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14th August 2023

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

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

Dear Sir/Madam,

I am writing to express my deep concern and outrage regarding the proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. As an Australian citizen, I firmly believe that this bill fundamentally undermines the freedom of speech that is integral to our democracy.

One of the most troubling aspects of this bill is the creation of two distinct classes of citizens. While politicians, journalists, and members of educational institutions are given the power to spread information, regardless of its accuracy, regular citizens are subjected to stricter regulations. It is unjust to assume that certain individuals or groups have more knowledge or authority over certain topics than others, especially when it comes to industry insiders.

The internet has been a powerful tool for democratizing information and giving a voice to regular citizens. However, this bill poses a significant risk to the expression of these regular people by imposing excessive fines and restrictive speech regulations on digital services. The industry-wide code proposed by this bill lacks any "pressure escape valves" to alleviate potential harm. Such a one-size-fits-all approach disproportionately affects the ability of regular citizens to freely express their opinions and engage in democratic discourse.

Furthermore, the task of accurately discerning truth from falsehood is incredibly challenging, if not impossible. History has shown us numerous instances in which facts once considered true were later found to be false. This uncertainty is especially prevalent in areas such as public health, where initial understandings often evolve based on new discoveries and scientific advancements. By defining certain information as public health-harming misinformation, this bill risks stifling crucial debates and silencing dissenting voices.

Additionally, the bill's inclusion of information deemed "misleading" or "deceptive" further erodes freedom of speech. Open and honest discussions require the freedom to be wrong and the opportunity to debate the truth until a common ground is reached. It is essential to recognize that claims of truth should be subject to scrutiny and debate, rather than being categorically removed.

Even Dr. Nick Coatsworth, the former Deputy Chief Medical Officer of Australia, has expressed serious reservations about the scope and application of this bill. His statement on Twitter highlights the concerns surrounding the implementation of such legislation and the potential for fines to be levied on information that turns out to be true. If an expert with his credentials questions the bill's efficacy, it raises serious doubts about its overall impact.

The influence of industry bodies, often driven by the largest players in the sector, is another alarming aspect of this bill. Such bodies are likely to create industry codes that function as anti-competitive wedges, enabling larger digital services to gatekeep their industry against new competitors. This monopolistic approach undermines the principles of free-market competition, which has shown evidence of effectively addressing misinformation and disinformation issues through user migration to platforms that meet community expectations.

Moreover, this bill relies heavily on current dominant digital platforms and risks wiping out smaller competitors that find it challenging to comply with the onerous regulatory requirements imposed by industry bodies. This contradicts the efforts of competition regulators worldwide to reduce barriers to entry for new competitors. The proposed bill jeopardizes the competition between platforms and fails to consider the interests of consumers and smaller entities aiming to enter the field.

Rather than protecting minority groups, this bill may inadvertently persecute them. Often, progress and social change are achieved by challenging previously accepted truths and beliefs. By mandating a single code applied to every digital platform, this bill eliminates any shelter for minorities when their views clash with the system's prevailing narrative. This risks quashing alternative perspectives, hindering progress, and endangering the principles of open and inclusive dialogue.

The delegation of legislative power to private entities under this bill also raises constitutional concerns. The proposed arrangement allows companies to create misinformation codes that become law, bypassing parliamentary approval. This delegation of legislative power to non-government entities undermines the principles of responsible governance and constitutional authority.

Furthermore, the broad definition of "harm" in the bill incorporates contested matters of public policy, including health, the environment, and the economy.

Suppressing legitimate discussions on these topics would unreasonably curtail the implied constitutional freedom of political communication, as guaranteed by Article 19 of the Universal Declaration of Human Rights.

The assumption made by the bill that government-approved institutions hold a monopoly on truth is deeply problematic. It disregards the experiences and viewpoints of ordinary Australians and limits diversity in viewpoints, which is crucial in the process of sense-making and comprehensive decision-making.

The bill not only disempowers ordinary citizens but also poses threats and burdens to digital platform providers and independent media organizations. The imposition of negative records, reputational damage, financial penalties, and undue interference infringements create an environment of fear and adversity. This style of governance, reminiscent of totalitarian regimes, stands in stark contrast to Australian values, such as mateship and freedom of thought and expression.

In conclusion, I strongly oppose the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. This bill infringes upon the freedom of speech of Australian citizens, divides society into classes, stifles open and honest discussions, favors monopolistic practices, and undermines the constitutional principles of political communication. I urge you to reconsider the damaging provisions of this bill and protect the fundamental democratic rights of all Australians.

Thank you for considering my views. I trust that you will act in the best interest of our democracy and safeguard the freedom of speech we hold dear.

Yours sincerely,

[Your Name]