

The following is my submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on the draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 ("the draft Bill").

I do not support the draft Bill and am writing this submission as a deeply concerned Australian Citizen. ACMA states it is seeking our views, which I provide below, on the draft Bill and whether it strikes an appropriate balance, which I do not agree it does, on the following issues:

- freedom of expression

There is no organisation or individual in a democratic society who can claim to be the ultimate judge of what is true and correct information thereby discerning what is in turn misinformation or disinformation. Equally, what is deemed such one day can be found not to be so the next. Who can then claim to be the ultimate arbiter of what is misinformation and disinformation? This goes to the question of what is truth, which is a question that humanity has wrestled with for centuries. Have we not learned from history of the dangers of placing that power to decide with a government and/or organisation over individual responsibility? We accept in a democratic society that every individual must have the freedom of expression and belief to ensure we have the right to our own. Outside of vilification of persons on national, racial, sexual or religious grounds, speech should not be censored according to our human rights which Australia as a democracy under our Constitution should be protecting.

- the complexity of content exemptions AND - the scope of the private message exemption

Any exemption raises the issue again that there will need to be an ultimate arbiter. This is the antithesis of a free and democratic society. Who or what dictates which media organisations are exempt? How is private messaging exempt when the draft Bill states that a "service is provided to the public if...the service is provided to at least one person outside the immediate circle...of the person who provides the service"? By the draft Bill's words, this will in effect capture any digital communication.

- the size of the penalties

Given I do not agree with the implementation of the draft Bill for the reasons given above, I find the issuing of any penalties as undemocratic and in direct contravention of our human right to freedom of speech and belief. Fines will have a chilling effect on the social media platforms that will in turn over-police their customers for fear of being issued significant fines. It is stated ACMA will not have the power to request specific content or posts be removed from digital platform services. This is misleading when ACMA will ensure removal nonetheless by issuing hefty fines if the platforms do not do it themselves.

The following proposed powers read like legislation you would expect in a totalitarian-led communist nation:

- enable the ACMA to gather information from digital platform providers, or require them to keep certain records about matters regarding misinformation and disinformation
- enable the ACMA to request industry develop a code of practice covering measures to combat misinformation and disinformation on digital platforms, which the ACMA could register and enforce
- allow the ACMA to create and enforce an industry standard (a stronger form of regulation), should a code of practice be deemed ineffective in combatting misinformation and disinformation on digital platforms.

Additionally, how is the public to have trust and confidence in a Bill that decides after its implementation on the extent of ACMA's "enabling" and "allowing" of the above?

The draft Bill does not take into account our Constitution, existing laws and international treaties Australia has ratified. Following is a direct quote from the website for the Attorney-General's Department of the Australian Government:

"You will need to consider the right to freedom of opinion and expression if you are working on legislation, a policy or a program that:

- *regulates the content of any speech, publication, broadcast, display or promotion*
- *regulates the format or manner of any form of expression (for example requires prior approval for public protest or places restrictions on the uses of places in which protest activity may take place)*
- *restricts or censors media coverage, including in relation to political matters*
- *requires material to be approved before it may be published*
- *attaches criminal or civil liability to the publication of opinions or information*
- *regulates or restricts access to information, including on the internet*
- *imposes censorship or provides for classification of entertainment content, or*
- *regulates commercial expression (such as advertising).*

This list should not be regarded as exhaustive" yet this inexhaustive list raises in itself numerous concerning incongruities with the intentions of the draft Bill.

The draft Bill should more rightly be described as being for Censorship rather than against misinformation and disinformation, for to claim the power to decide what content is truly and permanently misinformation and disinformation is beyond any individual, government or organisation within a democratic society.