

20<sup>th</sup> August 2023

Subject: Submission regarding the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023.

Dear Sir/Madam,

I thank you for the opportunity to respond to the request for comment on the proposed “Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023”.

I cannot, in all good conscience, support the “Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023” proposed legislation for the following reasons:

- The Australian Human Rights Commission, on their website (<https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression>) states the following that Australia agreed to the UN General Assembly adoption of the International Covenant on Civil and Political Rights (ICCPR) on 16 December 1966. The above website states:
  - “ICCPR Article 19 states:
    - Everyone shall have the right to hold opinions without interference.
    - Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
    - The exercise of the rights provided for in paragraph above of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
      - ( a ) For respect of the rights or reputations of others;
      - ( b ) For the protection of national security or of public order, or of public health or morals.
    - General Comment 34 emphasises that freedom of expression and opinion are the foundation stone for a free and democratic society and a necessary condition for the promotion and protection of human rights.”
  - The above ICCPR confirms that our freedom to express our own opinion is our right. It has been noted that with every right comes a responsibility. There are many laws already in place which provision against publishing incorrect or misleading information, therefore this bill is generally superfluous.
- The basic pretext of the bill is “Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy” and mitigating that perceived risk. Upon what facts is this based? The sources of this information is posted by people who one would think are acting responsibly in the first place. How and what they're posting is/can be interpreted is a very subjective matter and is open to interpretation by those who read it. The premise that a service provider, organisation and/or platform, etc could be held accountable isn't realistic as they didn't post it – they're just providing the means which is akin to printing out an opinion and distributing it through the various existing traditional means such as post or passing it through word of mouth.

- The report “ACMA's June 2021 Report to government on the adequacy of digital platforms' disinformation and news quality measures” quotes various misinformation and/or disinformation references. It has since been proven that fact-checkers at the time may have seemed to make accurate reports, however, time has proven otherwise. Over the last 2 years multiple articles, as a result of careful investigations, have revealed that misinformation and/or disinformation is extremely subjective.
- In the “Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 Guidance Note June 2023”, “Scenario 2: Information-gathering powers” (Page 16) illustrates an example of where the judgement is disputed. The assumption that a post has resulted in “causes significant health issues leading to widespread concern and an increase in vandalism of telecommunications infrastructure” illustrates the complete unrealistic pretext of this bill. It is an extremely subjective assumption and without mention of specific proof that the individuals who performed the vandalism are directly related to the posting illustrates the flawed nature of this bill. Not to mention they are responsible for their own actions thus would need to be prosecuted under the law. The pretext that any individual or organisation could be held to account for their actions is false.
- Considering the huge penalties for a business/organisation and an individual are based on a subjective opinion by “fact checkers” rather than an actual outcome is completely unreasonable. What constitutes a “threat” doesn't appear to be specifically quantifiable therefore the outcomes would not achieve the intended purpose as stated.

The premise that the ACMA, any other agency/government department (eg. Australian Department of Home Affairs) or third party that ACMA requests fact checked information from could be 100% accurate is flawed. It has been shown that in the many cases the results have been extremely subjective. Furthermore, time has proved that the actions taken have been based on inaccurate conclusions. Assuming for the moment that this bill had already been enacted, what would have been the outcome and how many injustices would have transpired? If the bill does proceed, how could we, the people, be certain of the integrity of the process and therefore it's outcome? I think not.

From the above I would recommend that the whole pretext of this legislation and any future version(s) be withdrawn completely and allow the freedom of speech and the sharing of information to continue along with their associated accountability and responsibilities so the people can decide what is and isn't correct or valid.

I therefore cannot, in all good conscience, support the “Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023” proposed legislation in any form and request it's complete withdrawal.

I look forward to the outcome of these deliberations.

Yours faithfully,