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Communications Legislation Amendment
(Combating misinformation and disinformation) Bill 2023

Dear Sir/Madam,

*“When you tear out a man's tongue, you are not proving him a liar,
you're only telling the world that you fear what he might say.”*
- George R. R. Martin¹

I am writing to register my strong opposition to the “Communications Legislation Amendment (Combating misinformation and disinformation) Bill 2023” – hereafter known as the Bill.

When I sat down and read through the contents of this Bill, visions of George Orwell’s book “1984” came flooding back. Restrictions to speech via broadcasting mediums, social media forums, websites containing blog posts with public comment, are just some of the many communications fora that will fall under the purview of the Australian Communications Media Authority (ACMA). All this, while Governments, Professional News Organisations and Accredited Education Institutions are given a free pass². I’m sure George Orwell never envisaged his book “1984” would become the user manual for a proposed Bill in the Australian Parliament, paid for by the Australian tax payer - but here we are.

In my submission, I would like to point out three areas of serious contention, that (in my opinion) should either be amended or struck out, should this Bill ever be voted upon and enacted.

- 1) Education – specifically, foreign influence of,
- 2) Social Media, and
- 3) Referendum – specifically, how this Bill affects public discourse

1 George R. R. Martin (2003). “A Clash of Kings: A Song of Ice and Fire: Book Two”, p.220, Bantam

2 See ‘excluded content for misinformation purposes’ – The Bill, Section 2.

Education

“The public is not cognisant of the real value of education, and does not realise that education as a social force is not receiving the kind of attention it has the right to expect in a democracy.”

- Edward Bernays³

I would like to refer to the current Definition of “**excluded content for misinformation purposes**” on Page 9 of the Bill. In clause (d) it states :

- (d) content produced by or for an educational institution accredited:
 - (i) by a foreign government or a body recognised by a foreign government as an accreditor of educational institutions; and
 - (ii) to substantially equivalent standards as a comparable Australian educational institution;

It is one thing to exclude educational institutions accredited by Federal, Local and State Governments from “misinformation”. But why should accredited educational institutions from foreign governments be afforded the same privilege? You only have to look at the education curricula from countries such as United States and Canada to realise that their education systems are in a total mess. Does our Federal and State Governments also want to indoctrinate our school kids with woke ideology, critical race theory and gender affirming indoctrination? Teaching kids the aforesaid doctrines represents a dumbing-down of future generations, effectively making employment opportunities for highly skilled jobs obsolete. Whatever happened to teachers teaching the three R’s principle (reading, writing, arithmetic) in order for their students to better prepare for life outside of the education system?

Recommendation : Remove clause (d) in the Definition “excluded content for misinformation purposes”.

³ Edward L. Bernays (1930), “Propaganda”, p 121, Ig Publishing

Social Media

“Censorship is saying: ‘I’m the one who says the last sentence. Whatever you say, the conclusion is mine.’ But the internet is like a tree that is growing. The people will always have the last word – even if someone has a very weak, quiet voice. Such power will collapse because of a whisper.” - Ai Weiwei⁴

As an IT professional with over 35 years experience in the Information Technology space, I know a thing or two when it comes to the internet - including Social Media. As someone who develops, hosts and manages websites on the internet, I am more than concerned how individuals who post content on websites will now come under the purview of ACMA, if this Bill is enacted in its current form.

The Bill makes clear that :

- “content is provided on a digital service if the content is ... accessible to end-users using the digital service”⁵; and
- “a service is provided to the public if ... the service is provided to at least one person outside the immediate circle ... of the person who provides the service”⁶.

The above definitions, taken together, means that an individual who posts content online that’s accessible to more than one other person, that individual will be captured by the various powers the Bill grants ACMA. That individual (any Australian citizen who posts something online) would need to comply with any digital platform rules, or misinformation codes or standards, that ACMA implements under the Bill. That individual would also be subject to the severe civil and criminal penalties that the Bill implements if those codes/standards are breached.

