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[redacted]
To be published.

To whom it may concern,

I am totally opposed to the so-called Misinformation Bill now before federal Parliament.

The reason for this Bill is entirely to protect the status quo and has nothing to do with the public good and is a gross violation of my God-given right to free speech.

I am suspicious because of the what is in the Bill itself as well as the way the Government has presented the case for the Bill, as on this page- https://www.infrastructure.gov.au/have-your-say/new-acma-powers-combat-misinformation-and-disinformation, with its links to the ***Exposure Draft***, the ***Guidance Note*** and the ***Fact Sheet***- https://www.infrastructure.gov.au/department/media/publications/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023, https://www.infrastructure.gov.au/department/media/publications/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023-guidance ,and https://www.infrastructure.gov.au/department/media/publications/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023-fact .

This submission will argue this by reference to these documents. I shall argue that the Government is being forthcoming about neither the contents of this Bill nor its aims and objectives. This submission will discuss what I regard as attempts to mislead the public about the Bill as well as politically flexible definitions of terms such as misinformation and disinformation. In addition, it will note the relevance of the Government's own misinformation about COVID-19 to the origins of this Bill as well as various issues pertaining to the way the Government has ignored common law and in fact has no validity under the Constitution.

The Government appears unwilling to be fully frank about the punitive aspects of this Bill. This in turn suggests a reluctance to tell the truth about other things concerning the Bill. One only has to study these pages https://www.infrastructure.gov.au/have-your-say/new-acma-powers-combat-misinformation-and-disinformation and https://www.acma.gov.au/sites/default/files/2022-03/ACMA%20misinformation%20report_Fact%20sheet%202%20-%20code%20framework.pdf , to realise how coy the Government is being about the punishments laid out in this Bill. The title of this page is ***The Issue***, yet there is only scant mention of the penalties laid down. There is talk about Government powers

created by the Bill, and of course these powers necessarily include the ability to compel by means of fines, but nowhere does it state what these powers are, even in general terms. The "f" word is studiously avoided. Fines and imprisonment that punishes free speech are the very issue that has motivated me, and no doubt most others, to make a submission about this egregious Bill. I also question whether it is proper to talk of “powers created” by any Act, as if any current Government is able to create powers *sui generis* without reference to the people.

Is there or is there not legislation already that allows the Australian Government and its agencies such as ASIO, to automatically collect information posted by the public online, including IP addresses? There is also the E-Safety Commissioner and the Online Safety Act 2021. These instruments at the disposal of the Government are already too powerful and intrusive without the addition of a new so-called Misinformation Bill.. In addition, there are a number of laws such as those concerning fraud. deception and impersonation, that have existed for a great many years and protect consumers and the public in general without really impinging on free speech The so-called Online Misinformation Bill appears to be the next step in a project of dismantling the right to free speech that has existed in Australia since colonial times.

Page 8 of the ***Fact Sheet***- https://www.infrastructure.gov.au/department/media/publications/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023-fact - contains more of this kind of evasion. Penalties are not discussed in a separate section, and scarcely not at all, until p8, when we encounter this-

Criminal penalties would only apply to digital platforms or individuals knowingly making or retaining false or misleading records under the record keeping provisions, or giving false or misleading information or evidence under the information-gathering provisions of the new powers. Digital platform providers can face significant civil penalties under the Bill, and it is expected that the ACMA will actively seek penalty orders against those providers who routinely contravene provisions in a registered code or a standard, or fail to comply with remedial directions in particular.

This would be laughable if it were not so serious. The "only" needs to be in scare quotes. Anything can be defined as false or misleading under the Bill, as will be demonstrated below. This quotation is equivalent to passing a law against, say, wearing a hat indoors, and then saying the law only applies to those wearing hats. It is a statement of the obvious presumably intended to dispel concerns about the Bill. The Government must be hoping not enough people actually read what it has put out in relation to this legislation.

Under the section ***What's in scope (pp3, 4)*** *of the* ***Fact Sheet****,,* there are two headings. First, there is ***Misinformation and Disinformation***, and then there is ***Serious Harm***. The Bill is supposed to be about disinformation and misinformation, yet there is a heading in this section, purporting to be about the scope of the Bill, which gives equal prominence to something called *serious harm*. It would appear that the Bill is not solely about false or misleading information after all. How would this legislation treat information that is neither false nor misleading but

which was considered to have the potential for serious harm? The truth hurts, obviously.

