

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

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

I am writing to express my deep concern and disgust regarding the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. As an Australian citizen, I firmly believe that this bill infringes upon our freedom of speech and disregards the principles of democracy that our nation fought for over the years and continues to uphold.

Firstly, it is evident that this bill creates a distinction between two groups of citizens, granting politicians, journalists, and members of educational institutions the authority to disseminate information, regardless of its accuracy. However, ordinary citizens, who often possess valuable knowledge on various topics, are marginalized and silenced. This skewed hierarchy not only undermines the power of regular people but also poses a threat to the democratic values that our society cherishes.

The internet is a remarkable platform that has empowered ordinary individuals to have a voice and contribute to public discourse. However, this legislation jeopardizes the rights and voices of everyday citizens disproportionately. The imposition of exorbitant fines will compel digital services to impose stricter restrictions on speech, surpassing even the most stringent measures in place today. Furthermore, the bill lacks any safety mechanisms to prevent the undue consolidation of power within the industry, exacerbating the potential harm caused by this legislation.

One of the most significant concerns with this bill is the impossibility of accurately discerning between true and false information. History has shown that what was once considered widely accepted fact has later been proven false. Drawing from recent examples related to the COVID-19 pandemic, many authorities and experts initially asserted various claims, such as the ineffectiveness of masks and the absence of human-to-human transmission. These were debunked at the time, but were later proven to be accurate. Under this legislation, such information could be deemed as public health harm-causing misinformation and subject to removal or penalties. The broad definitions of "misleading" or "deceptive" information further encroach upon the freedom of speech, hindering open discussions and the pursuit of truth.

Even renowned experts, such as Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, have voiced serious concerns about the scope and application of this bill. His Twitter post on 25 June 2023 highlighted the challenges of implementing such legislation and the inevitable levying of fines on information which may turn out to be accurate. If an expert of Dr. Coatsworth's stature questions the efficacy of this bill, it raises serious doubts regarding the government's commitment to truth and freedom of expression.

Moreover, it is apparent that this bill primarily targets prominent platforms such as Facebook, Instagram, and Twitter, while inadvertently or deliberately encompassing numerous community websites and social web platforms. The broad definitions present in this legislation impose a tremendous legal risk, which unreasonably restricts individual freedoms, the right of free speech and enterprise.

The bill's all-encompassing approach, akin to setting a speed limit on every road globally without informing the public of the limit itself, is profoundly concerning. Every website owner worldwide which allows user-generated content, such as blog comments or forums, becomes susceptible to fines up to AU\$500,000 for individuals and AU\$2,500,000 for companies. The sheer lack of awareness surrounding the existence and compliance with industry-created codes places foreign website owners at risk of penalties imposed by a law they are unaware of. This raises questions about the practicality and enforceability of such jurisdictional assertions.

Additionally, the proposed bill appears contradictory to the News Media Bargaining Code (NMBC), enacted in 2021, which imposes limitations on digital services' ability to address misinformation and disinformation. While the NMBC forces digital services to remove global content from non-eligible news organizations if they choose not to participate in the Australian news industry, this bill promotes fact-checkers and other methods involving news content as potential remedies to counter misinformation. This inconsistency highlights the need for comprehensive and consistent legislation that upholds the principles of freedom of speech and the right to access information.

Furthermore, the delegation of legislative power to private entities, as seen in this bill, raises constitutional concerns. By allowing companies to create Misinformation Codes that, when registered, become law, this bill proposes an unconstitutional abdication of legislative power. The Australian Communications and Media Authority (ACMA), as a statutory authority not directly accountable to Parliament, holds the authority to enact Misinformation Standards and Digital Platform Rules without parliamentary approval. Such a delegation of power undermines the fundamental principles of our democratic system.

The definition of misinformation within the bill, which includes information that is false, misleading, or deceptive and reasonably likely to cause or contribute to harm, raises legitimate concerns regarding the limitation of legitimate discussions. Public policies and scientific investigations are highly contested topics and stifling these debates unreasonably restricts the implied constitutional freedom of political communication.

Moreover, the flow of information is vital for citizens to make informed decisions while participating in democratic processes. By categorizing certain political party viewpoints as misinformation and enabling their removal from digital platforms, this bill obstructs voters' access to essential information, compromising the very essence of democratic governance.

In conclusion, I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. It is crucial to uphold the freedom of speech, protect democracy, and preserve the valuable contributions made by ordinary citizens on digital platforms. Any legislation concerning misinformation and disinformation must be carefully crafted to safeguard individual rights while fostering open and robust public discourse.

I ask the question: Is any of this Bill really necessary??

Thank you for considering my submission and I look forward to your response.

Yours sincerely,

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