

October 21, 2024

Answers to Questions on Notice to Professor Bronwyn Fredericks (Co-Chair), Dr Melissa Sweet (Editor-in-Chief), Croakey Health Media

Senate Environment and Communications

Legislation Committee inquiry into Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 [Provisions]

Our thanks to Senator Lisa Darmanin for your questions on notice.

Q: While your submissions notes concerns from public health experts that the Bill is too narrow, others in the health field have argued the opposite – that the Bill is too broad. What is your view of Dr Nick Coatsworth’s submission to this inquiry that he does not support the Bill on the grounds that “it is likely that legitimate debate over public health priorities and concerns about the efficacy and necessity of public health measures would be stifled”?

A: To clarify, our submission notes concerns that the definition of ‘public health’ used in the explanatory memorandum is too narrow. It appears to define ‘public health’ in relation to health services; saying that it “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”.

As we (Professor Bronwyn Fredericks and Dr Melissa Sweet) stated when giving oral evidence, public health is a broad concept that encompasses the wide-ranging determinants of health, including healthcare, but also social, environmental, political and cultural determinants of health, for example. It is important that consideration of the public health impacts of misinformation and disinformation consider these wider impacts. For example, as this inquiry was taking evidence, the spread of misinformation and disinformation in the United States was impeding disaster and recovery responses to Hurricane Milton. This is an example of what we would consider to be a significant threat to public health, when peoples’ lives are at stake, although the risk was not mediated via health services (Barrett, A, [Calls for action as destructive tide of misinformation undermines public health, democracy and wellbeing](#), 17 October, 2024).

You have asked us to respond to Dr Nick Coatsworth’s submission. Firstly, as a general point, we note that health organisations with important expertise in this area – including the Public Health Association of Australia, the Australian Health Promotion Association, the Public Health Faculty of the Royal Australasian College of Physicians, the National

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Aboriginal Community Controlled Health Organisation, the Lowitja Institute, the Consumers Health Forum of Australia and the Australian Healthcare & Hospitals Association – do not appear to have been consulted by the inquiry. It is important the inquiry takes into account public health expertise from across the sector rather than being unduly influenced by any single individual. If these organisations and others with related expertise were not consulted in the drafting of the bill, then we strongly urge that this happens. These types of organisations also should be involved in evaluation of the legislation. Given the importance of this legislation for public health, we urge the committee to be proactive in seeking advice from across the health sector, and taking note of the sector's collective expertise.

In response to Dr Coatsworth's specific concerns about suppression of public health policy debate, it is clear this is not the intention of the legislation. It is also clear that there is a long history of vigorous debate within the health and medical sciences and publishing, recognising the knowledge constantly evolves and is often contested. The legislation is clearly not aimed at suppressing this sort of debate; rather, it seeks to make corporations more accountable for their dissemination of misinformation and disinformation, noting that their algorithms and business models are often based upon the circulation of harmful content.

We reiterate the recommendation in our submission that the impact of the legislation should be reviewed within 18 months of it being enacted, and regularly thereafter. Such a review could investigate the type of concerns raised by Dr Coatsworth, as well as the concerns raised by others who believe the legislation will be insufficient to address the significant and wide-ranging impacts of disinformation and misinformation. This is particularly important as the use of generative artificial intelligence becomes more prevalent.

Q: How does online misinformation and disinformation impact the individual rights and freedoms of Aboriginal and Torres Strait Islander people, including:

- *The right to physical safety;*
- *the right to be protected against discrimination, enshrined in numerous international human rights instruments; and*
- *the right to take part in the conduct of public affairs, and to vote and be elected at genuine periodic elections?*
- *How can cultural safety be embedded into regulation of digital platforms?*

A: We encourage the inquiry to read this article addressing some of these questions, by Professor Bronwyn Fredericks, published by Croakey Health Media on 16 August, 2023: [When tackling misinformation and disinformation, Indigenous peoples' perspectives and representation are vital.](#)

We also recommend this chapter by Croakey Health Media directors Professor Megan Williams and Dr Melissa Sweet in a public health textbook: [Media and Misinformation, in Political Determinants of Health in Australia](#), published by Routledge, earlier this year.

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Further responses follow below.

- *The right to physical safety.*

Misinformation and disinformation are regularly spread online about Aboriginal and Torres Strait Islander people, including racist, and inflammatory comments and hate speech. This has a direct impact upon Aboriginal and Torres Strait Islander peoples' physical safety, noting that social and emotional wellbeing is directly linked to physical safety. Mental health distress and suicide risk are closely associated with social and emotional wellbeing. It is extremely difficult to maintain social and emotional wellbeing when Aboriginal and Torres Strait Islander people face racist, hateful comments as part of daily interactions on social media.

Other ways that physical safety is undermined include through the spread of misinformation and disinformation about public health measures, such as vaccination.

- *the right to be protected against discrimination, enshrined in numerous international human rights instruments*

As noted above, the failure of social media companies to stop the spread of racist and hateful commentary targeting Aboriginal and Torres Strait Islander people is a clear breach of human rights. It has also undermined efforts to ensure more effective protection of Aboriginal and Torres Strait Islander peoples' rights, for example through the proposed Voice to Parliament and through measures such as truth telling and treaty.

- *the right to take part in the conduct of public affairs, and to vote and be elected at genuine periodic elections?*

The failure of social media companies to stop the spread of racist and hateful commentary targeting Aboriginal and Torres Strait Islander people undermines their capacity to participate in public life, including through online participation, contributing to public debate and running for elections.

- *How can cultural safety be embedded into regulation of digital platforms?*

Cultural safety is a concept that first arose in healthcare, but is now widely applied across many domains, including education, research and journalism. If Australia had established a Voice to Parliament, this would have been an ideal mechanism for embedding cultural safety into regulation of digital platforms. In the absence of such a mechanism, ACMA and the relevant departments and bodies should establish a similar mechanism to ensure Aboriginal and Torres Strait Islander people have a strong voice on the development, implementation and evaluation of such regulation.

As well, Croakey's submission recommended that ACMA establish an advisory group that includes the expertise of people with lived/living experience of the harms of misinformation and disinformation, as well as significant First Nations representation, and young people. Further, we note our submission's recommendation that the Government must urgently develop a whole-of-government, whole-of-community engagement and national strategy to tackle misinformation and disinformation. This bill is only one part of

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the solution. Policies to support a more diverse and sustainable media landscape are also critical.

Thank you for the opportunity to contribute in more detail to the inquiry. We acknowledge and thank Alison Barrett, public health journalist and managing editor (part time), at Croakey, for reviewing this response.