Also in the ***Fact Sheet***,,we have some more things of note. Firstly, there is this-p1 of ***Weaknesses of the Code*** (the current ***Australian Code of Practice on Disinformation and Misinformation***) -
The code has only 2 mandatory commitments, while the other commitments are opt-in. This provides a low minimum standard for collective industry action.

Is a mandate a law and if it is a law, does it apply to flesh-and-blood people? This question is relevant since the Government is being evasive about the nature and extent of the powers contained in this Bill to prosecute individual men and women, who are under common law, with commercial law and its language of mandates. The Government's PR seeks to distinguish between natural man and women on the one hand, and corporations on the other, while the Bill itself conflates the two. The current code is also weak because
The code excludes some services where misinformation or disinformation can propagate, such as private messaging services. This would seem to belie any reassurances that this Bill will not target private individuals.

In the ***Fact Sheet*****,** the Government is states that it wishes to extend its legislative powers to individuals by stating that the current system does not allow this, On p16 of the ***Guidance Notes*** it say this-***This section of the Bill {Clause 21} only applies to individual natural persons who own and operate a digital platform service. The vast majority of providers of digital platform services are body corporates, which have no privilege against self-incrimination.***

It will become apparent that "the vast majority" mentioned here is as fungible a definition as anything else in the Bill.

The Bill allow the Minister to redefine the meaning of digital provider-
6) of Schedule 1 of the
Bill https://www.infrastructure.gov.au/department/media/publications/communications-legislation-amendment-combatting-misinformation-and-disinformation-bill-2023 , states,
The Minister may, by legislative instrument, specify that a kind of2 digital service is a digital platform service if the Minister is3 satisfied that it is appropriate to apply provisions of this Schedule4 to the digital service to provide adequate protection for the community.

Does this mean the Minister would be able to specify previously-exempt activities and services, which include those of a type far more likely to be run by individuals and not body corporates, such as private messenger services?

People have a right to be suspicious when the Government's own literature reveals a desire to "improve" on the current Code by allowing prosecution of private message service providers. On p22 of the **Guidance *Notes***, penalties of up to 100 penalty units may be imposed on persons who breach the legislation. Since penalty units

include imprisonment as well as fines, and body corporates cannot be imprisoned, and presumably the Bill could have been drafted to specify fines only, it is clear that this Bill is partly aimed at natural men and women who defy the Government. Clauses 21 and 22 of the Bill which allow imprisonment for up to 12 months.

Individuals will not be exempt from appearing before the ***ACMA,*** as shown here- p25, Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 -
19 ACMA may obtain information and documents from other 15 persons 16 Scope 17 (1) This clause applies to a person if: 18 (a) the ACMA has reason to believe that the person: 19 (i) has information or a document that is relevant to a 20 matter mentioned in subclause (2); or 21 (ii) is capable of giving evidence which the ACMA has 22 reason to believe is relevant to a matter mentioned in 23 subclause (2); and 24 (b) the ACMA considers that it requires the information, 25 document or evidence for the performance of the ACMA's 26 function under paragraph 10(1)(md) of the Australian 27 Communications and Media Authority Act 2005.

Even if the Bill indisputably excluded members of the public, it would still represent a very serious attack on freedom of speech. Consider what might happen if someone who owns or works for a digital platform provider has a genuine difference of opinion over some matter deemed misinformation by the so-called Australian Government. If that individual does not obey directions from the ACMA, they could find themselves in prison. Furthermore, if they provide details of users who hold unacceptable views, the Government could charge those people under laws such as the ***Terrorism Act*** that are as open to interpretation as the ***Combatting Misinformation and Disinformation Bill***. This Bill could therefore be used in conjunction with Acts already in place to criminalize free speech and legitimate dissent in Australia. This is especially so when one notes that the Bill that has been provided to the public is an exposure draft only and may be changed for the worst in the process of its becoming an Act.

