



**Submission on
Communications Legislation
Amendment (Combatting
Misinformation and Disinformation)
Bill 2023**

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INTRODUCTION

The Australian Health Promotion Association Ltd (AHPA®) is the peak body for health promotion in Australia. AHPA advocates for the development of healthy living, working and recreational environments for all people. Through our work we support the participation of communities and groups in decisions that affect their health.

Australia is one of the healthiest countries in the world. This is largely because of effective public health and its core services – protection, prevention and health promotion which includes action to create and support the social and environmental conditions that enable Australians to enjoy a healthy and happy life. We are now more aware than ever of just how complex the circumstances are by which human health is influenced – policies and actions shaped by the unfair distribution of wealth, power and resources, both locally and internationally. We are also more cognisant of the range of skills and practices required to enhance individual and community capacity and act to address those forces that lead to health inequities - the unfair and avoidable differences in health status seen within and between countries. **Health promotion's role has never been so significant.**

ABOUT US

Incorporated in 1990, AHPA is the only professional association specifically for people interested or involved in the practice, policy, research and study of health promotion. Our member-driven national Association represents over 1000 members and subscribers and is governed by a Board at the national level with operational branches representing all states and territories. Membership of AHPA is diverse, and includes designated health promotion practitioners, researchers and students, as well as others involved in promoting physical, mental, social, cultural and environmental health, whose primary profession or area of study may be something different, but whose responsibilities include promoting health. Members represent a broad range of sectors including health, education, welfare, environment, transport, law enforcement, town planning, housing, and politics. They are drawn from government departments and agencies, universities, non-government organisations, community-based organisations and groups, private companies, and students.

Our activities include: national registration of health promotion practitioners for the International Union for Health Promotion and Education (IUHPE) in Australia; national health promotion university learning and teaching network; early career support; national and local conferences and events; a tri-yearly Population Health Congress (with partners: Public Health Association of Australia, Australasian Epidemiological Association and Australasian Faculty of Public Health Medicine); a website providing professional and membership information; a national listserv providing members with sector news, employment, advocacy and events information; stakeholder and member communication across a range of platforms; advocacy action; strong partnership working with a range of organisations; awards; traineeships; mentoring; scholarships and bursaries; and the Health Promotion Journal of Australia.

Our Vision

A healthy, equitable Australia.

Our Purpose

Leadership, advocacy and workforce development for health promotion practice, research, evaluation and policy.

Our Principles

- Ethical practice - Supporting culturally informed, participatory, respectful, and safe practice.
- Health equity - Addressing the sociocultural, economic, political, commercial and ecological determinants of health in order to build health equity.
- Innovative and evidence informed approaches - Promoting and supporting evidence informed research, policy and practice.
- Collaboration - Working in partnership with other organisations to improve health and wellbeing.

More about our vision for a healthy, equitable Australia can be found in AHPA's [Health Promotion and Illness Prevention Policy](#).

Please do not hesitate to contact us with further questions.



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OUR SUBMISSION

This submission focuses on the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 (Exposure Draft Bill) within the context of the infodemic and, specifically, in relation to proposed provisions, health promotion issues.

HEALTH IS INFLUENCED BY MANY FORCES, INCLUDING THE INFODEMIC

The determinants of health and wellbeing and inequities in health include socio-economic, cultural, commercial, political, ecological, working and environmental conditions.^{1, 2}

An infodemic has been defined as ‘an overabundance of information, accurate or not, in the digital and physical space, accompanying an acute health event such as an outbreak or epidemic’.³ The infodemic and the impact of misinformation and disinformation (mis/disinformation) has emerged as a significant public health issue impacting the COVID-19 pandemic and the emergency response. Mis/disinformation also impacts other health issues including non-communicable diseases,⁴ climate change,⁵ vaccine hesitancy,⁶ and cancer,⁷ among many others. Global Health Professor Ilona Kickbusch has described the infodemic as a “major determinant of health”.⁸

Addressing these interconnected determinants of health requires a multi-sector and whole-of-system response. Strong leadership and governance are required by governments at all levels and responses must engage communities, the public, non-government organisations, universities and research institute.⁹ Where the private and commercial sector are engaged, vested interests and influence in policymaking must be made limited and where present, made transparent.

