

SUBMISSION

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

# Submission to the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 Exposure Draft

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**The Australian Academy of Technological Sciences and Engineering (ATSE) is a Learned Academy of independent, non-political experts helping Australians understand and use technology to solve complex problems. Bringing together Australia's leading thinkers in applied science, technology and engineering, ATSE provides impartial, practical and evidence-based advice on how to achieve sustainable solutions and advance prosperity.**

An ongoing flood of misinformation and disinformation through online platforms risks damage to Australian democracy, institutions and society. ATSE applauds the Australian Government for seeking mechanisms to stymie the flow of misinformation<sup>1</sup> online rather than entrusting this to voluntary industry codes of practice. [ATSE's joint 2022 submission](#) with the Australian Academy of Science to the Australian Code of Practice on Misinformation and Disinformation recommended better inoculation mechanisms and the inclusion of professional news content with the scope of the code. These recommendations would go a long way to strengthening Australian resistance to misinformation.

Misinformation belief is fed by trust in the source of misinformation and by a lack of trust in those providing accurate information (Butler & Ecker, 2023). It is therefore crucial that reforms designed to tackle misinformation are seen publicly to build trust in the Government's response and are effective at limiting misinformation from trusted sources and support individuals to identify misinformation. The reforms should also be expanded to include traditional media sources, which can both amplify and produce misinformation.

ATSE makes the following recommendations:

**Recommendation 1:** Engender trust in the legislation by providing clear, plain-English guidelines for the legislated industry standards that details when they will be enforced and limits on their powers.

**Recommendation 2:** Amend the legislation to ensure researchers at Australian universities have access to data collected by ACMA under the legislation.

**Recommendation 3:** Use industry guidelines to prioritise measures that increase friction for spreading or accessing misinformation.

**Recommendation 4:** Include private messaging services within the scope of code of practice and industry standards powers of the Act, subject to controls to prevent the invasion of user privacy or weakening of encryption.

**Recommendation 5:** Expand ACMA powers to enable enforceable industry standards on traditional media sources, including print news media.

**Recommendation 6:** Implement media literacy training within schools to help students learn how misinformation is used and how to detect it.

## Ensuring trust in Australia's misinformation controls

Trust is a central factor in determining whether corrections of misinformation are believed and continue to influence beliefs and behaviour (Butler & Ecker, 2023). Trust in social media companies and the government is already low in Australia compared to other institutions and is falling (Edelman, 2023), so it is essential that legislation designed to tackle misinformation does not undermine what trust remains. This is reinforced by the fact that Australians are particularly concerned about misinformation from the government and politicians (O'Neil & Jensen, 2020).

The scope of the proposed ACMA powers, while limited in targeting the content or encryption of private messages and authorised content relating to elections and referenda, provide little guidance on what may be included in industry standards or codes of practice. This vacuum of information makes scaremongering regarding these changes easy to manufacture, reducing trust and endangering the efficacy of measures to combat misinformation. This presents a risk that this legislation could be perceived as government overreach, as seen by some recent commentary (e.g., Chandler, 2023; Down & Ison, 2023).

Governments overseas have given themselves vast powers to tackle misinformation that require platforms to remove information that the government deems to be misleading<sup>2</sup>. This level of government interference in communications runs counter to democratic values and may be unacceptable to Australians. It must therefore be clear that politicians or bureaucrats in Australia will not have the power to act as arbiters of the truth under the proposed legislation. Publishing clear language guidelines for the use of the new ACMA powers, that outlines when the powers can be used, and how they are limited, prior to passing the legislation may help to foster public trust in this legislation.

<sup>1</sup> As disinformation is defined as misinformation with an intent to cause harm, this submission will collectively refer to both as misinformation.

<sup>2</sup> For example, the Singaporean Protection from Online Falsehoods and Manipulation Act 2019

**Recommendation 1:** Engender trust in the legislation by providing clear, plain-English, guidelines for the legislated industry standards that details when they will be enforced and limits on their powers.