It is true that there is this from p22 0f the ***Guidance Notes***- ***any information or evidence or producing document cannot be used against the individual in criminal proceedings other than proceedings for an offence for giving false or misleading information under the Criminal Code and subclause 22(1) of this Bill.*** However, given the other dishonesty that is apparent in the Bill itself and the way it is being explained by the Government, there is no reason to trust this assertion. Many people, including myself, were prosecuted under *ultra vires* interpretations of the various Public health Acts and Biosecurity Acts, etc., that were in place during the so-called COVID-19 pandemic.

This report does not mention COVID-19 in its title, https://www.acma.gov.au/sites/default/files/2021-11/Adequacy%20of%20digital%20platforms%20disinformation%20and%20news%20quality%20measures.pdf
but COVID misinformation, as defined by the Government, is its main concern. Is the term *misinformation* here used in the same way as in the ***Exposure Draft*** and is this Bill designed to prevent a similar level scepticism towards government policy as during the so-called COVID-19 pandemic?

Passage of this Bill would then allow a new target to be pursued.-criminalizing online free speech by individuals,. Outlawing offline freedom of expression, as has happened to some extant already, for example with Queensland's ***Criminal Code (Serious Vilification and hate Crimes Act 2023)*** would then follow that. Less serious but still worth noting, criminalizing corporate speech could lead to costs being transferred to consumers, thereby deadening debate by excluding the less well-off from some online discussion., I also believe it will be used as a back door to force companies that provide online services to require people to submit their real identities in order for these companies to not be liable under the legislation. I am certain that this has been a cherished dream of governments for many years.

The public needs to know more about the industry self-regulation that comprises part of this Bill. Discussion of exactly what this might be and how industry is expected to cooperate with the Government, to my mind is conspicuously lacking in the legislation itself, the guidance notes and the fact sheet.

The Government exempts itself and other approved actors from this Bill (2.1.4, pp 12/13). Why is this so? Does the Government not desire the public to be protected from misinformation from itself, professional news content, educational institutes, etc.? It is extremely obvious what the Government's game is.

As for the satire exemption,
Satire Content produced in good faith for the purposes of entertainment, parody or satire will be excluded, even if the content is at surface value, misinformation, it remains to be seen whether this will be honoured. It would always be possible to claim that a piece of content is not satire when it is in fact satire.

The Government exempts itself and certain other bodies from this legislation, but what does it exempt itself from? it exempts itself from a very vague list of threats-
Exposure Draft, p16, ***7 Misinformation and disinformation***
(***1) For the purposes of this Schedule, dissemination of content using a 6 digital service is misinformation on the digital service if: 7 (a) the content contains information that is false, misleading or 8 deceptive; and 9 (b) the content is not excluded content for misinformation 10 purposes; and 11 (c) the content is provided on the digital service to one or more 12 end-users in Australia; and 13 (d) the provision of the content on the digital service is 14 reasonably likely to cause or contribute to serious harm. 15 (2) For the purposes of this Schedule, dissemination of content using a 16 digital service is disinformation on the digital service if: 17 (a) the content contains information that is false, misleading or 18 deceptive; and 19 (b) the content is not excluded content for misinformation 20 purposes; and 21 (c) the content is provided on the digital service to one or more 22 end-users in Australia; and 23 (d) the provision of the content on the digital service is 24 reasonably likely to cause or contribute to serious harm; and 25 (e) the person disseminating, or causing the dissemination of, the 26 content intends that the content deceive another person. 27 Note: Disinformation includes disinformation by or on behalf of a foreign 28 power. 29 (3) For the purposes of this Schedule, in***

determining whether the 30 provision of content on a digital service is reasonably likely to 31 cause or contribute to serious harm, have regard to the following 32 matters: 33 (a) the circumstances in which the content is disseminated;
(b) the subject matter of the false, misleading or deceptive 2 information in the content; 3 (c) the potential reach and speed of the dissemination; 4 (d) the severity of the potential impacts of the dissemination; 5 (e) the author of the information; 6 (f) the purpose of the dissemination; 7 (g) whether the information has been attributed to a source and, 8 if so, the authority of the source and whether the attribution is 9 correct; 10 (h) other related false, misleading or deceptive information 11 disseminated; 12 (i) any other relevant matter.

