

Submission regarding the exposure draft of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 from Rebekah Reilly, [REDACTED] residing in [REDACTED]

Thank you for this opportunity to provide feedback on this exposure draft Bill. I am writing to express my concerns and ultimately my opposition to this proposal.

This proposed legislation falls within the remit of Minister Michelle Rowland, and I am disappointed that the Minister is committing time and resources to the perceived problem of “misinformation and disinformation” when the issue of the harms of pornography and the implementation of an effective age verification (AV) scheme has languished under this government. The previous government accepted the findings of the Inquiry into Age Verification for Online Wagering and Online Pornography, as tabled in the report “Protecting the Age of Innocence”ⁱ. I understand that under the current government, a roadmap for implementation has been completed, however that roadmap has not been published for the public to scrutinise. It seems that the powerful pornography industry is getting their way in holding up this much needed reform, until we all slowly forget about it. Parents across the country have not forgotten about it and I have copied below my original submission to that inquiry for your reference. At the time [REDACTED]

[REDACTED] Now they are [REDACTED] They, and their peers, cannot afford any further delays in dealing with this issue. The actual, serious, harms of pornography are well documented and there is a practical, workable solution that has been proposed that urgently needs to be implemented. Therefore, I would ask Minister Rowland to immediately abandon the legislation amendment on combatting “misinformation and disinformation” and instead give considerable time, focus and resources to implementing effective age verification.

Notwithstanding my concerns above, I remain opposed to this exposure draft as I believe it contradicts Article 19 of the Universal Declaration of Human Rights: Freedom of opinion and expression “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” The proposal would prevent freedom of opinion and expression because, unlike editorial policies of individual platforms, it would apply a country wide restriction on what could and could not be said. We have had experience of this through the years of Covid-19 restrictions – we now know the government sought to suppress controversial opinions such as opposition to lockdowns, mask wearing and vaccine mandates, yet with the benefit of hindsight many of the opinions expressed were quite valid, and even completely correct. For further arguments on this point, I refer you to the excellent submission by the Victorian Bar Incorporated to the Law Council of Australiaⁱⁱ.

I find that the proposal is heavy handed in the fines where the wording states that it is “the greater of” a fixed fine (10,000 or 25,000 penalty units) or a percentage of profit (2% or 5%). If I compare this to limitation of liability contracts that I am familiar with, the wording is usually “the lesser of”; that is, a fixed amount is agreed upon as an upper bound. The government seems comfortable to legislate no upper bound to the penalty, and I find it to be a cynical and greedy grab for profits which are not rightfully theirs.

For the most part, I think that the government already has sufficient tools (apart from the much-needed AV) to combat the harms that can flow from the internet. Our content classification scheme could be reviewed and applied more broadly to give people an informed choice regarding violence, adult themes and coarse language. Instead of further restrictions on information sharing, we need trustworthy, independent institutions who are able to analyse and discuss the information in the public realm. We need a robust press who will search out truth instead of parroting tweets. In other words, instead of less freedom of speech, we need more. I believe the best strategy for all levels and aspects of government is to first of all be trustworthy, transparent and accountable to the truth, and secondly to make sure Australians are well educated and therefore equipped to discern what is true.

Submission to the 2019 the Inquiry into Age Verification for Online Wagering and Online Pornography (included for reference)

I am the parent of two young daughters and almost from as soon as they were born I became more and more informed regarding the access that children have to pornography in Australia, and the harms that were first raised in UK studies and then also observed here in Australia. With technology moving from desktop computers to increasing

mobile devices and internet, parents have rapidly lost control over what their children are doing online. My first response was one of anxiety and hyper-vigilance. I now realise that as a broader society we need to take action to address this as a public health crisis. Pornography is big business, and business needs growth markets. What better growth market than getting teens addicted? Government intervention is absolutely required to stop those who profit from sexual exploitation. One study shows that between 2008 and 2011, exposure to porn among boys under the age of 13 jumped from 14% to 49%. Boys' daily use more than doubled. (Sun et al. 2016). This study's timeframe interestingly aligns with the release and take up of smart phones and tablet computers. Parents, schools etc can only do so much in filtering home and school internet on fixed devices. Currently in Australia children are literally a few clicks away from sexually explicit and violent images and pictures on a device in their pocket or schoolbag.

Age verification puts a decision point in the process before any person (adult or child) accesses pornographic material. I believe that in the case of children inadvertently accessing this material, an AV process will completely prevent the access from occurring. In the case of adults accessing porn, it may also result in less views of porn as they may not bother with this extra step. While some minors deliberately looking to access porn may circumvent the AV process (using another person's account for example) not all will do this and so overall access to pornography by children should be drastically reduced.

The harms of pornography are not limited to children accessing the material, and so parents and carers still need to educate and protect young people for the time that they will be old enough to pass the age verification. Pornography is an industry which has boomed due to technological advance - what once was the domain of the restricted adult sex shop now only a click away in most circumstances. Age verification is only one tool, and so long as it is not seen as the only answer and government support is still given to education then I do not see any unintended consequences. The main consequence I see is that pornography use overall will decrease, and as pornography is an industry there will be a strong pro-porn lobby arguing that this restricts our freedom. It does not. Pornography is not freedom of speech nor is it artistic expression. It is exploitation material.

Research suggests links between mental health issues and problematic porn use, such as low self-esteem and depressive traits (Doornwaard et al. 2016) and impacts to academic performance (Beyens et al. 2014). Almost 22 per cent of young people report habitual use (Pizzol et al. 2015), 9 – 11% report frequent use or a kind of addiction, and a further 10% indicate that pornography reduces sexual interest towards potential real-life partners (Donevan and Mattebo 2017).

Studies also indicate that pornography impacts self-image; for girls, this relates to feelings of physical inferiority, and for boys, fear of not measuring up, with both virility and performance. (Owens et al. 2012, Sun et al. 2016).

Given the prevalence of porn and the technologies on which it is transmitted, parents and carers desperately need the support of government and the broader community in keeping our children safe. The law helps prevent access to drugs, alcohol and smoking by children. The approach to pornography should be the same. Even in the most proactive homes, children right now are accessing porn and the effects are going to be felt for a long time to come, and possibly never resolved.

ⁱ Protecting the Age of Innocence, February 2020, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Onlineageverification/Report, accessed 19/08/2023

ⁱⁱ The Victorian Bar Incorporated, Submission To The Law Council Of Australia, Exposure Draft Of The Communications Legislation Amendment (Combating Misinformation And Disinformation) Bill 2023