

## **Feedback on an exposure draft of the Communication Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023**

I am deeply concerned about this Bill and its draconian nature and undemocratic implications.

### **FREEDOM OF EXPRESSION**

A country without free speech is not a democracy. Free speech and the free flow of information while enabling free debate are prerequisites to democracy. A country that does anything to curb free discussion of subjects that may impact its citizens undermines citizens' freedom of choice and informed consent.

A true democracy allows individual citizens, who are not of significant wealth or without a mainstream-media presence, the means to be able to formulate their own opinions and views and make their own decisions. This Bill seeks to limit this ability and deny large segments of the population the means to think out loud, to ask questions and speak freely on media platforms, thereby diminishing freedom of expression and quashing debate.

The past three years have shown that government and establishment authorities do indeed get information wrong. Misinformation and unknowable assertions (such as, "safe and effective") were repeatedly made by government representatives and authorities. Like many Australians, I now know that the information and assertions were often more accurate from earnest professionals who endeavoured to provide balanced information and who simply made more sense. We also saw the media platforms often censor and "deplatform" these experts, and subsequently we saw media and various authorities slander and "cancel" them. Censoring such opinions/views only degrades our democracy, particularly when the sources are subject-matter experts or the citations of such experts or other related academic sources. To exert pressure for the censorship of such information for an alleged public benefit or good that cannot be substantiated is draconian. It treats Australians as fools, like vulnerable little children. It is infantilising, condescending and infuriating, and deeply undermines trust across domains.

When adults are not given the opportunity to be able to access and review information for themselves, the levels of trust of doctors, scientists, government authorities, academia and media are in my opinion likely to degrade further, resulting in more refusal/resistance and opposition. As a human resources manager for many years, I know only too well that enabling staff to be well-informed and providing opportunities to ask questions is paramount to ensure a cohesive and productive workplace. Trust and cooperation die when communication breaks down.

In short, pressuring platforms to shut down access to information and preventing us from determining for ourselves what is likely to be true or false or unknowable is curbing the most basic of freedoms. This ability underscores the fundamentals of living in a liberal democracy.

## THE COMPLEXITY OF CONTENT EXEMPTIONS

How do we know what is true? The honest answer is no one can really know because nobody is always right. And truth is only ever established over time and with the free flow of information while allowing open debate.

Science is never settled and science is never a consensus. A single piece of evidence can negate a previously unfalsified scientific finding.

These past three years we saw government and authorities deem themselves all-knowing. Why did they think they could divine the precise truth? Where was the requisite humility acknowledging things can be complicated and unknowable? Anyone who thinks only they can possess the truth is channelling the likes of Mussolini. No country can be free if the government is the arbiter of truth. The Australian government does not have right to dictate to the digital industry what is true and what is not true on behalf of Australians.

How will misinformation and disinformation be established? Who are the “fact-checkers” who establish what is true? Who will oversee the fact-checkers who establish the “authorised information”?

Who will be accountable if the “authorised information” is found later to be misinformation or disinformation? What if Australians are harmed by this “authorised information”?

How can content authorised by an Australian State or Federal Government, including political advertising, be deemed never misinformation or disinformation? Why is “professional news content” not deemed possible misinformation or disinformation? How can these blanket assumptions be inequitably applied when distortions and lies are commonly aired by politicians and media?

It is naïve in the extreme to assume that Australians will trust anyone who uses the words “disinformation” or “misinformation”. Historically, we know those who use such terms mean “opinions that run contrary to mine that I should be allowed to suppress”.

The claim that any information is 100% knowable is disingenuous and the fact that government and mainstream media are assumed exempt from being wrong is alarming and insulting. There are no definitions of misinformation or disinformation that can be deemed fair and reasonable in the context of this Bill.

## THE SCOPE OF THE PRIVATE MESSAGE EXEMPTION

Unless clear criminality is established, under no circumstances should private-messaging services be included within the scope of this Bill.

Such an action would be a flagrant breach of our basic right to privacy. A system of government like this, one that is centralised and dictatorial, requiring complete subservience to the state, is called a totalitarian regime.

## THE SIZE OF THE PENALTIES AND ANY OTHER ISSUES

We already have laws to ensure those committing the crime of slander or libel or incitement can face criminal charges. That is sufficient to stem harmful communication and media.

If people vandalise property, such as mobile carrier sites, that is a criminal offence and should be treated as such as has always been the case. More information may help to prevent such criminal behaviour while censorship will likely exacerbate such behaviours.

The definition of 'harm' in the Bill is dangerously broad. *Harm* should only relate to that which is evident, objective and with intent, not inferred or subjective.

## CONCLUSION

I ask that this Bill does not proceed or is very significantly amended. I sincerely hope that Australia does not continue its trajectory of the past three years which made me reflect on my time spent 40 years ago as an exchange student touring East Germany. Our East German guides repeated the "authorised information" of the State with stunning unerring conviction. I thought myself so fortunate to live in Australia.

Historically, the censorship as proposed by this Bill has never proved to be a path to engagement, enlightenment and betterment but rather a road towards apathy, ignorance and stagnation. To remain a free and liberal democracy, we would do best by rejecting the entire premise of this Bill.