

**Feedback Response to
Communications Legislation Amendment (Combatting Misinformation and
Disinformation) Bill 2023**

To Whom it may concern,

I do not agree that we, the people of Australia need the Australian Government to decide what is best for us. We are intelligent enough to discern and evaluate information and decide what is best for ourselves.

Given that Australia is a diverse multicultural nation, It should then be expected that we will always have different points of view within our community and therefore require avenues of open communication that allows free speech and freedom of expression.

To suppress people and not allow them to have a voice is not a solution to resolving any social issues. It would only further divide and aggravate people. It would encourage the manifestation of a mono-culture, creating a social environment that will harbour many negative repercussions

A very concerning problem that this Bill would create is the issue of who decides what is misinformation in its most specific form on behalf of the entire nation. How could this be achieved?

Does this governing body also have accountability. Is The ACMA and this legislation subject to external review to ensure it is not going to become a suppressive draconian presence within our community , catering to certain influential powers at the expense of other sectors of community.

This Bill if enabled has the potential to be harmful to Australian society if there was no option for it to be discarded thru a just process of appeal accessible to everyone including the smallest minority groups within our population.

This Bill has a potential to be harmful to our community as it has written into its functionality the ability to silence public response via its powers to shut down information broadcast.

So therefore once it is enacted it could be used to suppress any individual or groups right to protest or express their point of view..

A healthy society should include avenues for people to be allowed to express differing points of view.

More information is required in some areas of the outline of this Bill particularly in regards to specific guidelines and definitions of industry standards and what would be considered information that causes serious harm, in particular how and at what capacity it affects a significant portion of the Australian population, the economy or the environment, or undermines the integrity of an Australian democratic process.

Also how is this resolve actually ascertained: i.e that specific information is the cause of a specific harm?

This explanation needs to include details of the specific authoritative head of power that would empower this action and justification of the processes that are being proposed.

There should be more explanation of involvement of any judicial processes or legal framework that should provide a fair and democratic process in line with our democratic societal values, This should be outlined in a way that the general public can understand and feel reassured they will not be unfairly targeted.

Further comments :

In regard to the following statements:

Page 2 of the fact sheet which states

"the ACMA will not have the power to request specific content or posts be removed from digital platform services"

This statement is confusing and contradictory. This power does actually appear to be present in the form of coercion. Whereby if you consider the large financial costs in the form of fines, infringements imposed and the possibility of this even leading to criminal charges for the alleged perpetrator.

Page 2: Fact sheet:

"rules made under the Bill may require digital platform services to have systems and processes in place to address misinformation or disinformation that meets a threshold of being likely to cause or contribute to serious harm"

How can this be decided in each specific instance and by whom ? The definitions of misinformation and disinformation are not clearly formulated and too broad and open ended.

Page 2: Fact sheet:

"the code and standard-making powers will not apply to authorised electoral and referendum content and other types of content such as professional news and satire"

This has a potential for discrimination and corruption. Who decides "professional" from "non-professional". Broadcast of information could then only come from "selected" sources that align with certain influences. What influences the decision in selecting these "professional" services. I do not want someone else deciding what information should be accessible on my behalf and therefore taking away my freedom of choice.

For us to evaluate social issues we need to allow freedom of speech and open debate that includes a balance of diverse points of view. The statement above from page 2 of the fact sheet would have the potential of providing a biased and skewed debate with possible tendency to be suppressive.

Page 3: Fact sheet:

Why these powers are needed

“Misinformation and disinformation spread via digital platform services is a major issue worldwide.”

This statement is subjective and requires further clarification and evidence to back it up. There needs to be a democratic, non-biased and more reasonable definition of misinformation and disinformation. The definitions referred to in this documentation appear unclear and therefore have potential to become biased and skewed and a means of social control.

Page 3: Fact sheet:

“rapid spread of false, misleading and deceptive information online has resulted in a multitude of harms from disrupted public health responses to foreign interference in elections and the undermining of democratic institutions.”

This is not a result of the citizens being harmed by misinformation but more the result of a lack of good governance via the government itself. This attitude only serves to displace accountability away from the cause and distracts from any concentrated effort to focus on resolving what may be the true cause of the disruptions.