There is evidence that vulnerable populations are more likely to be targeted by, and impacted by mis/disinformation and this has been exacerbated by the COVID-19 pandemic.^{10, 11, 12} In Australia, education levels, English competencies, digital and health literacy levels, and trust in government and authorities influence mis/disinformation.¹² The cost of mis/disinformation has been quantified by researchers at the Johns Hopkins Center for Health Security as an estimated \$US50-\$US300 million a day,¹³ while a 2023 report by the Canadian Expert Panel on the Socioeconomic Impacts of Science and Health Misinformation estimated misinformation cost the health system \$300 million in a 9 month period, and contributed to 2,800 deaths and 13,000 hospitalisations.¹⁴

A COMPREHENSIVE PUBLIC HEALTH RESPONSE IS REQUIRED

Effective health promotion and illness prevention requires multiple complementary evidence-informed strategies. These include health promoting policies (such as strengthened legislation, regulatory, and fiscal measures), the creation of health promoting environments, community engagement and action, support to empower people to increase awareness and control over their health and ensuring person-centred health.^{15 16}

Similarly, the infodemic needs a comprehensive response, of which moderation of online mis/disinformation is an important part. This Exposure Draft Bill forms part of that response. However, with a health promotion lens, there is an urgent need to increase digital and health literacy, and in particular with vulnerable populations.¹⁷ A comprehensive approach to addressing the challenges posed by mis/disinformation could be based around the five key action areas of the Ottawa Charter for Health

Promotion.¹⁵ We propose the following actions and activities as an example of what such a comprehensive response to the infodemic may include:

Building healthy public policy

- Integrate infodemic management into workforce capacity and policy.
- Provide flexibility in the health system to coordinate response and surge capacity.
- Regulate mis/disinformation.
- Ensure policy makers are aware of the consequences of non-action on mis/disinformation.

Creating supportive environments

- Focus on the wider system where people live, work and study (determinants of health).
- Create supportive information environments that help guide people towards evidence-based and appropriate information to support effective decision making.
- Provide structures and systems to reduce barriers for individuals and communities to participate – e.g. hotlines for reporting rumours, buttons to alert social media companies to flag misinformation.

Strengthening community action

- Create and maintain relationships of trust and solidarity between community, family, health system and authorities.
- Create culturally safe and appropriate approaches through comprehensive and sustained community engagement.
- Build workforce and community capacity and deployment pathways.
- Develop community resources for infodemic management.

Developing personal skills

- Promote digital literacy, health literacy, inoculation and prebunking initiatives.
- Work with partners to develop and deploy strategies across the life-course.
- Ensure an equitable approach targeting those most at risk and tailoring interventions appropriately and with community.

Reorienting health services

- Increase research capacity and funding on these issues.
- Identify data sources and create systems to share data.
- Develop ethical frameworks to increase a focus on critical health literacy.¹⁸
- Develop integrated social listening programs building on existing sources.
- Allocate or increase funding to new or existing health promotion communication services.
- Reorient to integrating infodemic management into preparedness, as well as emergency activities.

Identifying and addressing mis/disinformation is important, but any long term, sustainable strategy also needs to understand and address the drivers and determinants if substantive change is a goal.

Mis/disinformation thrives when information voids are not answered i.e. when people have questions and they cannot find the answers in rapid, accessible and appropriate formats. It is important to increase the quality and accessibility of information, work with community and community leaders to develop appropriate pathways, build trust, and develop social listening systems to ensure early identification of

concerns and questions.¹⁹ We recommend taking a critical health literacy approach which encourages a focus on more than just health resources but broader community capacity and democratic participation. In this manner, by taking a holistic approach it is possible to build community resilience so that when people see mis/disinformation they recognise it and can evaluate it and dismiss it themselves and can continue to engage in processes which ensure their full participation in decision making by government.

