

29 September, 2024

Submission to
**Senate Environment and Communications
Legislation Committee**

Communications Legislation Amendment (Combatting
Misinformation and Disinformation) Bill 2024 [Provisions]

By Croakey Health Media

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Directors and members of Croakey Health Media are available to discuss this submission further, should the Committee wish this.

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1. Key points

The directors and members of Croakey Health Media welcome this opportunity to contribute to the Committee's inquiry into the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 [Provisions].

In doing so, we acknowledge and pay our respects to the traditional Owners and Custodians of the lands on which we work and to Aboriginal and Torres Strait Islander Elders and your longstanding care for Country and communities. Sovereignty has never been ceded. It always was and always will be Aboriginal land.

We make this submission in our capacity as an independent, not for profit media organisation that is a collaborative project between First Nations and non-Indigenous directors and members, and that reports extensively on the importance of addressing disinformation and misinformation for the health and wellbeing of Aboriginal and Torres Strait Islander peoples, communities and Country, as well as the wider Australian and global community.

We also acknowledge the role of disinformation and misinformation, spread by politicians, mainstream media organisations and online platforms, in undermining public understanding and support for a Constitutionally enshrined Aboriginal and Torres Islander Voice to Parliament at the 2023 referendum.

We encourage the committee to share this submission with Ministers and departments responsible for health policy, given the importance of regulating digital platforms and addressing disinformation and misinformation for the health and wellbeing of communities, and for policies affecting health and wellbeing.

We acknowledge and thank the Minister's office and Department for facilitating a briefing for Croakey Health Media on the bill, on 26 September. We note that the inquiry's website links to the bill and accompanying statements have been unavailable many times in the period leading up to the consultation deadline (we have repeatedly received a 'Bad Gateway' notice when trying to access related documents).

1.1 Strong support for action

Croakey Health Media strongly supports efforts to more effectively regulate digital platforms in order to tackle the dissemination of misinformation and disinformation. The online dissemination of misinformation and disinformation undermines community understanding and political and policy responses to critical public health concerns, ranging from the prevention of illness and disease, to the climate health crisis, and action on the social and cultural determinants of health. It also undermines democracy and social cohesion. We note that Aboriginal and Torres Strait Islander people, as well as other population groups, are disproportionately affected by the dissemination of disinformation and misinformation, and therefore they and their needs should be centrally engaged in responses.

1.2 Cultural safety

It should be acknowledged that in Australia, digital platforms are operating upon the Country of Aboriginal and Torres Strait Islander people, and therefore have a particular responsibility to ensure their cultural safety and wellbeing while using digital platforms. We can find no reference to the importance of embedding cultural safety into regulation of digital platforms, whether in the legislation or accompanying documents. This is a deficit that should be addressed in amendments to the bill and accompanying statements.

1.3 The right to online safety

The legislation and accompanying statements stress the intent to balance regulation of digital platforms with the right of freedom of speech and expression. We assert that there should be equivalent attention in the legislation and accompanying statements to asserting the right of Australians to safety online, as well as the right to a safe, reliable and relevant news and information system. The rights of children and others who are most likely to suffer harm from an unsafe online environment must be prioritised.

1.4 Public health as a consideration in assessing harm

We strongly support the legislation's inclusion of public health, including preventative health measures, as one of the types of identified harm.

We note, however, that concerns have been raised about the narrow definition of public health used in the explanatory memorandum, as "intended to include the government system for providing for the health needs and services of all Australians, including preventative health measures, on the understanding that, if this system and these measures are undermined, the health of Australians will consequentially be undermined".

Committee members may be interested in an article published at Croakey on 27 September, ['Taking on Big Tech: how is the fight shaping up'](#), which includes these comments from public health experts:

Professor Sharon Friel (ANU) told Croakey that it is fantastic that the Government is developing legislation to tackle online misinformation and disinformation, but that it will do little to prevent harm to public health if the legislation focuses only on health services. "The legislation must address the misinformation and disinformation related to the environmental, social and commercial determinants of health such as fossil fuels, plastics and junk foods," she said.

Professor Kathryn Backholer (Deakin University) also suggested the definition of public health was overly narrow and wouldn't encompass other instances of misinformation and disinformation that may cause serious harm to public health in Australia.

