

28/7/23

Dear Sir/Madam,

I am writing this letter wishing to convey my deepest concerns about the proposed new powers of the Australian Communications and Media Authority regarding Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023.

In a democracy, varying viewpoints and respecting other's viewpoints are the hallmark of a healthy and robust freedom of speech without the need to denigrate the other party's race, gender, religious or other attributes in the process. It is unfortunate the internet/social media juggernaut has progressed to the current position where legislators feel compelled to place this important component (free speech) of democracy at risk.

The existing ACMA framework clearly has identified deficiencies in dealing with mis/disinformation on the part of the regulator but the proposed Bill takes us down the slippery path into graduated authoritarian territory. Once free speech is compromised, the price paid to regain middle ground comes with collateral damage to the democratic process and its people.

A major concern in any Bill regulating misinformation and/or disinformation is the manner in who and what machinery is utilised to determine such benchmarks.

A classic example is the eSafety Commissioner who is empowered by the 2021 Safety Act to force media and websites to remove material deemed bullying with substantial fines to individuals who refuse.

Whoever holds this office must be **categorically transparent** in process, accountable at all times and above all else, untainted by conflict of interest. This is a position which can be easily usurped if the correct processes and reviewing mechanisms are not adhered to.

Robodebt, 2019 'Death Tax', COVID reporting and PwC fiascos are clear demonstrators of processes failing, lack of accountability and intentional misinformation at regulator, government and bureaucratic levels. The Australian community is still reeling from the impact of these examples. The ACMA Bill is no different in its proposed form.

If changes to ACMA powers are going to be genuine, it is now time for the Regulator to play a strong visible presence in its role.

How?

- Establish industry standards with **clear systems and measures in place** to combat misinformation and disinformation from the outset. It is no longer satisfactory for the Regulator to exist in a passive vacuum and allow market forces to dictate the terms of engagement. This lazy style of governance is why we are now experiencing turmoil in media, housing, energy and rental environments without precedent.
- Ensuring not only DIGI members adhere to the proposed standards but also

include all professional news media authorities including government agencies and other types of communicator services e.g. electioneering and referendum material.

To target select and not all communication services is disingenuous at the least and hypocritical at the worst when misinformation and disinformation can be so readily dispersed in the current political environment without justifiable scrutiny. Accountability and transparency for one should be applicable for all participants.

- More stick and less carrot approach by the proposed Bill is outdated and counterproductive; amounting to window dressing. Consistency in an active and impartial role by the Regulator will provide a more level playing field for all communication services and ensure appropriate compliance.
- Overarching the above factors is the freedom of speech component as one of the 5 Human Rights of which the Australian Government enacted in the Australian Human Rights Commission Act 1986.

'The right in Article 19(2) protects freedom of expression in any medium, for example written and oral communications, the media, public protest, broadcasting, artistic works and commercial advertising.'

and

'In this respect, under Article 26, the law shall prohibit any discrimination and guarantee to all persons, equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

Conclusion

Notwithstanding good intentions and necessity to address rising media mis/disinformation within the community, the proposed powers in this Bill cannot afford to undermine nor compromise the values upheld by Articles 19 and 26 of the Australian Human Rights Commission.

To this end, the proposed Bill powers fail to meet the core human rights embraced by the Australian Government and require redress accordingly.

