

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

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Department of Infrastructure, Transport, Regional Development, Communications and the Arts
111 Aldinga Street
Canberra, ACT 2601

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

Dear Sir/Madam,

I write to you today to express my deep concerns and outrage regarding the draft bill titled "Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023". As an Australian citizen, I strongly believe that the existence of this bill signifies a lack of respect for the fundamental freedom of speech that is essential to our democracy.

I am deeply troubled by the creation of two tiers of citizens under this bill. One tier consists of politicians, journalists, and members of educational institutions, who are granted the power to spread information, whether true or false, online. The second tier comprises regular citizens in our democracy, who quite often possess more knowledge and insight on various subjects than those in the first tier. This bill risks disproportionately harming the voices of regular people, who have found a valuable platform for expression through the internet – arguably the most powerful democratic invention in human history.

The excessive fines imposed by this bill will undoubtedly lead digital services to adopt a more restrictive approach to speech than currently exists. The lack of "pressure escape valves" within the system exacerbates the potential harm. It is an impossible task to accurately judge what is true or false, as new information constantly emerges which challenges widely accepted facts. History has shown us multiple instances where authoritative figures and expert consensus were proven wrong, leaving us to question how this legislation will differentiate between truth and misinformation.

Furthermore, the inclusion of "misleading" or "deceptive" information under the scope of removal is deeply concerning. Freedom of speech allows for open and honest discussions, even when the truth may be disputed. By promoting such legislation, the government is aligning itself with the side of censorship rather than truth.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has expressed serious concerns about the scope and application of this bill. His scathing rebuke of the legislation highlights the challenges in implementing such laws and the potential for fines to be levied on information that may not be false or harmful.

The proposed industry codes, created by bodies influenced by industry giants, are likely to become "anti-competitive wedges" that block smaller competitors from entering the market. This will only solidify the dominance of big digital services and restrict innovation and competition. Recent evidence has shown that free-market competition has been effective in addressing misinfo/disinfo policies, with users migrating to platforms that align with their expectations.

Furthermore, the bill's reliance on the current state of dominant digital services ignores the role of small platforms and websites. This contradicts the efforts of competition regulators worldwide to lower entry barriers for competitors, promoting innovation and protecting consumer interests.

The extraterritorial application of this bill is an unreasonable overreach of Australian law onto foreign entities. The expectation of foreign digital services to comply with industry-created codes they may not be aware of or have any representation in is both ignorant and unworkable. It creates uncertainty and risks isolating Australia from the global internet community.

Imagine if other countries, like China or Saudi Arabia, demanded compliance with their laws from Australian websites or digital services, regardless of their location. The Australian government itself has recently admonished such practices in the case of Hong Kong activists based in Australia, demonstrating the inconsistency and hypocrisy of proposing such legislation.

Moreover, the threat of interference and the burdensome reporting requirements placed on both digital platform providers and ordinary users only serve to disempower and stifle legitimate discussions and viewpoints. The assumption that certain views are inherently harmful and the relegation of ordinary citizens as incapable of engaging in public discourse without monitoring and reporting are deeply concerning and go against the principles of our democracy.

Finally, the delegation of legislative power to private entities and the potential violation of the implied constitutional freedom of political communication are serious issues that should not be taken lightly. It is crucial to uphold the principles of freedom of speech and ensure that public discourse remains diverse.

In conclusion, I strongly oppose the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023. The potential damage it poses to freedom of speech, innovation, competition, and Australia's standing in the global internet community is deeply troubling. I urge the Department to reconsider this bill and prioritize the values that underpin our democratic society.

Thank you for considering my submission. I trust that you will take into account the concerns raised by the Australian public on this matter.

Yours sincerely,

Shelley Birkinhead