SPECIFIC COMMENTS ON THE EXPOSURE DRAFT BILL

This Exposure Draft Bill asks digital platforms to moderate after the fact. People will still see mis/disinformation for a period of time (currently not detailed) before it is taken down, if it actually is. Take downs are not, as the supporting documentation indicates, the first option. This is only one action and a focus on preventive action will be critical. Overall, we believe this Exposure Draft Bill is an important step towards mitigating the impact of online mis/disinformation on public health.

We support:

- The overall intent of the Exposure Draft Bill and its recognition that mis/disinformation can cause serious harm to Australians.
 - The supporting Fact Sheet specifically states “... misleading and deceptive information online has resulted in a multitude of harms from disrupted public health responses...”(p 3)²⁰
- The scope of the private message exemption.
 - Ethical and privacy considerations mean that in the context of the information currently available to us we support the exclusion of private messages from this proposed legislative framework. Maintaining trust in government is key in maintaining a healthy democracy and ensuring pathways for healthy exchange are maintained. Any perception, perceived or otherwise, that the government was monitoring, or could request access to, private messages shared between individuals would risk eroding this trust.

We have reservations and concerns relating to:

- The onus being placed on the digital platform industry to develop policies to address mis/disinformation.
 - AHPA notes that multiple examples of voluntary codes of conduct/practice have shown to be insufficient in achieving widespread change, and supports the implementation of comprehensive, mandatory regulation to protect people from serious harms of mis/disinformation. We would prefer to see a fixed time period for the digital platforms to have in place self-regulation and a fixed time period for its evaluation of effectiveness failing which mandatory codes are applied. The uncertainty in the current timelines adds to the uncertainty already fostered by online mis/disinformation.
- Exclusion of government content from the scope of the Exposure Draft Bill.
 - The Exposure Draft Bill definitions provide for content that is authorised by the Commonwealth, or state or territory, or a local government to be excluded content for misinformation purposes.

Excluding government content from the scope of this Exposure Draft Bill makes the assumption that somehow its actions, through commission or omission, are not subject to the same rules and regulations as everybody else’s online activities on digital platforms. This arrangement may serve to inadvertently

undermine trust in public health communications, activities, and engagement. There needs to be further exploration of this issue in order to ensure that safety, trust, and solidarity in relation to government derived public health activities is enhanced not reduced by this particular approach.

- The definition of serious harm in Subclause 7(3).
 - Serious harm is defined as having regard to a number of matters which are listed in a. - i. of subclause 7(3). It is unclear as to the process of determining likelihood of serious harm as it appears that all elements of this subclause need to be included in that assessment. However, given wording, it may be argued that not all of elements are taken into consideration. This apparent lack of clarity, whilst allowing a potential wide scope of determination, also allows a wide scope of uncertainty.

We request that consideration be made for:

- Allowing and facilitating access for researchers to de-identified data and information captured by the monitoring systems being put in place under this Exposure Draft Bill.
 - Creating transparency holds all participants in space accountable.

Finally, there are a range of questions which the Exposure Draft Bill and supporting documents do not address in detail. Having this information will be useful to assess the efficacy of the various provisions and regulatory framework that is proposed. These questions include:

- How can the public participate in the processes? What are the systems for them to highlight concerns if they feel digital platforms are not responding appropriately?
- What will trigger ACMA requesting digital platforms produce evidence on action? Will this be routine or triggered by an action, if so, what is the action?
- What information will be made public and at what frequencies?
- How will ACMA make the determination that the efforts of the industry are proving inadequate?

In conclusion then, whilst we support the intent of the Exposure Draft Bill, we recognise that there are some significant limitations and concerns which remain unresolved in its current format. We would urge the government to ensure that these issues are addressed in order to provide the Australian community with a more robust and thorough framework in mitigating misinformation and disinformation online.

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