The Bill not only flagrantly dismisses the Australian citizenry’s rights to freedom of speech and expression (as outlined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR)⁷ – of which Australia is a signatory); it also subjects them to future regulatory frameworks unilaterally imposed by ACMA, with no recourse on such decisions. The internet is meant to be a marketplace of ideas, where an individuals freedom of speech and expression can be expressed freely in a digital form. Australia can no longer consider itself a functioning democracy if its citizenry is unable to express their opinions openly, without the fear of Government-led civil and/or criminal prosecution.

Recommendation : Amend the definition of ‘digital service’ to exclude Australian citizens posts on digital platforms, so that this requirement falls outside the scope of the Bill’s operation.

4 “China’s censorship can never defeat the internet” – *The Guardian*, 16th April, 2012.

<https://www.theguardian.com/commentisfree/libertycentral/2012/apr/16/china-censorship-internet-freedom>

5 *The Bill*, Section 9

6 *The Bill*, Section 10

7 *International Covenant on Civil and Political Rights* -

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

Referendum

“Drafting a constitution is only the first step. The constitution has to be granted legitimacy by open discussion and a fair, representative referendum. - Emma Bonino⁸

As of writing this Submission, a fixed date has not yet been set for the Referendum on The Voice. Contentious as it has been in the media, my focus with this Submission will be on the timing of this Bill, and how its implementation will muzzle free flowing debate on the Referendum.

Currently, the Referendum is set down for sometime between October 2023 and December 2023. With the exception of services outside of the misinformation scope⁹, this Bill affects all other means of digital communication for Australian citizens, whilst giving a free pass to governments, main-stream media and accredited education institutions¹⁰. If in the event the Bill is passed and enacted prior to the Referendum date, there would be nothing stopping ACMA establishing disinformation / misinformation policies surrounding discussion of the Referendum onto Digital Platform Services, such that only one side of the Referendum debate will be heard and discussed.

When Australian citizens are making a choice that affects the wording of our Constitution, ALL Australians deserve to be informed of the pros and cons, as to how it will affect them, to the extent they so wish. A Referendum cannot be considered a free and fair choice, if Digital Platform Services are unduly influenced by ACMA's misinformation / disinformation policies, in-so-doing, limiting free speech and expression. Let Australian citizens make their own choice come Referendum Day. They **don't want**, nor need, a government body to help decide for them.

Recommendation : For any Government-run Referendums (and/or Elections), Digital Platform Service¹¹ should fall outside of the Misinformation and Disinformation¹² scope of the Bill.

8 Member of the European Parliament and Former European Commissioner - <https://unpo.org/article/2020>

9 See 'excluded services for misinformation purposes' - The Bill, Section 6.

10 See 'excluded content for misinformation purposes' - The Bill, Section 2.

11 See 'digital platform service' - The Bill, Section 4.

12 See 'Misinformation and disinformation' - The Bill, Section 7.

In Summary

While my Submission is concise, I have outlined areas of this Bill that have serious shortcomings.

1. Foreign influence of Australia's Education System – Accredited Federal, State and Independent education systems should be free from any foreign government influence. We don't need woke ideology infecting our education systems.
2. Social Media – the Bill is overly broad, far reaching and punitive on the Australian citizenry. The Bill also flagrantly dismisses the Australian citizenry's rights to freedom of speech and expression, as outlined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR)¹³ – of which Australia is a signatory.
3. Referendum & Elections – the timing of this Bill raises serious concerns as to whether Australian citizenry will (in future) be adequately informed when they cast their vote, be it Referendums or Elections. Will Australians continue to get a free and fair choice? Or will Australians' voting decisions be overtly influenced by Government Bureaucrats? Time will tell.

In its current form, the Bill is not only unworkable and illogical, it also lacks understanding and due care for the human rights of Australians. Minor amendments will not be enough to save this Bill. Should such laws be enacted, there is little doubt that complex litigation would ensue. The impact on Australia's legal system could prove to be detrimental to the administration of the entire legal system.

As it stands, I fundamentally and vehemently oppose this Bill. If such law is allowed to pass, it will not only sound the death knell of the internet as a free marketplace of ideas in Australia, it will also send a strong signal to citizens around the globe that the Australian Government is now the "New China" as far as dissemination of information within its borders is concerned. That would be a dark day, were such a thing to pass.

Sincerely,



Tom Thorp



13 *International Covenant on Civil and Political Rights* - <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>