

Consultation on a Bill for a new Online Safety Act

Even though my submission is extremely critical of the bill and is opposed to it, I'm grateful for the opportunity parliament has extended to the public to provide submissions. I very much appreciate being able to make submissions like this on proposed bills and I respect parliament's decision to allow it and I consent to my submission being made public.

The online safety bill is an appeal to emotion. It aims to be popular by appealing to the emotions of the general public. My submission will address why this is a problem and why the bill should not pass.

The law should only exist to enforce principles of morality. Laws that are proposed to enforce subjective points of view should be opposed at every opportunity. This bill, were it to be turned into an act, would serve only to satisfy people's emotional desires. One cannot use emotions as a moral justification because it leads to a reduction to absurdity. If one were to accept that an action is immoral merely because of an emotional response from someone then one could merely claim that anything was offensive, that anything upset them and then that thing would become immoral. An obvious example would be that I could claim that I find homosexual relationships personally offensive and then one would be obliged to prohibit them merely because of my emotional response to them. Once we've established that emotions cannot be used as moral justifications in and of themselves we need to establish more objective, more quantifiable means for establishing principles of morality: When I steal from someone, they no longer have the thing I've stolen, a quantifiable disadvantage. When I put a baseball bat through someone's windscreen, I've damaged their property and now their windscreen no longer functions properly. These are both examples of immoral actions that have quantifiable, objective consequences. When I call someone mean words on the internet, or vice versa, there is no quantifiable consequence. I could choose to get upset over the words, or I could choose not to.

On top of this is the fact that many people are offended by things that are not even insults. Gauging moral principles on people's emotional reactions to things is complete folly. People can be, and sometimes are, offended by pointing out that there are only two genders, that aboriginal people commit more crime per capita than Caucasians in Australia, that women in western countries are living in the best time in the best places that there have ever been for women, that the Quran explicitly calls for the killing of infidels, that the god in the Holy Bible actively engages in genocide and condones torture, and that merely identifying as the opposite gender doesn't make you that gender. Statements of fact are very capable of rousing strong emotional responses from people. This bill is a big step in the wrong direction by lending weight to irrational emotional responses in lieu of lending weight to objectivity and rationality. Even assuming every single one of those statements I just made was factually incorrect, it would remain important to be able to make those statements, to make arguments in support of them and to be able to talk about them, regardless of how offended some people are by them. So even though those statements *are* factually correct, their factual accuracy is less important than the importance of being able to engage in debate on them regardless of how people feel about them.

It's absolutely imperative that legislation like this not pass. Were this to be made law it would be a huge blow to the freedom of speech. The right to offend people is fundamentally important and shouldn't be overlooked merely because a lot of people make a lot of noise in favour of the right to freedom of speech being suppressed.

When Galileo Galilei espoused the idea of the heliocentric model of the Solar System (the model that places the sun at the centre of the Solar System as opposed to the geocentric model which places Earth at the centre and was widely accepted at the time), the Catholic Church placed him under house arrest. He was persecuted merely for proposing an idea, and an idea that today we all accept as being obviously true. But even if the heliocentric model was completely inaccurate and the Catholic Church had it right all along, Galilei's right to make the argument on the heliocentric model would still have been extremely important to protect. The benefit to society in protecting the formation of ideas and arguments is demonstrated by this one instance. The ability to say things that offend people is fundamentally important in a society that cares about only infringing on people's rights when it's necessary to protect other people's rights. And as I've just demonstrated, the right to not be offended does not and should not ever exist.

If we were to accept that someone can have criminal legal action taken against them for saying something that one finds offensive on the internet then by extension we should also accept that one should be criminally liable for refusing to say hello to someone when that person has greeted them. Someone should be criminally liable for not holding the door open for someone when they've just walked through the door. Someone should be criminally liable for pointing out that someone has gained weight. If we as a society accept that someone can be criminally liable for saying offensive things to someone then by extension we must also accept that someone can be criminally liable for these things. The law must remain something that only exists to mirror morality and not something that becomes based off people's emotions which are subject to impressive amounts of irrationality.

The bill refers to "harmful" material, when in reality the appropriate word is "offensive". The majority of the material the bill targets is material that one might find offensive. It's not harmful, it's offensive. And the right to offend people should be protected. The bill refers to "safety" when in reality it does nothing to address anyone's safety. The bill is targeting material people don't like, not material that threatens their safety. The use of this disingenuous, insidious language is a major red flag.

In relation to section 7 subsection c, the use of the word "offensive" risks infringing on free speech as one can claim to be offended by anything. To threaten and to harass someone has a higher standard of proof, but to "offend" someone is dependant purely on the emotional reaction of the person exposed to the material. This risks being a serious infringement on the rights of Australians to express ideas and to forward arguments. It would serve to stifle our ability to engage in debate. It is imperative that we guard the right to offend people. I recommend removing this word altogether.

In relation to section 8: the "ordinary, reasonable person" test is flawed because an ordinary person's reasoning is capable of being flawed and their opinion illogical. The standards of what counts as threatening or harassing are far more objective, are of a higher standard of proof and are far less likely to infringe on one's right to make an argument or express an idea that another person dislikes. Some examples of just how wrong the average person can be are that there have been times in our past when the average person considered a reference to god to be extremely offensive or two homosexual men kissing in public to be offensive. The average person may very well have sided with the Catholic Church in its persecution of Galileo. The "ordinary person" test has a well-established track record of being an extremely unreliable method of determining what is true, what is just, what is logical or what is moral.

In relation to "material that incites abhorrent violent conduct" in section 46 subsection V, it's important that "incite" only ever be interpreted in the most explicit way. To incite abhorrent violent conduct must only ever mean to explicitly incite it and never be read up to include indirect incitation. If the implicit interpretation were to be used, we run the risk of material being censored when the author never intended it to incite anyone to violence which would stifle one's right to freely express themselves. I recommend the addition of the word "explicitly" so that it reads as "explicitly incites" so as to avoid something being interpreted as inciting violence when in reality it was merely the expression of a point of view or the making of an argument or the statement of a fact.