



## **SUBMISSION TO SENATE COMMITTEE ON MISINFORMATION AND DISINFORMATION MEDIA ENTERTAINMENT AND ARTS ALLIANCE - OCTOBER 2024**

### **OVERVIEW**

A new day, a new outrage.

Misinformation and disinformation are defining a new age in division and despair.

Bad faith actors, foreign countries, hustlers and grifters, shit stirrers and contrarians have formed a dangerous and defiant online presence.

For us as the Media Entertainment and Arts Alliance, it has a direct and very damaging impact on 5000+ media section workers – the journalists, photographers, videographers, producers, cartoonists, writers, producers and other workers in the news media – as they try to uphold ethical, public interest journalism.

It is the minnow swimming against the whale of digital disaster and dissent, deliberate undermining of democracy and public institutions.

But it also has an impact across our whole union membership – all 16000 of them - our actors and live performers, our entertainment crew and sport members and our musicians who are deeply committed to Australian culture, storytelling, songs and events.

As citizens we are all trying to navigate overwhelming volumes of information, where detecting fact from fiction sometimes feels like an impossible task.

In the US this week we've seen the direct damage of malicious disinformation campaigns, as people affected by Hurricane Helene were bombarded with false material about the emergency response which actually endangered lives. If people in crisis don't know where to go and what's available, and are distrustful of officialdom, there can be deadly consequences.

We saw it over the years of the Covid pandemic. We watched it through The Voice campaign.

Our media members have been waging an uphill battle trying to correct the record, clarify confusing situations.

A journalist colleague noted that "It's a lot more work to say something is definitively false, than it is to simply repeat falsehoods."

The social media platforms are not doing enough to counter the effects, indeed some are even actively spreading lies and falsehoods – for political reasons, for money, for who knows what else.

The owner of X – formerly Twitter – was described by a journalist recently as the "Misinformation and Disinformation Officer in Chief."

It's important that the truth is on the public record. But this takes huge resources – time, money - in an industry already stretched to the limit.

Broken business models have led to a contraction of the number of journalists in recent years. There are far fewer newspapers, TV stations, radio stations and media outlets generally, particularly in regional Australia where so-called “news deserts” are becoming the norm. We've seen smaller, independent, digital firms start up in recent years but overall, our news media industry is smaller, despite what seems to be an insatiable demand for news and information. The advertising revenue that once funded public interest journalism, has been sucked up by digital media companies which produce no content of their own but are making money off the work of news media outlets and journalists. Now, with AI that work is also being manipulated, stolen, and used against media companies.

Our members are engaged in “pre-bunking” – pre-emptive debunking of lies and mistruths, in anticipation of yet another round of pile-ons, or bot offensives.

And it's not just media organisations which are dealing with these threats. Government agencies, health services, private businesses serving the public are all finding themselves swamped with misinformation and disinformation, and they have to respond.

But as one MEAA member noted “we are not going to fact-check or moderate our way out this”.

This is going to take strong action. We note the constructive engagement by the government in the formulation of this bill.

## **SPECIFIC ISSUES**

In our submission last year, we proposed a number of changes to the legislation to balance the need to respond to dangerous behaviour with ensuring free speech and preventing censorship.

We are pleased that **professional journalism** is part of the exclusions. While the terms “professional news media” and “professional news content” are used in the drafting, we prefer a reference to “ethical, public interest journalism”. We are concerned that the term “professional” could be used to exclude journalists, writers and media workers who might make little or no money in their journalism. There are important independent publications, broadcasts, newsletters and websites from accomplished journalists that are done for public service, not money. Freelancers make up a third of our media membership and there is a real danger their work would not be recognised if there is a restrictive interpretation of “professional” or what is sometimes talked about as the “business of journalism”. This is particularly the case for journalists and writers from diverse backgrounds, whose voices are vital to our society. Professional journalism is that which abides by ethical standards and is done in the public interest. These days it comes in many forms.

It's critical that **MEAA's Journalist Code of Ethics** be incorporated in this legislation, as the world's oldest journalist code and one that stands the test of time since its inception in 1944. It is a code recognised and upheld by industry peers. It's based on the ideas of honesty, fairness, independence and respecting the rights of others, and features 12 simple but reasonable elements to abide by.

We contend that proposed section 16 of Schedule 1 is deficient because it fails to expressly specify that the MEAA Journalists Code of Ethics is one among the codes or standards which satisfy the requirements of s 16(2)(b).

The MEAA Journalists Code of Ethics is not a legislated standard, but it is a standard made under the rules of a registered organisation and approved for registration by a statutory authority (the Fair Work Commission). The MEAA Journalists' Code of Ethics is of no lesser statutory status than the codes and standards specified at s 16(2)(b)(i)-(iii).

It should not be left as a matter for argument between lawyers in a court as to whether the MEAA Journalists Code of Ethics is a code or standard of equivalent relevant status as the codes or standards specified at s 16(2)(b)(i)-(iii).

The reassurance offered in the Explanatory Memorandum<sup>1</sup> is not the same thing as express terms of a statute, and is not conclusive.

