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Department of Infrastructure, Transport,
Regional Development, Communications and the Arts
[Government Organization]
[Address]
[City, State, Postcode]

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

Dear Sir/Madam,

I write this submission to express my deep concern and outrage regarding the proposed Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023. As an Australian citizen and an advocate for freedom of speech, I strongly believe that this bill poses a significant threat to our democratic values and the fundamental right of every Australian to express their opinions freely.

First and foremost, I firmly believe that the Internet is a remarkable tool that empowers regular citizens to participate in open and honest discussions. However, this bill's provisions create two classes of citizens, where certain privileged groups, including politicians, journalists, and members of educational institutions, are given the power to spread information, regardless of its accuracy or legitimacy. This creates an imbalance of power and undermines the voice of ordinary Australians who often possess valuable insights and knowledge on various topics.

Furthermore, the excessive fines outlined in the bill will compel digital services to limit freedom of speech even more than currently observed. The lack of “pressure escape valves” exacerbates the potential harm caused by restrictive speech rules. It is absolutely impossible to accurately determine what is true or untrue at all times, as new information and discoveries continuously challenge previously accepted facts. The listed examples, such as the evolving understanding of COVID-19 and vaccines, demonstrate the fluid nature of information and the dangers of arbitrarily categorizing certain content as misinformation.

It is alarming that the proposed legislation targets not only provably false information but also true information that is considered “misleading” or “deceptive.” The value of freedom of speech lies in its ability to foster open debates and allow for the exploration of different perspectives to ultimately establish common ground. The potential for censorship under this bill is deeply concerning and contradicts the claim of being on the side of truth and not censorship.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has voiced serious concerns about the bill’s scope and application. His critique highlights the impossibility of implementing such legislation without levying fines on information that may not be false or that may later be proven incorrect. If even the experts appointed to uphold truth in health information question the bill’s effectiveness, it raises significant doubts about its credibility.

The proposed bill’s reliance on industry bodies, often influenced by major industry players, risks becoming an “anti-competitive wedge” that inhibits new competitors from entering the market. This grants dominant digital services the ability to dictate their own regulations, essentially creating an unfair advantage and stifling competition. Recent evidence suggests that free-market competition between platforms on addressing misinformation and disinformation has been effective, as users seek alternatives to platforms with lax policies. Government intervention should focus on lowering barriers to entry and fostering fair competition rather than empowering dominant players.

Furthermore, the bill is inconsistent with the existing News Media Bargaining Code (NMBC) and its impact on digital services’ ability to address misinformation and disinformation. The NMBC forces digital services to remove global content meeting specific definitions, hindering their capacity to provide counter-narratives and challenge falsehoods. The proposed bill, which suggests the involvement of fact-checkers and news content, contradicts the NMBC’s approach. This inconsistency further undermines the credibility and coherence of the government’s approach to combating misinformation.

In its current form, the bill poses a significant threat to minorities and their ability to participate in public discourse. Often, marginalized groups are the most oppressed, and progress is achieved by challenging previously accepted facts. The single-code approach mandated by the bill denies minorities any shelter against a system that suppresses their perspectives. This is contrary to the principles of inclusivity and diversity that our nation strives to uphold.

Additionally, the bill's delegation of legislative power to private entities and the potential infringement on the constitutional freedom of political communication raise significant constitutional concerns. According to the implied constitutional freedom of political communication, limitations on legitimate discussions around public policy and matters of scientific investigation undermine this essential freedom.

By assuming that the government and accredited institutions are the sole arbiters of truth, the bill ignores the experiences and viewpoints of ordinary Australians. It undermines diversity in opinions and sense-making, essential elements in reaching informed decisions. The bill portrays ordinary people as incapable of engaging in public discourse without causing harm and diminishes their viewpoints compared to those of the government and accredited sources. This disempowers ordinary citizens and restricts their contribution to the democratic process.

Moreover, the threats posed by the bill to both digital platform providers and ordinary users are concerning. The potential reputational damage, financial penalties, and business inefficiencies faced by the platform providers are severe and could lead to significant financial losses. Similarly, the threat of being hauled before ACMA without due cause and the potential strain on individuals' lives and relationships are highly unfair and reminiscent of a surveillance state rather than a free and democratic society.

The bill's categorization of political party viewpoints as misinformation not only hinders the democratic process but also perpetuates a biased media landscape. Independent media organizations, journalists, and bloggers will face complex reporting standards and misinformation reports aimed at discrediting them. This will create an environment where only government-approved publications can profit and thrive. It will stifle diversity of thought and undermine the principles of a free press.

In conclusion, the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 poses a severe threat to freedom of speech, democratic values, and the rights of every Australian citizen. Its provisions undermine the power of regular people in the digital age while granting excessive influence to privileged groups. The broad discretion granted

to the government and the potential for censorship are deeply concerning. The bill's impact on competition, its inconsistency with the NMBC, and its reliance on private entities further highlight its flaws.

I urge the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts to reconsider the proposed bill and ensure that any legislation enacted truly upholds the principles of freedom of speech, democratic participation, and fair competition. Australia's commitment to the Universal Declaration of Human Rights and our democratic values demand no less.

Thank you for your attention to this matter. I trust that my concerns will be taken into account during the decision-making process.

Sincerely,

Kimiora Kirkwood, Dylan Butler, Ra Kirkwood Cindy Kirkwood, Tami Graham.