Page 3: Fact sheet: Misinformation is: “content disseminated using a digital service that is false, misleading or deceptive; and”

Given the subjective nature of "information" and in respect to the specifics of the many subjects and contexts that this concept could encompass - How could this definition of what is true or false possibly be satisfactorily achieved for each individual across all possible scenarios. However there are definite facts such as $1+1=2$. But then there are other apparent facts found within an individuals metaphysical or ideological perspective which are more subjective, psychological concepts which veer more toward individual choice.

Page 3: Fact sheet:

“the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm; and ”

Reasonably likely? This statement is open ended and undefined. It is disconcerting to contemplate that it would be considered terms in which to target and penalise an individual or group? who decides and by what judicial process is this conclusion arrived ?

The following from Page 3: Fact sheet:

“the content is not excluded for misinformation purposes, with that content being:

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content produced in good faith for the purposes of entertainment, parody

or satire

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professional news content

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content authorised by the Australian or a, State, Territory or Local Government

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content produced by or for an accredited education provider.

NOTE: Content made in response to the above excluded types of content is not automatically also excluded for misinformation purposes (i.e. comments on a professional news article)."

This is not clear, badly explained and not easy to understand. More relatable and understandable information needs to be provided to the public. It almost seems like it is intended to be confusing.

Page 3: Fact sheet:

"the content is disseminated with intent to deceive, including through automated processes and foreign interference. This captures content that is purposefully or maliciously disseminated disinformation."

Does this include cyber crime, hacking? which the government and corporate entities have previously demonstrated that they are unable to successfully provide protection against. How is this Bill going to create that protection that has not previously been effectively provided? There has been many data breaches in the past few years and some being on Government departments themselves including several data breach incidents by the very department that is meant to protect its citizens from cyber crime, The Department of Home Affairs.

From <https://www.homeaffairs.gov.au/about-us/our-portfolios/cyber-security>

"The Department of Home Affairs' role is to support the Minister's development of cyber security policy for the Australian Government including the implementation of 2023-2030 Australian Cyber Security Strategy. We work on cyber security threats and opportunities in Australia and overseas, including the security of critical and emerging technology."

Page 3: Fact sheet:

Type of harm	Example of serious harm	Comments
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Hatred against a group in Australian society on the basis of ethnicity, nationality, race, gender, sexual orientation, age, religion or physical or mental disability	Misinformation about a group of Australians inciting other persons to commit hate crimes against that group	
Disruption of public order or society in Australia	Misinformation that encouraged or caused people to vandalise critical communications infrastructure	
Harm to the integrity of Australian democratic processes or of Commonwealth, State, Territory or local government institutions	Misinformation undermining the impartiality of an Australian electoral management body ahead of an election or a referendum	This has the potential to nurture and protect organisations from accountability. By silencing any investigation or information that may reveal corruption within the management body. If Professional broadcasting services were not motivated to report on an issue then no one else would be allowed to.
Harm to the health of Australians	Misinformation that caused people to ingest or inject bleach products to treat a viral infection	Its impossible to protect people from their own free will, I do not think this is a widespread problem.
Harm to the Australian environment	Misinformation about water saving measures during a prolonged drought period in a major town or city	

<p>Economic or financial harm to Australians, the Australian economy or a sector of the Australian economy</p>	<p>Disinformation by a foreign actor targeting local producers in favour of imported goods</p>	
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Page 4: Fact sheet:

“While the content of private messages will be exempt from the scope of the powers, the ACMA would be able to use its information-gathering and recording keeping powers. This is to understand the measures that digital platforms take on their services to combat the spread of misinformation and disinformation and to gain a better understanding of the number of complaints made about such content on their services.

These powers will not require providers of digital platform services to reveal the contents of private messages or have requirements related to breaking encryption of private messages.

To strengthen their ability to combat misinformation and disinformation, providers of digital platform services may choose to have systems and processes in place such as user reporting tools, complaints handling and educative programs to empower users. These requirements may also be articulated in industry codes and standards made under the Bill.

Further information on private messages refer to section 2.1.3 in the Guidance Note to the Bill, and clauses 2 and 34, and subclauses 14(3), 18(4), 19(4) of the Bill.”

