

20 August 2023

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Subject: Submission - Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

Dear Sir/Madam,

I write to you as an Australian citizen regarding the draft bill titled the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023. I am alarmed by this proposed bill, which in my view demonstrates a lack of respect for the freedom of speech of Australian citizens.

One of my main concerns with this bill is the creation of two classes of citizens. The first class consists of politicians, journalists, and members of educational institutions who will possess the power to spread information, whether true or false, online. The second class encompasses regular citizens—individuals who often possess extensive knowledge and insights on various topics. It is evident that such differentiation could harm regular citizens disproportionately, undermining their voice and contribution to our democratic society.

Furthermore, this legislation would impose excessive fines, leading digital service providers to adopt highly restrictive speech policies, far more stringent than the existing limitations. This would be compounded by the fact that the code would apply across the entire industry, leaving no room for alternative perspectives or criticism.

It is essential to acknowledge that the determination of what is considered true or false information is an incredibly challenging and ever-evolving task. New discoveries continually challenge once widely accepted facts, as evidenced by a range of examples related to the COVID-19 pandemic. The COVID-19 narrative has seen various changes, with truths and falsehoods being revealed, emphasizing the dynamic nature of information.

Moreover, this bill not only targets provably false information but also encompasses information that is deemed "misleading" or "deceptive." The freedom of speech, a profoundly valuable aspect of our society, allows for candid and open debates, acknowledging that individuals can be wrong while encouraging the pursuit of truth. Bills like this often claim to champion truth over censorship, yet even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has raised significant concerns about the scope and execution of this bill. His scathing rebuke further underscores the questionable nature of this legislation and its impact on our right to express differing opinions.

The proposed bill delegates legislative power to private entities, such as companies responsible for creating Misinformation Codes. This delegation of power to entities not directly accountable to Parliament violates the constitutional principle of accountability. Furthermore, the power granted to the Australian Communications and Media Authority (ACMA) to enact Misinformation Standards and Digital Platform Rules violates the implied constitutional freedom of political communication. The limitation on legitimate discussions and debate on vital public policy matters encroaches upon our democratic freedoms and contradicts the principles on which our democracy is built.

The assumption that the government and accredited media and educational institutions can solely determine what is true disregards the experiences and viewpoints of ordinary Australians. Eliminating the diversity of perspectives by silencing certain views as misinformation or disinformation is detrimental to our sense-making process and stifles the exploration of all possibilities. This exclusion of ordinary people undermines their role in shaping public discourse and decision-making.

The implications of this bill on the democratic process are significant, as it restricts citizens' access to vital information required for making informed voting decisions. By categorizing political viewpoints as misinformation, crucial perspectives will be eradicated from digital platforms, leaving voters uninformed. Independent media organizations, journalists, and bloggers will face a web of complex reporting standards and misinformation reports that threaten their reputations. This harassment disproportionately favours government-endorsed publications while stifling opposing and critical perspectives. It is disheartening to consider that journalists may prioritize favourable coverage or financial gains over objective reporting, undermining the very essence of journalism.

Australia, as a founding member of the United Nations and a signatory to the Universal Declaration of Human Rights, should uphold the fundamental rights enshrined within these documents. Our Constitution recognizes an individual's right to freedom of thought, conscience, religion, opinion, and expression. The categorization of fundamental faith worldviews or tenets as misinformation demonstrates intolerance and disregards these fundamental rights.

In conclusion, I urge you to reconsider the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. This bill threatens the freedom of speech that is vital to our democracy and unfairly discriminates against regular citizens. It stifles open and honest discussions, delegates legislative power to private entities, violates the freedom of political communication, and suppresses diverse viewpoints. As concerned citizens, we should foster an environment that encourages critical thinking, respectful dialogue, and the exploration of all perspectives.

Thank you for considering my submission. I trust that you will take these concerns seriously and make informed decisions that protect our democratic values.