

Craig Hitchens



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Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
GPO Box 594, CANBERRA, ACT, 2601

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

Dear Sir/Madam,

I am writing to express my strong opposition to the proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023. As an Australian citizen concerned about the preservation of freedom of speech and the potential implications of this bill, I firmly believe that it undermines the fundamental rights and values upon which our democracy is built.

One of the most concerning aspects of this bill is its apparent disregard for the freedom of speech of Australian citizens. By creating two classes of citizens, with some having the power to spread information deemed false or misleading and others being restricted, the bill establishes an imbalance of power. This not only devalues the voices of ordinary citizens who often possess accurate and valuable knowledge, but also disproportionately harms those who rely on the internet to exercise their democratic rights.

Moreover, the excessive fines imposed by the bill have a chilling effect on freedom of speech. Digital services will be compelled to be even more restrictive with their speech policies than they already are, leading to a stifling of open and honest discussions. The absence of "pressure escape valves" within the system exacerbates this harm, as there is no room for flexibility or nuance in the application of the code across the entire industry.

Additionally, the task of accurately determining what is true or false is an impossible one. New information is constantly emerging, challenging previously accepted facts. The examples of COVID-19-related misinformation provided in the draft bill demonstrate the difficulties in ascertaining the veracity of information. The inclusion of both provably false and "misleading" or "deceptive" information in the scope of removal raises concerns about censorship and limits on the exchange of ideas.

The bill's reliance on industry bodies to develop codes of conduct is deeply flawed. Industry bodies are often influenced by the largest players in the industry and can create anti-competitive barriers for smaller competitors. This not only stifles innovation but also allows the biggest digital services to establish regulations that damage their smaller competitors. It is crucial to consider the principles of free-market competition and the recent evidence that shows how user migration to platforms with more stringent misinformation policies can naturally occur.

Furthermore, the proposed bill's extraterritorial application and its lack of awareness of other countries' laws raise significant concerns. It is unworkable and unfair to hold foreign

digital services accountable for complying with Australian laws and industry codes that they may not even be aware of. The global nature of the internet demands a more nuanced and collaborative approach to regulation.

The bill's infringements on constitutional freedoms, specifically the freedom of political communication, further add to its flawed nature. The definitions of "misinformation" and "disinformation" provided in the bill are vague and highly contested matters of public policy and scientific investigation. Limiting legitimate discussions on these matters curtails the freedom of political communication and undermines a cornerstone of our democratic society.

Additionally, the threats posed to both digital platform providers and ordinary users through reputational damage, financial penalties, and infringement notices impede the principles of freedom and fairness. The idea of incentivizing government-approved journalists through perceived reputational damage to non-approved competitors is both concerning and biased.

In conclusion, the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 represents a significant threat to freedom of speech, fairness, and democracy in Australia. It disregards the voices and perspectives of ordinary citizens, stifles open discussions, and fails to consider the dynamic nature of information and the global reach of the internet.

I strongly urge the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to reconsider this bill and take into account the concerns and potential consequences it poses.

Thank you for considering my submission.

Yours sincerely,

Craig Hitchens