

Attachments:

[Submission.docx](#) ;

Please find attached my submission regarding the exposure draft of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023.

Warm regards,

Emma Saurus



26 July 2023

Submission regarding the [Exposure Draft Communications Legislation Amendment \(Combatting Misinformation and Disinformation\) Bill 2023](#) (Misinformation Bill)

I object to the Misinformation Bill on the bases that:

1. The Misinformation Bill interferes with High Court–established freedoms of political communication.
2. In its voluntary form (the Australian Code of Practice on Disinformation and Misinformation – the Voluntary Code), it has already been used to remove and suppress information that was and is factually correct.
3. The proposed legislation seems designed to censor public discourse, exposing the Australian people to extreme risk from this and future governments by removing instruments of government accountability.
4. Penalties for digital platforms that fail to monitor and suppress information identified by government authorities will have an unreasonably harmful effect on businesses that facilitate communication.

The draft Misinformation Bill represents an attack on freedom of political communication, which has been established as essential to democracy by the High Court.¹ The Australian Human Rights Commission asserts that:

the High Court has held that an implied freedom of political communication exists as an indispensable part of the system of representative and responsible government created by the Constitution. It operates as a freedom from government restraint [...]ibid

The Department of Home Affairs and the Health Department have already admitted to requesting the removal of factual information contradicting government policy.² In more than 4,200 instances, the policy contradicted was the assertion that Covid-19 vaccinations are and were “safe and effective”. These incidents serve as a recent example of the abuse of the Voluntary Code to suppress truthful information and valid opinions; expanding the application of the code and the power of its enforcers will create an Orwellian situation where truth is defined by government policy rather than the open consideration of evidence.

The argument that Covid-related information was suppressed to prevent harms is contradicted by the data showing massively increased presentations to hospital emergency rooms³ in the months following Covid vaccine roll-outs – in the case of Western Australia,⁴ in the absence of circulating coronavirus. Such data supports the argument that the vaccines caused harms comparable to Covid-19, but in an age group that was not at significant risk of Covid-19 complications. Due to the imposition of mandates and aggressive promotional campaigns, various State governments, in concert with the Federal government, can be seen as directly responsible for those recorded harms against the Australian people.

Under your proposed Misinformation Bill, the above information and reasonable opinion would be tracked and removed, with penalties for the digital platform and no prospect of holding government agencies accountable for their role in this debacle.

The Misinformation Bill will harm Australians' freedom of political communication. It will harm Australians' ability to hold government agencies accountable for wrongdoing. It will further facilitate the suppression of government criticism. The imposition of penalties will freeze and harm businesses facilitating communication.

I urge the rejection of the Misinformation Bill in its entirety as being against the interests of the Australian people and the health of democracy in Australia.

¹ " Australian Human Rights Commission. <https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression> .

"In [Nationwide News Pty Ltd v Wills](#) (1992) 177 CLR 1 and [Australian Capital Television Pty Ltd v the Commonwealth](#) (1992) 177 CLR 106, the majority of the High Court held that an implied freedom of political communication exists as an incident of the system of representative government established by the Constitution. This was reaffirmed in [Unions NSW v New South Wales](#) [2013] HCA 58

² Department of Home Affairs. Freedom of Information Request FA 22/12/00629.

https://www.alexantic.com.au/home_affairs_freedom_of_information_request ; "Banned Covid posts 'totally factual'". *Australian*. 21 July 2023. <https://www.theaustralian.com.au/nation/many-censored-social-media-posts-did-not-contain-covid19-misinformation/news-story/c47a8217ffada2cf576475aef3c12c63>

³ South Australian Department of Health. Freedom of Information Request I2022-00081.

https://www.alexantic.com.au/sa_health_foi_cardiac_presentations_and_admissions_south_australia

⁴ Western Australian Department of Health. Western Australian Vaccine Safety Surveillance – Annual Report 2021. https://www.health.wa.gov.au/~/_media/Corp/Documents/Health-for/Immunisation/Western-Australia-Vaccine-Safety-Surveillance-Annual-Report-2021.pdf