



30 September 2024

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

***Communications Legislation Amendment
(Combatting Misinformation and Disinformation) Bill 2024 (the Bill)***

Thank you for the opportunity to make this submission.

In summary:

- Community broadcasting is recognised as an important source of trusted independent news and information, particularly in emergencies.
- Community broadcasters support this important legislation to address the proliferation of seriously harmful content online.
- Under current drafting, the Bill does not explicitly include community broadcasters in the media exemption.
- The current Bill could enable digital platforms to decide what community broadcasting news and information is available to communities.
- We are seeking an amendment to section 16 to address this error.

Who we are

The CBAA represents 450+ not-for-profit community broadcasters across Australia, delivering 500+ radio services on AM, FM and DAB+ platforms, streaming, podcasts and catch-up online.

Our sector is a vital part of the Australian media as recognised in National Cultural Policy Revive: a *place for every story, a story for every place* - including the need for Government action to “increase support for community broadcasting to deliver local news.” As Australia’s largest independent media sector, community broadcasting is a key asset for any strategy to counter online misinformation and disinformation.

Our stations provide a trusted voice for underrepresented and underserved communities including First Nations people, culturally and linguistically diverse communities, education, faith-based communities, people with disability, youth and seniors. Community broadcasting is also recognised for its key role during emergencies and for disseminating trusted public health information during the pandemic.

The Explanatory Memorandum references many examples of harmful mis- and disinformation, including the wrongful identification and subsequent harassment of a young man as a suspect in the 2024 Bondi Junction killings. Community broadcasting, by definition, supports and serves community interests, which puts the sector in a unique position to be able to counter these very types of harms. For example, in 2021, local Indigenous community radio broadcaster *Ngaarda Media* broke the story that a national commercial television broadcaster had wrongly identified a man as having abducted a 4-year-old girl in Carnarvon, Western Australia. This misinformation, which was widely disseminated in national media and online, led to the man being harassed and hospitalised. Through local knowledge and community connection, *Ngaarda Media* were able to correct the record and give a voice to the wrongly accused man.

Rationale for the media exemption

The Bill, which is aimed at regulating digital platforms and in setting the boundaries of its remit, provides for “excluded dissemination” defined in section 16 which ensures that certain trusted media are exempt from the provisions of the Bill. The purpose of this exclusion as outlined in the Explanatory Memorandum is to “not infringe on the independence of the media,” for the stated reasons that:

- “this type of content is subject to the industry’s own separate and recognised editorial standards;
- digital platform services should not be in the position of determining if professional news content is misinformation or disinformation.”

The CBAA agrees with and supports this position, which should apply to community broadcasting.

Concerns about the Bill

Due to the way in the above drafting, the community broadcasting sector’s Codes of Practice are not specifically mentioned in the “excluded dissemination” definition, as are other industry codes listed in section 16(2)(b). There is a catch-all provision for “analogous codes” in subsection 16(2)(b)(iv) which should cover the community broadcasting sector codes though this provision is unclear.

- Current community broadcasting Codes address news and information and are registered by the ACMA under comparable *Broadcasting Services Act 1992* process to other licensed broadcasters and with more involvement by the ACMA than required for the national broadcasters.
- New Community Radio Broadcasting Codes of Conduct, which are the result of lengthy consultation, are imminently due to be approved and registered by the ACMA.
- The new Codes represent the state-of-the-art approach to news, based on the ACMA’s latest community expectations research and in line with its advice. Our new Code provision on disinformation and misinformation, developed with the ACMA, is the first in any Australian media industry code. (This also underscores how illogical it that our Codes are not mentioned).

If section 16(2)(b)(iv) does not include community broadcasting Codes, this is a serious gap in the Bill. If section 16(2)(b)(iv) does cover our Codes, it should clearly say so, as the ambiguity creates problems:

- The lack of explicit mention in this pivotal provision gives the impression that our sector (which has been subject to a co-regulatory Codes scheme since the inception of the *Broadcasting Services Act 1992*) is intended to be treated differently to other similarly regulated licensed broadcasters.
- This is likely to be the source of confusion for both digital platforms and community stations and may create unnecessary administrative burden for the ACMA in mediating these issues.
- If, under the Bill provisions, a digital platform removed or otherwise treated community broadcaster content as if it was covered by digital industry codes, this would infringe the independence of our sector by permitting digital platforms to regulate the sector’s content and, in doing so, duplicate existing sector regulation under the *Broadcasting Services Act*.
- Stations seeking to dispute these decisions will be subjected to the burden of time, cost and effort, as will the digital platforms and the ACMA.
- If a dispute is escalated to the ACMA for determination around section 16(2)(b)(iv), there will remain an ongoing communications problem around keeping the changing landscape of digital platforms and stations informed of whether or not our sector Codes are covered.
- Worse, stations may not even be aware that a digital platform has deprioritised their content due to its misunderstanding of the media exemption in the legislation.

These sorts of negative outcomes serve no policy purpose, create unnecessary burden and are contrary to the intention of the Bill to maintain the independence of the Australian media. All of this is completely avoidable with a simple clarification.

Given the importance of this Bill and its urgency, the CBAA requests that the Committee recommend the Bill be amended either by the inclusion of a new subparagraph explicitly mentioning our Codes or, more simply, the replacement of subparagraphs (ii) and (iii) with a reference to all licensed or national broadcaster Codes of Practice registered with the ACMA under the *Broadcasting Services Act*.

The CBAA is pleased to provide the Committee with any further information it may need in relation to any of the above matters, including meeting with you.

Sincerely,

Jon Bisset

Chief Executive Officer, CBAA