to voters. Independent media organizations, journalists, and bloggers will face undue pressure and reputational harm, effectively suppressing competition and independent thought.

In conclusion, the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023, as currently proposed, poses a grave threat to freedom of speech, enterprise, and democratic values. Its discriminatory provisions, exploitability by dominant players, and constraints on

legitimate discussions hinder the pursuit of truth and sense-making. I strongly urge you to reconsider and discard this bill, or at the very least, undergo significant revisions that address the concerns raised in this submission.

Thank you for your attention to this matter. I trust that my feedback will be given due consideration.

Yours sincerely,

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