

## Feedback on an exposure draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

I hope this correspondence finds you and yours well and I thank you for seeking feedback on this important issue. The following issues are necessary and reasonable concerns regarding the proposed Commonwealth misinformation and disinformation powers here in Australia.

I reasonably expect and would greatly appreciate them being meaningfully addressed.

**1.** Requiring corporations to set the standards as to what the ACMA shall enforce is delegating law making power onto corporations.

Is this the intention of the proposed laws?

The separation of powers doctrine requires that the power to make law is restricted to the Legislative Assembly.

And that the power to determine what is lawful is restricted to the Judiciary.

And yet here we find ourselves with an Executive that seems to be able to do both AND now seek to have corporations stipulating the conditions upon which government will enforce likely detrimental terms on the public.

Web archive of previously hosted, since at least July 2023, educational guide by our Commonwealth Parliamentary Education Office -

<https://web.archive.org/web/20230708204018/https://peo.gov.au/understand-our-parliament/how-parliament-works/system-of-government/separation-of-powers/>

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**2.** Australians greatest claim to freedom of speech comes through our legally protected right to freedom from interference in the exercise of our political liberty, with potential criminal charges applying to those who interfere with it. Politics reaches into every aspect of our lives so inversely every aspect of our life is able to be reasonably deemed political in nature, unless the system is prepared to contract themselves to the terms that specific elements of our lives have NOTHING to do with politics and thus are beyond their power, ultra vires, to even attempt to influence.

Section 83.4, interference with political rights and duties, under our Criminal Code Act 1995 (Cth) provisions a penalty of imprisonment for 3 years for using force or violence to interfere in others rights under our Constitution, our entire legal framework, jus cogens included .

Criminal Code Act 1995 (Cth) - <https://www.legislation.gov.au/Details/C2023C00123>

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**3.** If a public statement made by someone has the potential to cause others harm there are already functional and tested processes for dealing with it through our Court systems which is the only authority that can legally make a determination that is enforceable in the absence of consent by all parties, this is case/common law by way of R v Kirby 'The Boilermakers case'.

Why are these extraordinary censorship powers required on top of what we already have?

Is the current system of addressing purported unlawful harm by others not functioning as intended?

Australian Rule of Law educational guide - <https://www.ruleoflaw.org.au/boilermakers-separation-powers/>

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**4.** In Queensland it is provisioned as lawful for an individual to question and correct the government by section 45, Innocent Intentions, under our Criminal Code Act 1899 (Qld).

Censorship of this lawful right is clearly interfering in that right.

Claims to cause detriment to another for doing or not doing something that is lawful to do or not do is provisioned as a potential crime, with the option for 5 years jail, by section 359, Threats, also under our Criminal Code Act 1899 (Qld).

Any law that purports to give anyone power that is contradictory to our established legal framework under our Constitution can potentially be seen to have been created through ultra vires lack of good faith conduct, being unreasonable and unfair, which would likely see any potential legal immunity withdrawn to those involved that they may have been privileged to if they had acted in good faith as per the legal conditions of legal immunity offered for acting in a public representation capacity.

Criminal Code Act 1899 (Qld) –

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1899-009>

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5. Censoring ANY correspondence sent to any government office , including through social media, can reasonably be deemed not only clear interference in the exercise of our political liberty it is infringing on our right to equitably access public office, taking part in public life, that is provisioned by article 25 under the ICCPR 1966 which is enshrined in Australian law by schedule 2 under our Australian Human Rights Commission Act 1986 (Cth)  
Article 7 under the ICCPR also provides protection from being treated in a degrading way, this is also a non-derogable right provisioned by article 4(2) under the ICCPR.  
Silencing others public life and exercises of their political liberty based on conditions formulated by foreign companies is patently degrading, possibly criminal, and that is but one of many facets of the degrading nature of arbitrary, corporate, censorship.

Australian Human Rights Commission Act 1986 (Cth) - <https://www.legislation.gov.au/Details/C2022C00369>

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6. Foreign interference in our political rights and processes by foreign entities, including but not limited to corporations, is a potential serious crime with a possible jail sentence of 20 years provisioned by Division 92—Foreign interference under our Criminal Code Act 1995 (Cth).

Criminal Code Act 1995 (Cth) - <https://www.legislation.gov.au/Details/C2023C00123>

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7. The WHO World report on violence and health (WRVH) defines violence clearly as the following.

"the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation."

Arbitrary censorship of individual's public communication and lives clearly has the likely potential to fulfil the above definition of being violent.

The mental health effects of being abused alone cover them all.

That is why we have historically condemned authoritarian regimes for such arbitrary censorship, abuse disguised as moralistic behaviour.

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8. The main claim to power to censor others in the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 is to prevent harm.

How is this harm or potential specifically determined for each legal jurisdiction and individual circumstance?

Who makes the ultimate determination to censor thus bearing the liability to cause another detriment?

Who are the victims of this harm and do they also bear liability for consenting for these extreme powers to be used in their names?

Does a complaint need to be made or can corporations require proactive interference in the exercise of our rights?

What recourse is to be provided to those censored to have their concerns and disputes genuinely addressed?

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TAKE NOTICE THAT this correspondence is also an official dispute of the proposed powers in the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 and I clearly withdraw any consent, to furthest extent that I lawfully can, to have my rights and responsibilities, assumed by government to act of my behalf, used to cause others detriment without the necessary and legally required determination by a valid Court.

Thank you for your time and energy and I look forward to our rights and responsibilities being respected in good faith again.

Yours in good faith and innocent intentions

Russell Luck ~ [REDACTED]