1.5 Review of legislation's impact

The Government proposes that there be a review of the legislation's impact every three years. We argue that this is an unacceptable delay given the significant and wide-ranging impacts of disinformation and misinformation. We argue that the impact of the legislation should be reviewed within 18 months of it being enacted, and regularly thereafter. With the

rapidly evolving development of artificial intelligence and other developments, it is highly likely that further actions will be needed.

1.6 The voices of lived experience

In her second reading speech on the bill, Minister Michelle Rowland said: “The bill has undergone considerable consultation, with a significant breadth and depth of engagement with key stakeholders, including from the digital platforms industry, legal and civil society groups, media and factchecking organisations, and research and academic institutions.”

It is notable that her statement did not include a critical group: people with lived experience of the harmful impacts of disinformation and misinformation. We recommend that the Department and ACMA establish an advisory group to ensure the voices of these community members influence implementation and evaluation of the legislation. It is important that such a group has strong representation of First Nations people and other groups who are at increased risk of harm from online disinformation and misinformation.

1.7 Wider action needed

Croakey is aware of the widespread circulation of misinformation and disinformation about the bill, including by mainstream media organisations. It is both predictable and ironic that efforts to tackle misinformation and disinformation would be subject to misinformation and disinformation.

This is a reminder that this bill, while important, is only one part of the whole-of-government and whole-of-community responses that are needed, if the escalating problems of misinformation and disinformation are to be effectively addressed.

We are not aware that there is any national strategy, involving all levels of government, to tackle disinformation and misinformation, and believe this is an approach that should be progressed. Such a strategy should also consider the role of media policy in ensuring a diverse, sustainable media landscape, providing local, jurisdictional and national coverage. We note that state, territory and local governments also have a role to play in contributing to a healthier media landscape.

Committee members may be interested in Croakey’s previous submissions on media-related policies:

<https://www.croakey.org/about-croakey-health-media/croakey-policy-submissions/>

2. About Croakey Health Media

Croakey Health Media is widely recognised as an innovator and leader in the emerging not-for-profit public interest journalism sector in Australia ([Public Interest Journalism Initiative, 2021](#)). We are innovative in our organisational structure, blended funding model and development of the practice of social journalism ([Sweet et al, 2017](#)). We focus on health equity, health in all policies, and the social, cultural and environmental determinants of health. The voices and expertise of Aboriginal and Torres Strait Islander people are foregrounded through our work, including through [our governance](#). Our board is chaired by leading Aboriginal scholars, Professor Bronwyn Fredericks (University of Queensland), and James Blackwell (ANU). We also acknowledge our previous chairs: Professor Megan Williams and Adjunct Professor Janine Mohamed. Croakey Health Media Limited was registered on 24 August 2018 as a member-based company limited by guarantee, after evolving since 2007 as an independent journalism project. The ABN is 59 628 369 335 and the company is registered for GST.

As an organisation, one of our five strategic priorities is to create a sustainable environment for public interest journalism, acknowledging the vision outlined in [our strategic plan](#), that “a vigorous and sustainable public interest journalism sector contributes to the health and wellbeing of people, families, communities, policies, societies and the environment”. We advocate for policy reform to support a sustainable public interest journalism sector, through making [submissions](#), and through [journal and book publications](#), research, and presentations to conferences. We are also proactive in engaging with other public interest journalism publishers and organisations to help build momentum for better policy to support public interest journalism. Croakey Health Media is a member of the Local and Independent News Association (LINA). Our members belong to various professional organisations, including the Media, Entertainment and Arts Alliance.

Below are some links to our work that is relevant for our submission :

Our archive of articles relating to [disinformation and misinformation](#)

Our archive of articles relating to [public interest journalism and health](#)

Our archive of articles on [media-related matters](#).

3. Comments on previous version of this Bill

In August 2023, Croakey provided comments on the previous iteration of this bill. They are summarised below and can be read in full here: https://www.croakey.org/wp-content/uploads/2023/08/CHM_Submission_20Aug2023.pdf

Summary of previous submission

Croakey Health Media strongly supports efforts to more effectively regulate digital platforms in order to stop the dissemination of misinformation and disinformation. It should be acknowledged that in Australia, digital platforms are operating upon the Country of Aboriginal and Torres Strait Islander people, and therefore have a particular responsibility to ensure their cultural safety and wellbeing.

