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20.08.2023

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". It is with great disappointment that I address this submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. This bill, in its current form, not only infringes upon the freedom of speech of Australian citizens but also creates a discriminatory division between different sectors of society.

One of the gravest issues with this bill is the creation of two classes of citizens. Politicians, journalists, members of educational institutions, and industry insiders are granted the power to spread information online, regardless of its accuracy. On the other hand, regular citizens, who often possess valuable knowledge and insights, particularly in their respective industries, risk being silenced. This law undermines the power of the Internet as a democratic tool that empowers ordinary people to voice their opinions and perspectives effectively.

Additionally, the exorbitant fines outlined in the bill have the potential to stifle speech to a greater extent than any existing digital services' restrictions. The lack of "pressure escape valves" within the system exacerbates the harm caused by this bill. It is implausible to accurately determine what is true or false as new information constantly emerges, contradicting previously accepted facts. The inclusion of provisions to remove content labelled as public health misinformation, even if those claims were once widely accepted, is deeply concerning. Such a mandatory code could result in the removal of information that later proves to be true, hampering genuine discussions and inhibiting our search for truth through open debate.

Moreover, the scope of this bill extends beyond provably false information to include information that is deemed "misleading" or "deceptive." The freedom of speech is invaluable as it allows for open and honest discussions without limits. It permits individuals to express their opinions, even when they are wrong, fostering an environment where the pursuit of truth can flourish through constructive debates.

Even Dr. Nick Coatsworth, a former Deputy Chief Medical Officer of Australia, has expressed serious reservations about the scope and application of this bill. His criticism, as posted on his personal Twitter account on 25th June 2023, highlights the impracticality of implementing legislation that seeks to combat misinformation.

The existing News Media Bargaining Code (NMBC) enacted in 2021 under the previous Liberal government limited the ability of digital platforms to address misinformation effectively. The NMBC obligates digital services that choose not to participate in the local Australian news industry to remove global content meeting specific criteria. Furthermore, it uses content from various sources such as fact-checkers, non-governmental organizations, or citizens that could be employed to counter misinformation as leverage to demand payment from eligible news organizations. This proposed bill contradicts the NMBC by suggesting that fact-checkers or other news content could be beneficial in combating misinformation.

Additionally, the delegation of legislative power to private entities under this bill raises constitutional concerns. The power vested in the Australian Communications and Media Authority (ACMA) to create and enforce Misinformation Codes and Standards, without direct accountability to Parliament, compromises the separation of powers and the democratic process. This arrangement raises constitutional questions surrounding the abdication of legislative power by Parliament.

Furthermore, the proposed bill violates the implied constitutional freedom of political communication. The definition of misinformation in the bill encompasses matters of public policy, scientific investigation, and debates that are highly contested among political parties and interest groups. Any limitations imposed on legitimate discussions in these areas would unreasonably curtail the implied constitutional freedom of political communication, which is fundamental to our democratic society.

Lastly, I want to emphasize that this bill, if enacted, would obstruct the democratic process. The ability of citizens to access information necessary to make informed voting decisions is crucial, and digital platforms play a significant role in providing this information. By categorizing certain political viewpoints as misinformation and mandating their removal from digital platforms, this bill suppresses vital information, leaving voters in the dark.

In conclusion, I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider and revise the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023. It is imperative to respect the freedom of speech of Australian citizens and ensure that the Internet remains a powerful democratic tool for all individuals, regardless of their background or expertise.

Thank you for considering my submission. I trust that you will take my concerns into account during the legislative process.

Yours sincerely,

Dean Hodge