### Developing evidence-based guidelines

The data that will be collected under the proposed legislation could provide a rich resource for better understanding and reducing the prevalence of misinformation. Allowing researchers access to what would be the best misinformation dataset in the nation, would allow for better targeting of misinformation mitigation strategies, facilitating a greater reduction in misinformation spread over the long term. This could be used to build an evidence base for industry codes of practice. The advantages of giving researchers access to misinformation data has been recognised and codified in the European Union's Code of Practice on Disinformation (European Commission, 2022). The European Union's Code protects privacy by ensuring that data is anonymised and aggregated. Australia should follow the lead of the European Union and enshrine the right for researchers to access the data collected under the legislation.

Guidelines developed under this proposed legislation should prioritise evidence-based interventions for reducing the efficacy and spread of misinformation online. Many social media companies now employ techniques that flag, remove or blur potential misinformation. Crucially, these forms of correction do not prevent users from accessing the content (reducing censorship concerns), but instead provide a key point of friction – supporting users to identify misinformation and apply critical thinking. When implemented correctly, these friction points can be highly effective at reducing the influence of misinformation. However, large amounts of harmful content are often missed by these moderation techniques, and many flags simply identify misinformation as potentially false without providing any context or refutation of the content (Butler & Ecker, 2023). Corrections and flags need to be specific, outlining why information is wrong and providing alternative explanations. Where possible this corrective information should be made available in-language, as this increases trust of the information provided. Industry standards should focus on improving the content of refutations online and ensuring potentially misleading content is appropriately flagged to establish increased friction for users sending, receiving or accessing this content. As a broader evidence base is developed, platforms and industry bodies should utilise this to improve their practices and guidelines.

**Recommendation 2:** Amend the legislation to ensure researchers at Australian universities have access to data collected by ACMA under the legislation.

**Recommendation 3:** Use industry guidelines to prioritise measures that increase friction for spreading or accessing misinformation.

### Slowing the spread of misinformation through private messaging services

Users of private messaging services rightfully expect that their conversations will remain private. No regulator, including ACMA, should intrude on user's privacy without proper judicial oversight. This presents a challenge for regulators of misinformation, which have struggled to balance maintaining privacy with tempering the ability of private messaging services to spread misinformation. For this reason, both the existing Australian Code of Practice on Misinformation and Disinformation and the proposed legislation have excluded private messaging services.

Despite this, actions can be taken that can slow the spread of misinformation through private messaging. Private messaging platforms can use design elements and functionality nudges to slow misinformation spread. For example, WhatsApp has introduced limits on the number of people a message can be forwarded to. This change does not require the breaking of encryption or the violation of user privacy and, while it does not stop the spread of misinformation, it has been shown to slow its spread (de Freitas Melo et al., 2020). Such design and functionality changes have the bonus of reducing the spread of spam and scams through these platforms. While it is critical that private messaging platforms are not treated the same way as other digital platforms and privacy is maintained, there is a role for ACMA in ensuring industry best practice to prevent misinformation is implemented at the design level of platforms. Private messaging platforms should therefore be included within the scope of the Act's powers to create codes and standards.

**Recommendation 4:** Include private messaging services within the scope of code and standards powers of the Act, subject to controls to prevent the invasion of user privacy or weakening of encryption.

## Targeting misinformation at its source

While the recommendations above will help the proposed legislation to engender greater trust and efficacy in regulating the spread of misinformation online, the focus solely on misinformation shared through digital platforms misses some of the more insidious forms of malicious communications. The legislation would be far more impactful if it were to target misinformation at the source. Dedicated fake news purveyors typically have a very limited reach. As little as 1%-10% of the population are exposed to fake news sites, yet false claims are often propagated through traditional (print and broadcast) media sources (Tsfati et al., 2020). Some Australian news providers have been shown to be havens for science denialism and science misinformation (Lowe, 2018), while other media outlets can unintentionally amplify misinformation in well-meaning attempts to debunk it (Tsfati et al., 2020). Furthermore, it is much harder for digital platforms to police information coming from traditional media sources, as these sources may produce a mix of misinformation and factual information. Given this oversized role of traditional media in spreading misinformation, any attempt to fight misinformation that does not address the role of traditional media will be insufficient. Extending ACMA's powers to require misinformation standards in traditional media, including print media, will help to minimise misinformation stemming from the source most people receive it from.

