

Matt Baker

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19/08/2023

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

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

Dear Sir/Madam,

I am writing to provide my feedback on the draft bill titled "Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023". As an Australian citizen and a passionate advocate for freedom of speech and the open exchange of ideas, I am deeply concerned and outraged by the implications of this bill.

First and foremost, it is disheartening to see that the existence of this bill reflects a lack of respect for the freedom of speech of Australian citizens. By creating two classes of citizens, with some individuals and institutions having the power to spread potentially false or misleading information online while others do not, this bill presents a clear infringement on the democratic right to freedom of speech for regular citizens.

Furthermore, I firmly believe that the Internet is a groundbreaking democratic invention that has given a voice to ordinary people. However, this bill has the potential to disproportionately harm these regular citizens who often have valuable knowledge and insights on various topics. The proposed excessive fines would lead to digital services being overly restrictive in their approach to speech, even more so than current restrictive digital services. This restriction, compounded by the fact that the code would be applicable across the entire industry, creates a system without any "pressure escape valves."

One particularly concerning aspect of this bill is the difficulty in accurately judging what is true or untrue. Information is constantly evolving, and what was once widely accepted fact may later be proven false. The list of examples provided in the draft bill, such as evolving information about COVID-19, demonstrates the inherent challenge in labeling information as public health harm-causing misinformation. Implementing industry or mandatory codes to remove content based on such fluid criteria would stifle open and honest discussions, hindering the search for common ground and the pursuit of truth.

Even experts, including Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, have expressed serious concerns about the scope and application of this bill. Dr. Coatsworth's rebuke of the legislation via his personal Twitter account suggests that implementation and fines may inadvertently encompass information that is not actually misinformation.

Moreover, the proposed bill empowers industry bodies to create industry codes that can become anti-competitive wedges, giving larger digital services the ability to establish onerous codes that smaller competitors cannot comply with. This directly contradicts the principles of free-market competition and has the potential to stifle innovation and impede

the growth of new entrants in the digital industry.

Furthermore, the extraterritorial applicability of this bill is impractical and overreaching. It would force foreign entities to comply with Australian laws and industry codes, even when they have no knowledge or representation in Australian industry bodies. It is unreasonable to expect foreign digital services to navigate the complex web of Australian law and industry codes without proper guidance or knowledge.

Additionally, I am deeply disappointed to see that this bill does not learn from the flaws of the News Media Bargaining Code (NMBC) enacted in 2021. The NMBC limited digital services' ability to address misinformation and disinformation, while also imposing discriminatory offences for displaying content that did not align with the objectives of the local Australian news industry. The proposed bill's contradictions with the NMBC further highlight the lack of coherence and foresight in this legislative approach.

Furthermore, the threats and interference outlined in the bill are deeply concerning. Digital Platform Providers face reputational damage, financial penalties, and unnecessary burdens placed upon their operations. Simultaneously, ordinary citizens may feel targeted and coerced to report on fellow citizens, eroding the principles of trust and mate ship integral to Australian society.

In conclusion, I strongly believe that the proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 is deeply flawed and threatens the fundamental principles of freedom of speech, innovation, and competition. The bill's broad reach, excessive fines, and lack of consideration for diverse viewpoints only serve to undermine the power of the Internet as a tool for democratic discourse.

I urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reevaluate and reconsider the provisions contained within this bill. It is essential to uphold and protect the freedom of speech and the democratic values that underpin our society.

Thank you for considering my feedback. I trust that you will take these concerns into account when further developing this legislation.

Yours sincerely,

Matt Baker