

20 August 2023

Director, Governance Section  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
GPO Box 594  
CANBERRA ACT 2601

**Re: Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023**

This is a supplementary submission to my previous submission, due to new evidence relevant to this legislative amendment has just been released in the ABC Ombudsman Report.

My previous submission argues that the proposed amendment is inappropriate to the role of ACMA as an infrastructure regulator. The proposed new powers for combatting misinformation and disinformation are inconsistent with a democracy which must allow dissenting views to be expressed and discussed freely.

This supplementary submission points out inherent flaws and contradictions in the exposure draft's definition of "***excluded content***".

In the exposure draft, (p.6 & p.7), ACMA would apply the definition:

*excluded content for misinformation purposes means any of the following:*

...

*(b) professional news content*

...

*(e) content that is authorised by:*

*(i) the Commonwealth; or*

*(ii) a State; or*

*(iii) a Territory; or*

*(iv) a local government*

That is, content published by professional news or various levels of government, will not be considered as misinformation. This assumes and implies ***excluded content*** is information, which is not necessarily true.

For example, the ABC Ombudsman has just released a six-month report for 2023 disclosing 1,500 complaints on ABC content, of which the 535 were investigated, 120 or 23 percent needed remedial action or found to have breached editorial standards.

<https://about.abc.net.au/wp-content/uploads/2023/08/OO-6-month-report-Jan-to-June-2023.pdf>

I have personally published [an article](#) exposing ABC misinformation during the COVID pandemic.

What happens when readers and citizens question or discuss ***excluded content*** for their misinformation (which "*contains information that is false, misleading or deceptive*")? How can misinformation of ***excluded content*** be discussed using digital services?

The legislation is poorly considered and should be withdrawn without further amendment.

Yours sincerely,  
Dr Wilson Sy