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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 express my strong opposition to the proposed
"Communications Legislation Amendment (Combating Misinformation
and Disinformation) Bill 2023." This bill, in my view, undermines the
fundamental principle of freedom of speech and does not adequately
address the issue of misinformation.

Firstly, I am deeply concerned that this bill demonstrates a lack of
respect for the freedom of speech of Australian citizens. It creates
unequal classes of citizens, giving certain groups, such as politicians,
journalists, and members of educational institutions, the power to spread
potentially false or misleading information online. Ordinary citizens, who
often possess valuable knowledge and insights, are unfairly
marginalised in this democratic process.

Moreover, the excessive fines stipulated in the bill will lead digital
services to be overly restrictive in their speech policies. This will result in
a chilling effect on freedom of expression, far surpassing the restrictions
imposed by even the most stringent digital services currently in
operation. Additionally, the lack of "pressure escape valves" within the
system amplifies the potential harm caused by this bill across the entire
industry.

Furthermore, accurately determining what is true or untrue is an impossible task. New information constantly emerges that contradicts previously widely accepted facts. The examples provided, including various COVID-19-related statements, demonstrate the volatility of "truth" and the potential for well-intended legislation to inadvertently censor valid information that may be later confirmed as accurate.

In addition, the bill's inclusion of "misleading" or "deceptive" information, even if true, is an infringement on freedom of speech. Honest and open discussions require the ability to explore divergent opinions and engage in debates where truth can be established through rigorous examination.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has expressed concerns about the bill's scope and application, highlighting the impossibility and potential for unintended consequences in implementing such legislation.

The proposed bill also raises concerns about the influence of industry bodies, which are often dominated and funded by larger players in an industry. This can lead to the establishment of onerous codes that stifle competition and innovation, preventing smaller digital services from entering the market. Additionally, the maximalist approach adopted by ACMA incentivizes complicity with industry codes, providing an advantage to larger digital services that can comply with regulations.

Contrary to the bill's intentions, the competition between platforms to address misinformation and disinformation has shown promise in recent times. Users have migrated from platforms with lax policies and enforcement in favour of those that align with community expectations. Restrictive legislation threatens this market-driven approach, stifling competition and limiting users' ability to choose platforms that align with their values.

Furthermore, the bill's extraterritorial reach and the imposition of compliance on foreign entities are unworkable and inappropriate. Expecting non-Australian digital services to comply with Australian industry codes, of which they may have no knowledge or representation,

is unreasonable and ignores the global nature of the internet. This level of overreach is akin to other countries demanding compliance with their own laws and regulations from Australian websites operating globally.

I must also draw attention to the inconsistencies between this proposed bill and the existing News Media Bargaining Code. The NMBC limits digital services' ability to counter misinformation and disinformation by forcing them to remove global content that counters false information when they choose not to participate in the local Australian news industry. The proposed bill contradicts the NMBC by suggesting alternative methods, including fact-checkers, that could be used to address misinformation.

It is also crucial to acknowledge the potential negative impact on minority groups. Often, progress is achieved by challenging widely accepted facts, and this bill can inadvertently stifle these crucial debates. By mandating a single code for all digital platforms, minorities are left without protection, as the system may inadvertently silence their voices when it pushes back against them.

Moreover, the threats and interference levelled at digital platform providers and ordinary users under this bill are deeply concerning. Reputational damage, financial penalties, and significant business inefficiencies could be imposed on digital platform providers, potentially endangering their viability. Meanwhile, ordinary citizens may face undue stress, distress, and time wastage by being required to appear before ACMA. This approach undermines the principles of mateship and the democratic spirit in Australia.

Lastly, the proposed bill's division of citizens into two classes, with the government and its authorised institutions deemed trustworthy and exempt from monitoring, while others are subject to scrutiny, reveals a significant bias and undermines the diversity of viewpoints necessary for accurate sense-making and democratic decision-making.

In conclusion, the "Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023" is deeply flawed and poses

a significant threat to freedom of speech, democratic principles, and global participation. I urge the Department to reconsider this bill and address the concerns raised to ensure the protection of our fundamental rights and values.

Thank you for considering my feedback. I trust that you will take these concerns into account when evaluating the proposed legislation.

Yours sincerely,

Raeffer Govoni