

**Shawn Dupuy**



20/8/2023

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

Subject: Submission 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 the "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023." As an Australian citizen and a strong believer in freedom of speech, I find the existence of this bill deeply troubling and a direct attack on the rights of the Australian people.

The bill, as it currently stands, creates two distinct classes of citizens, with one group having the power to spread what is deemed as false or misleading information online, while the other group, which includes regular citizens, is subjected to excessive fines and restrictions on speech. This not only undermines the principles of democracy but also disproportionately harms regular citizens, who often possess valuable knowledge and insights on various topics.

The internet has been a remarkable tool for democratizing information and giving a voice to ordinary people. However, this legislation risks stifling that democratic power by imposing constraints on speech that go even beyond the most restrictive digital services currently in existence. The broad application of the code across the entire industry without any room for moderation or reconsideration further compounds the potential harm that this bill can cause.

One of the primary concerns I have with this bill is the impossibility of accurately determining what is true or untrue. The ever-evolving nature of information means that what was once widely accepted fact can be contradicted later. The examples provided in the document clearly demonstrate this point, where initially accepted facts about COVID-19 have been proven to be false or misleading. This legislation would label such information as public health harm-causing misinformation and likely require its removal.

Moreover, it is not only provably false information that will be targeted under this bill, but also true information that is deemed "misleading" or "deceptive." Freedom of speech allows for open and honest discussions, even when individuals may be wrong, as it promotes the search for truth

through critical debate. By stifling such discussions, this bill undermines the very essence of freedom of speech.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has raised concerns about the scope and application of this bill. His tweet, which questions the feasibility and potential for fines being levied on inaccurate information, highlights the lack of consensus among experts about the effectiveness and fairness of this legislation.

I also have concerns about the influence of industry bodies on the creation of codes and standards. These bodies are often funded and influenced by large players in the industry, making it likely that the resulting codes will favor the interests of the biggest digital services. This could potentially create anti-competitive practices that prevent smaller competitors from entering the market and provide the larger platforms with the ability to control regulations and damage their competitors.

It is worth noting that recent evidence indicates that competition between platforms in addressing misinformation and disinformation has been effective. Users have migrated to platforms with more stringent policies and enforcement, leading to the emergence of alternative platforms. Restrictive regulations imposed by this bill could hinder the organic competition that is currently taking place.

Furthermore, the global implications of this bill cannot be ignored. By applying the legislation extraterritorially and expecting compliance from foreign entities with no knowledge or representation within the Australian context, the bill oversteps its boundaries. It is unreasonable and impractical to impose Australian industry codes on digital services worldwide, potentially leading to Australia's isolation from the global internet community.

The proposed bill also contradicts Australia's stance against extraterritoriality, as evidenced by the recent admonishments directed at the Hong Kong government for similar actions. Australians charged extraterritorially under Hong Kong National Security Laws were met with strong opposition by our government, yet this bill proposes the same extraterritorial enforcement. This contradiction undermines the government's commitment to personal freedom and is insulting to those citizens who value their right to freedom of expression and assembly.

The bill also fails to consider the impact it will have on the diversity of viewpoints and the democratic process. By categorizing certain viewpoints, particularly those of marginalized or minority groups, as misinformation, the bill suppresses their ability to participate in public debates and sense-making. This goes against the principles of open and inclusive dialogue, which are crucial for informed decision-making and progress in a democratic society.

Another significant concern is the undue interference and threats imposed on digital platform providers and ordinary users. The threat of negative reports, fines, and reputational damage to platform providers, as well as the imposition of reporting requirements and potential penalties, is an affront to their rights and freedoms. Similarly, the threat of appearing before ACMA for ordinary users who may hold dissenting viewpoints suppresses free expression and undermines the values of fairness and tolerance.

Moreover, the proposed bill's disregard for the implications on the free flow of information required for informed voting decisions is deeply worrying. By categorizing political party viewpoints as misinformation and censoring them, the bill prevents voters from accessing diverse viewpoints and makes it difficult for them to make fully informed decisions.

In conclusion, the "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023" undermines fundamental rights such as freedom of speech, imposes undue restrictions and threats, and fails to account for the diversity of viewpoints and the democratic process. It is imperative that the Australian government revisits this bill and upholds the principles enshrined in the Universal Declaration of Human Rights.

I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider this legislation and ensure that any future bill respects the freedom and rights of Australian citizens while promoting a fair and inclusive dialogue.

Thank you for considering my submission and addressing the concerns raised within it.

Sincerely,

Shawn Dupuy