This has the potential for invasive over reach and breach of privacy. How can we be sure this is not going to become intrusive and suppressive.

Page 6 Fact sheet:

“The ACMA may also obtain information from other persons to assist the ACMA monitor compliance with misinformation codes, misinformation standards and digital platform rules. They could include fact-checkers or other third-party contractors to digital platform service providers. The ACMA may only do this if it considers it requires it for its monitoring and compliance functions.”

“The ACMA would not be permitted to publish personal information and will be required to consult with

impacted digital platform service providers prior to publishing any information."

Both of these statements appear to contradict previous statements made pertaining to privacy and extent of the ACMA's powers. This adds to the inconclusive and undefined lack of clarity that appears to be evident in this Bill. This would be an extremely invasive power to allow the ACMA. There is no limitation to how far the investigation can extend under this power and therefore will involve people who have not committed any offence to have their peaceful existence disrupted.

This documentation is not substantial nor reasonable to inform the public of proposed Bill.

Page 7 Fact sheet:

"In the event previous efforts through a code had not been effective, or a code was not developed, or otherwise in urgent and exceptional circumstances, the ACMA would have the power to make an enforceable standard.

A standard would be a determination written by the ACMA that would require digital platform providers to combat misinformation and disinformation on their services. Such a standard would have higher penalties than registered codes and would generally reflect a determination that previous efforts had not been effective."

This would allow to much overreach and invasive powers without any limitations.

Page 8 Fact sheet:

"The maximum amount of civil penalties is intended to deter systemic non-compliance by digital platform providers and reflects the serious large scale social, economic and/or environmental harms and consequences that could result from the spread of misinformation or disinformation "

Once again non specific and inconclusive...

***"Maximum penalties – non-compliance with
Maximum penalties – non-compliance with
registered code
industry standard***

***Maximum of 10,000 penalty units (\$2.75 million
Maximum of 25,000 penalty units (\$6.88 million
in 2023) or 2 per cent of global turnover
in 2023) or 5 per cent of global turnover
(whatever is greater) for corporations or 2,000
(whatever is greater) for corporations or 5,000***

**penalty units (\$0.55 million in 2023) for
penalty units (\$1.38 million in 2023) for
individuals.
individuals.**

**Further details on the enforcement mechanisms are in section 5 of the
Guidance Note to the Bill."**

These are outrageously large penalties. The amounts of money do not correlate to the crime and also are disproportionate in contrast with penalties for more serious crimes.

How is this the government protecting people ? It seems like the opposite.

**"Protecting privacy and freedom of expression
In seeking to implement regulatory measures to ensure digital platform
providers actively combat
misinformation and disinformation on their services, the government is
committed to achieving a balance
that upholds the rights and freedoms of Australians whilst protecting
Australians from serious harm that
can come from the spread of misinformation and disinformation."**

Why does the government assume the role to impose itself under the guise of apparently upholding the rights and freedoms of Australians. Australians do not need to be protected from information, we are not stupid and require the freedom to choose what information we would like to access as you would expect in a free and democratic society.

Page 9 Fact sheet:

"The ACMA would have no role in determining truthfulness,....."

This statement signifies an intention of non disclosure. It appears to indicate an avoidance to define who decides truthfulness and how this conclusion would be surmised. Truthfulness is required to be defined in order to facilitate the procedures outlined within the Bill and in the principle underpinning statements such as:

"Misinformation is online content that is false,..."

In order to surmise that it is false you would have to have defined truth. Definition and details of the procedures involved need to be provided here. The use of displacement is evident through the concealed referral of the role of defining truth. Is there an allocated department of truth not mentioned here? Where is the head of power that provides the authority to decide what is false? The nature of science is a constant investigative development of theories through trial and error.

Page 9 Fact sheet:

**"However, should those efforts prove inadequate, the ACMA would have
the option to use the graduated**

set of reserve powers to ask industry to make a new, registrable code, or if necessary, the ACMA could make a standard."

It should be considered that it is apparent that our government has already demonstrated a tendency to implement heavy handed legislation, without hesitation and without sufficient justification. It could be presumed this has caused great harm to the Australian community. I disagree with this bill and do not want it to be implemented. I reject it entirely in its current form. Thank you for taking the time to read my response.