Referring to the *11* ***(ii),*** who decides what constitutes a relevant matter? Who decides any of this?

Page 2 of the ***Fact Sheet*** says
The Bill defines misinformation and disinformation as follows:

> ***Misinformation is online content that is false, misleading or deceptive, that is shared or created without an intent to deceive but can cause and contribute to serious harm.***
>
> ***Disinformation is misinformation that is intentionally disseminated with the intent to deceive or cause serious harm.***

Serious harm is harm that affects a significant portion of the Australian population, economy or environment, or undermines the integrity of an Australian democratic process.

This is more vagueness as to the meaning of words that are supposed to be central to the purpose of the Bill. One man's misinformation or disinformation is another man's truth, one man's harm is another man's life-saving information, and one man's lies are another man's truth.

The Minister may also by legislative instrument specify the addition of a new subcategory of digital platform service to the list above as different types of services emerge over time and risks of misinformation and disinformation evolve on certain services.
This is deeply undemocratic, but is very much in line with the fungible nature of the legislation as a whole. The Bill seeks to "protect the community" (undefined), from disinformation and misinformation, things which can also be redefined by the Minister with no parliamentary, let along popular, oversight. that might be "harmless" or which encourages "hate" etc. Similarly,
The Minister may also by legislative instrument specify a digital platform service to be exempt from the ACMA powers. These services are excluded services for misinformation purposes,

The Bill might as well say the Minister can make it up as he or she goes along.

From Schedule 1 of the Exposure Draft (p10), there is this-***harm means any of the following: 8 (a) hatred against a group in Australian society on the basis of 9 ethnicity, nationality, race, gender, sexual orientation, age, 10 religion or physical or mental disability; 11 (b) disruption of public order or society in Australia; 12 (c) harm to the integrity of Australian democratic processes or of 13 Commonwealth, State, Territory or local government 14 institutions; 15 (d) harm to the health of Australians; 16 (e) harm to the Australian environment; 17 (f) economic or financial harm to Australians, the Australian 18 economy or a sector of the Australian economy.***
Again, who decides these definitions?

It would be possible to provide more examples of vagueness from both the Exposure Draft itself and the accompanying propaganda. It is abundantly clear that this is a Bill that lists threats that are so vague, they could mean anything according to the whim of the Government of the day. Vague as they are though, they are not so vague that the Government has not seen the necessity of exempting itself. The Bill is intended to be applied, that much is clear.

I wish to remind readers that this country was founded on a Constitution that included English Common Law as one of its foundational principles .In my view, this makes the extraterritorial application of this Bill dubious.

One tenet of common law is the right not to incriminate oneself. I am aware that the law makes certain exceptions to the right to refrain from incriminating oneself, and perhaps in certain limited circumstances this is warranted. To my mind, being hauled before ACMA for violating very vague definitions the Government has exempted itself from, hardly counts What is more, the legislation and accompanying literature refers to the *common law privilege* of being allowed to not incriminate oneself. It seems as though the people the taxpayers have supported while they have written and approved this do not know the difference between rights and privileges. Not incriminating oneself is a common law right, not a privilege, and that it is safeguarded by the legal tradition upon which this country is founded. Those responsible for this **(*Guidance Notes 3.3.2 Self-incrimination (Clause 21)*** ,
The common law privilege against self-incrimination entitles an individual to refuse to answer any question, or produce any document, if the answer or the production would tend to incriminate that person – broadly referred to as the privilege against self-incrimination....are either somehow incredibly ill-informed for the positions they hold or are attainted of Treason.

Ignorance of or opposition to the common law and the Constitution would certainly accord with the invalid Royal Assent and Coat of Arms used to authorise the Bill-***Exposure Draft***, p2
Use of the Coat of Arms The Department of the Prime Minister and Cabinet sets the terms under which the Coat of Arms is used. Please refer to the Commonwealth Coat of Arms - Information and Guidelines publication available at http://www.pmc.gov.au. This is the seal of the so-called Australian Government provided by the Royal Style and Titles Act 1973 and has no constitutional validity. Would a future Government one day decide that assertions

such as this are misinformation that are likely to spread hate or cause harm and therefore be prosecuted under this Bill?