In this submission, we make several recommendations aimed at ensuring such efforts integrate the expertise of First Nations peoples and organisations, public health people and organisations and wider civil society, and provide greater transparency and accountability to communities.

Cultural safety should be integrated into the design and implementation of these structures and processes.

Croakey asserts the importance of acknowledging the community's right to a safe online environment in the legislation. The right to freedom of speech must be balanced against this right, as well as respects for the wider rights of community members who use the internet. The rights of children and others who are most likely to suffer harm from an unsafe online environment must be prioritised.

We also stress the importance of transparency, accountability and deliberative community engagement as part of this legislation. These matters are too important for the health and wellbeing of communities and democracy to be left to governments and agencies working directly with powerful corporations and their representatives in ways that are not always transparent or accessible to the wider community.

In the interests of transparency, we urge that the Government and all MPs disclose the lobbying efforts that have been undertaken by the digital platforms and other relevant parties, such as corporate media, in relation to this legislation. This should include details of all donations to political parties and individual MPs, related meetings, gifts and any other lobbying activities.

Croakey also notes that "freedom of expression" is often used as a justification to enable the dissemination of misinformation and disinformation, including racism and hate speech directed at particular communities. It is critical that the voices and concerns of these communities be privileged in designing, implementing and evaluating this legislation and associated activities. We also note that there are many other policy areas meriting attention in order to support greater freedom of speech within Australia, including reform to support a more diverse media and news and information ecosystem, with targeted support for public interest journalism. Concerted efforts are needed to end the market dominance of powerful corporations such as Google, Meta and News Corp, and to ensure that all communities –

geographic and interest-based – have access to safe, reliable and relevant news and information.

We believe that legislative approaches like this are only one part of the overall response that is needed. We urge the development of a whole-of-government and whole-of-community strategy for envisioning a safe, reliable and relevant news and information system, acknowledging that online platforms are enmeshed with other elements of the news and information system. This is particularly important in an era of escalating climate-related disasters, where emergency and reliable communications will become ever more important.

A digital way forward

Below are principles advocating for safer digital infrastructure and news and information systems, developed through a collaborative process hosted by Croakey Health Media and published on 20 August, 2023 (<https://www.croakey.org/suggested-principles-to-guide-safer-digital-communications-infrastructure-what-do-you-think/>)

1. Digital platforms/communications infrastructure is vital for the health and wellbeing of people, communities, Country and the planet. In an era of escalating crises and emergencies, including climate disruption, it should be regarded as essential infrastructure that must be accessible and available for all, noting its importance in emergency communications in particular.
2. Digital platforms/communications infrastructure should be a safe space for diverse communities, and for respectful interactions and communications, as well as the sharing of reliable, relevant news and information. It should not incentivise or support the sharing of misinformation and disinformation.
3. Digital platforms/communications infrastructure should centre the public interest, rather than being driven by corporate imperatives that actively undermine health and wellbeing.
4. Governments have a role in supporting innovation, growth and greater diversity in this sector, including through seeding of not-for-profit or other non-corporate models, and more effective regulation of Big Tech.
5. The expertise and values of First Nations peoples should inform development of this sector.
6. Equity considerations should underpin developments and discussions in this space.
7. Young people are also central to these discussions. People and communities who have particularly benefited from the platform formerly provided by Twitter, including people with disabilities, lived experience of health challenges, poverty, housing insecurity, and incarceration, also have much to contribute to this discussion.

8. The health sector, researchers, professional organisations and other forms of institutional power have an important role in these discussions, and should be engaging with civil society, as well as tech researchers, developers and advocates, and policymakers.
9. The health workforce, including researchers, clinicians, policymakers, public health and health promotions professionals, educators, community members, carers and NGOs, should be supported to develop greater skills and knowledge in this area.
10. Digital platforms/communications infrastructure should contribute to community cohesion and the sharing and development of knowledge, networks and connections, at local, national and global levels