To complement this, classroom training that explains the techniques and intentions of misinformation purveyors is needed to build a media literate nation. Evidence shows that this kind of inoculation is most effective prior to exposure to misinformation, with training after exposure not completely mitigating the continued influence of that misinformation (Lewandowsky & van der Linden, 2021). Furthermore, this kind of media literacy training can help to teach people to identify other types of deceptive communication practices and improve critical thinking. It is therefore essential that students are taught to identify misinformation techniques before exposure to misinformation. While outside the scope of the proposed legislative changes, the Government should consider introducing media literacy training in schools to help individuals learn to detect harmful information and engage with information online in a more sceptical manner.

**Recommendation 5:** Expand ACMA powers to enable enforceable industry standards on traditional media sources, including print news media.

**Recommendation 6:** Implement media literacy training within schools to help students learn how misinformation is used and how to detect it.

*ATSE thanks the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for the opportunity to respond to the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 exposure draft. For further information, please contact [academypolicyteam@atse.org.au](mailto:academypolicyteam@atse.org.au).*

## References

- Butler, L. H., & Ecker, U. K. H. (2023). *Misinformation in Open and Closed Online Platforms: Impacts and Countermeasures* (pp. 279–303). [https://doi.org/10.1007/978-94-024-2225-2\\_15](https://doi.org/10.1007/978-94-024-2225-2_15)
- Chandler, C. (2023). *Labor's censorship bill a threat to democracy*. [https://www.senatorchandler.com.au/op\\_ed\\_labor\\_s\\_censorship\\_bill\\_a\\_threat\\_to\\_democracy](https://www.senatorchandler.com.au/op_ed_labor_s_censorship_bill_a_threat_to_democracy)
- de Freitas Melo, P., Vieira, C. C., Garimella, K., de Melo, P. O. S. V., & Benevenuto, F. (2020). *Can WhatsApp Counter Misinformation by Limiting Message Forwarding?* (Vol. 1, pp. 372–384). [https://doi.org/10.1007/978-3-030-36687-2\\_31](https://doi.org/10.1007/978-3-030-36687-2_31)
- Down, R., & Ison, S. (2023, July 11). 'Dangerous and Orwellian': Tech giants and lawyers warn on Labor misinformation bill. *The Australian*. <https://www.theaustralian.com.au/nation/politics/dangerous-and-orwellian-tech-giants-and-lawyers-warn-on-labor-misinformation-bill/news-story/2291f419b6745bf37430945635f7eb89>
- Edelman. (2023). *2023 Edelman Trust Barometer Australia Report*. <https://www.edelman.com.au/trust/2023/trust-barometer>
- European Commission. (2022). *2022 strengthened code of practice on disinformation - factsheet*. <https://doi.org/10.2759/03984>
- Lewandowsky, S., & van der Linden, S. (2021). Countering Misinformation and Fake News Through Inoculation and Prebunking. *European Review of Social Psychology*, 32(2), 348–384. <https://doi.org/10.1080/10463283.2021.1876983>
- Lowe, I. (2018). Climate of denial. *Focus Magazine*. <https://www.atse.org.au/news-and-events/article/climate-of-denial/>
- O'Neil, M., & Jensen, M. J. (2020). *Australian perspective on misinformation*. <https://www.canberra.edu.au/research/faculty-research-centres/nmrc/research/australian-perspectives-on-misinformation>
- Tsfati, Y., Boomgaarden, H. G., Strömbäck, J., Vliegenthart, R., Damstra, A., & Lindgren, E. (2020). Causes and consequences of mainstream media dissemination of fake news: literature review and synthesis. *Annals of the International Communication Association*, 44(2), 157–173. <https://doi.org/10.1080/23808985.2020.1759443>