**Media Literacy** is cited as a means by which the digital giants can mitigate risk. Journalists must be consulted and be part of designing this, not just the digital giants. Day in day out our members are coming across the latest ways to deceive and divide. Our members know the tools that work and have the skills, understanding and experience to know what to detect, and to respond quickly when there are changes.

It's also important that such measures need to address the actual problems. One journalist noted that the problem lies more with older users rather than younger users. Older users find it harder to differentiate truth from lies, they are more likely to share material without checking it, they are more likely to fall for scams. This isn't an ageist remark, it's the reality of those who are in the main less comfortable and adept with the technology.

We are pleased to see some amendments and clarifications about the meaning of **serious harm**.

We welcome the improvements in Section 14 especially the removal of proposed subclauses (e) "harm to the Australian environment" and (b) "disruption of public order or society in Australia".

But we are still concerned about the nature of harms and how 'serious harms' are measured, what thresholds will be used.

Some of the harms are vague and broad e.g. subclauses (g) "significant and far-reaching consequences for the Australian community or a segment of the Australian community" and (h) "severe consequences for an individual in Australia".

Commentary by Lorraine Findlay from Law School of University of Queensland captures some of our concerns:

"As there is no defined threshold for the minimum contribution that is required, this means the legislation could capture communications that add one inadvertent teaspoon to an ocean of harm. Platforms like X (formerly Twitter) are bursting with users sharing their perspectives on complex issues within set character limits. The potential to mislead others by inadvertently omitting key facts or nuances, or over-simplifying a complex topic, could become an easily justified means of removing posts if those posts are characterised as misinformation or disinformation."<sup>2</sup>

Of particular concern is subclause (f) "imminent harm to the Australian economy, including harm to public confidence in the banking system or financial markets".

MEAA believes the inclusion of this “harm” is dangerous and open to misuse and exploitation. Indeed, just about any industrial and political protest action could be considered to cause “imminent harm to the Australian economy” by governments and powerful interests.

We believe this presents a direct threat to freedom of speech and political expression.

We are dissatisfied that the explanations articulated in the explanatory memorandum provide enough clarity or surety that these subclauses will not be misused or exploited by future governments or powerful interests.

**Enforcement and compliance** are critical to minimising the harms of misinformation and disinformation. There’s little point codifying or regulating if there’s no follow through. If the companies set codes, agree to regulation, agree to reporting and then are never held to account what is the point?

On page 5 of our previous submission to this process, we stated that it is “important that civil penalties are utilised by ACMA to incentivise compliance and ensure digital platforms take these obligations seriously. However, this presupposes that the other concerns identified in this submission can be resolved satisfactorily.”

Tech companies often use the excuse “we’re complying with industry standards” when it comes to moderation and removal of content, without acknowledging that those standards have been eroding, not improving.

We also know very little about what the Tech companies are doing to fulfill current obligations never mind new ones. There’s great resistance to respect and recognise local laws and to meet the expectations.

Journalists have noted that tech companies need to be held to account, and must be required to report what they are going to do to counter misinformation, and then report back on what they’ve actually done.

Another journalist raised the issue of the refusal of the tech giants to reveal how they are monitoring and tracking misinformation and disinformation. This person noted the digital firms are in fact doing nothing to counter the material.

A journalist member noted that tech companies cannot be allowed to ignore Australian standards on these issues. Australians have an expectation that the platforms are scrutinising content and acting when they know there is misinformation and disinformation.

Another colleague noted that a big issue was that people “go hunting for material that confirms their beliefs and the stereotypes.” This is exploited by people with bad intentions. But we should also be exploring why people are wanting this information.

Because what is happening is undermining society. Australians are losing trust in public institutions and in each other. This is having a profound effect.

The main factor of misinformation and disinformation is to sow doubt – it doesn’t have to change people’s minds or convince people of a point of view, all it has to do is create uncertainty, to have people question what’s going on.

## **CONCLUSION**

In a survey of almost 400 MEAA members in June of this year, 74% of respondents say they are “extremely concerned” about misinformation and disinformation

This survey was part of our research into Artificial Intelligence. These matters are all combined.

In a hearing before a committee looking at Social Media and Australian Society on September 30th, MEAA also noted the prevalence of misinformation and disinformation on social media platforms, and the resources news media organisations now have to dedicate to countering misinformation/disinformation. MEAA has also made a submission to the AI inquiry noting the theft of our members work by AI companies and the impact AI is having in further causing confusion and chaos.

Social Media. Artificial Intelligence. Misinformation and Disinformation. These are all connected. MEAA hopes that the committees looking into these disparate aspects, do combine their findings and efforts to ensure the parliament and decisionmakers are seeing the full picture.

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<sup>1</sup> Explanatory Memorandum p.64

[https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r7239\\_ems\\_13b01a0b-4684-4e0e-b336-0028d4c0e3cd/upload\\_pdf/JC014003.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r7239_ems_13b01a0b-4684-4e0e-b336-0028d4c0e3cd/upload_pdf/JC014003.pdf;fileType=application%2Fpdf)

<sup>2</sup> <https://theconversation.com/the-federal-governments-proposed-mis-and-disinformation-laws-need-to-have-clearer-definitions-and-include-ai-237211>