

Nigel Hanley



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Re New ACMA Powers

Feedback on the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

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

Subject: Feedback on the Communications Legislation Amendment (Combatting
Misinformation and Disinformation) Bill 2023

Dear Sir/Madam,

I am writing to express my deep concern and outrage regarding the draft bill titled "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023". As an Australian citizen, I firmly believe that this bill undermines the fundamental principles of freedom of speech and disregards the voices of regular citizens in our democracy.

The presence of this bill clearly indicates that the Government does not respect the freedom of speech rights of Australian citizens. The bill creates two distinct classes of citizens, with politicians, journalists, and members of educational institutions being granted the power to spread information, whether true or false. On the other hand, regular citizens, who often possess more knowledge about certain topics than those in the first category, are excluded and risk having their voices suppressed.

In my strongly held view, the internet is the most powerful democratic invention of our time, empowering ordinary people to have a voice. This bill puts these regular people at a disproportionate disadvantage and risks harming their ability to freely express themselves.

Moreover, the excessive fines imposed by the bill will lead to digital services becoming even more restrictive in monitoring speech, surpassing the limitations imposed by the most restrictive digital services today. This harm will be compounded

by the fact that the code applies uniformly across the entire industry, without any provisions for flexibility or exceptions.

It is impossible to accurately determine what is true or untrue. New information is constantly being discovered, challenging previously widely accepted facts. The example of misinformation surrounding COVID-19 is a testament to this, with information perceived as accurate at one point changing as new evidence emerges. This legislation could lead to the removal of valuable public health information that was once considered accurate but is later found to be misleading.

Furthermore, the bill's scope includes not only provably false information but also true information that is deemed "misleading" or "deceptive." Freedom of speech allows for open and honest discussions, even when there are disagreements or inaccuracies. It is through these discussions that the truth can be uncovered and common ground can be found. By allowing the censorship of even true but "misleading" information, this bill undermines the very essence of freedom of speech.

It is concerning that even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has raised significant concerns about the scope and application of this bill. His scathing remark on Twitter questions the feasibility and fairness of implementing such legislation. If even one of the experts appointed to oversee health information disputes the bill, it raises serious doubts about its validity and effectiveness.

The proposed industry codes, created by industry bodies potentially influenced by dominant players, risk becoming tools for anti-competitive practices. These codes will create onerous requirements that primarily benefit large digital services and make it extremely challenging for new entrants to compete in the market. The bill indirectly grants large digital services the power to damage their smaller competitors by burdening them with infringements and regulatory demands, thereby stifling innovation and free-market competition.

Moreover, the proposed bill solely focuses on large platforms while inadvertently encompassing thousands of community websites in its broad definitions. This lack of consideration for smaller platforms and websites contradicts the principles upheld by competition regulators worldwide, which strive to lower barriers to entry for competitors in the interest of consumers.

The proposed bill also applies extraterritorially, subjecting foreign entities to Australian laws and regulations without their knowledge or ability to comply. This unworkable concept not only raises significant concerns about overreach but also risks Australia becoming isolated from the global internet community.

The bill's provisions are at odds with the principles of freedom of political communication, enshrined in the Universal Declaration of Human Rights. By categorizing certain political viewpoints as misinformation, this bill restricts citizens' access to vital information necessary for informed decision-making.

Additionally, the threats and intimidation imposed on digital platform providers and regular users, outlined in the bill, constitute a violation of individual liberties and the democratic values we hold dear. The requirement to report and potentially "dob-in" fellow citizens is reminiscent of oppressive regimes. Australia should be a beacon of tolerance and respect for diverse viewpoints, rather than resorting to such authoritarian measures.

Furthermore, the bill's overreliance on designated platforms and the exclusion of certain viewpoints perpetuate an unfair and discriminatory environment. The government-approved journalists and institutions benefit disproportionately by stifling competition and suppressing alternative perspectives. This not only undermines the democratic process but also hinders the public's access to diverse and independent sources of information.

In conclusion, the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 is deeply flawed and raises significant concerns about the erosion of freedom of speech and individual liberties. This bill fails to recognize the value of diverse viewpoints, stifles innovation, and ignores the principles of fair competition. I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider this bill and uphold the democratic values and freedoms that make our country great.

Yours sincerely,

Nigel Hanley

