

To: Parliamentary Joint Committee on Intelligence and Security

Subject: Submission Opposing the Combatting Antisemitism, Hate and Extremism Bill 2026

Introduction I am writing to express my absolute and unreserved opposition to the *Combatting Antisemitism, Hate and Extremism Bill 2026*. While the stated goal of protecting citizens is noted, the mechanisms proposed to achieve this represent a draconian overreach of government power. This Bill does not merely punish hate; it threatens the fundamental democratic rights of freedom of speech, freedom of association, and the presumption of innocence.

1. Dangerously Broad Definitions, Weaponisation, and the "Chilling Effect" The legislation criminalizes "advocating" violence or force using vague terms such as "counselling, promoting, encouraging or urging." These definitions are dangerously subjective. By policing loose concepts, the government is not merely punishing incitement; it is creating a legal framework ripe for abuse.

Even if the current administration intends to use these powers benevolently, legislation must be judged by how it can be used by the worst actors, not the best. History demonstrates that vague speech laws function as a weapon that lies in wait. It only takes one unscrupulous actor to abuse the law for personal gain - silencing a rival or punishing a detractor - to start a downward spiral. Once weaponised, these laws force all political actors to wield them offensively to survive, dismantling the possibility of honest discourse.

We have seen the endpoint of this trajectory in the history of the 20th century. In Maoist China, the suppression of criticism and the vagueness of "anti-revolutionary" crimes created an environment where citizens were terrified of being seen as insufficiently loyal. This fear led to absurdities such as the "Mango Cult" of 1968. Because the rules of acceptable conduct were opaque and enforcement was draconian, citizens engaged in frantic pattern-matching to survive. Workers worshipped mangoes gifted by Mao - preserving them in wax or boiling them in vats of water so thousands could drink a "homeopathic" dose of the leader's generosity - not because they were ordered to, but because in a system where dissent is criminalized, performative absurdity becomes the only safe harbour.

When the state polices speech based on subjective determinations like "recklessness" or "promotion," it forces the populace into a similar state of paralysis and performative compliance. People will no longer speak the truth; they will say whatever they believe will keep them out of prison. This is the hallmark of a totalitarian state, not a free democracy.

2. The Removal of "Good Faith" Defences and the Death of the Larrikin

The Attorney-General's guidance explicitly states: "There is no good faith defence for these offences."

In conjunction with the broad definitions of "advocating" or "promoting," this removes the shield that historically protected journalists, academics, and artists. If a journalist documents a hate group's manifesto to expose it, they have technically "published" hate speech. Without a Good Faith defence, their intent to expose the hate is irrelevant; they are guilty of the act itself. This mirrors the legal structures of authoritarian regimes, where "counter-revolutionary" activity was judged solely by its outcome or perceived insult to the state, not the intent of the accused.

One of the best things about Australia has always been our ability to laugh at ourselves, to not take ourselves too seriously. There is a long history of the use of irony, and targeted absurdity to puncture inflated egos and expose hypocrisy. These new laws don't just kill that larrikin spirit dead, thanks to Section 114A.3(2), it appears 90% of the Australian comedy scene are in danger of being prosecuted. Shows like *The Micallef Program*, *The Late Show*, *The Chaser's War on Everything*, and *Danger 5* all featured actors dressing up as nazis or Hitler to satirise the absurdity of the third reich - but under this law they could be prosecuted for 'advocating' the very things they are mocking.

Satire functions by mimicking the thing it attacks. By criminalising the act of promotion or advocacy without regard for the intent (Good Faith), the government is effectively banning irony. We are moving toward a society where the only safe speech is literal, flat, and government-approved - a bleak outcome for a nation that prides itself on its irreverence.

3. Enforcing Blasphemy Laws by Proxy: The "Reasonable Member" Trap

The Bill fundamentally alters the legal standard of harm by replacing the objective "ordinary person" test with a subjective test based on a *"reasonable person who is the target, or a member of the target group"* (Section 80.2BF(1)(c) and Section 80.2H(3)).

This change is catastrophic for secular democracy. It anchors the definition of criminal speech not to the shared values of the Australian community, but to the specific sensibilities of the group claiming to be offended. This creates a perverse incentive structure that rewards histrionic behaviour and promotes fundamentalism.

A. The "Race to the Extremes" By defining harm through the eyes of the "targeted group," the legislation encourages groups to moderate away from the centre. If a religious or ideological group adopts a fundamentalist view - for example, that mocking their creation myth is not just rude, but a form of "spiritual violence" or "intimidation" - the law must accept that a "reasonable member" of that group feels intimidated by such mockery. Consequently, the most fragile and extreme elements of a community get to set the legal bar for what the rest of society is allowed to say. It grants a "Heckler's Veto," where the price of protection from criticism is simply to claim that the criticism is terrifying.

B. Silencing the Antidote to Extremism Mockery has historically been the most effective non-violent weapon against authoritarianism and religious extremism. When beliefs claim to be above question, humour drags them back down to earth. By criminalising conduct that a religious fundamentalist might find "intimidating" or "harassing," this Bill effectively resurrects blasphemy laws under the guise of safety. If a "reasonable member" of a fundamentalist group considers it "hateful" or "intimidating" to laugh at the claim that the universe was created in seven days, or that a specific prophet is infallible, ordinary Australians could face prosecution for "advocating hatred" simply for voicing scientific scepticism or satirical dissent. A free society cannot survive if it allows its most dogmatic citizens to dictate the limits of public discourse.

Modern Christianity, for example, was forged in the fires of robust free speech and spirited debate. Because it has been subjected to centuries of mockery, schism, and criticism, it has evolved to be highly compatible with secular society. A "reasonable member" of a modern Christian denomination does not fear ridicule. We should be rewarding religions and ideologies that follow this path of resilience. Instead, this Bill punishes them by offering special legal shields to groups that refuse to moderate.

4. Retrospectivity, Ministerial Decree, and the Abandonment of Natural Justice

For those familiar with the history of authoritarian regimes, the retrospectivity in this Bill is a mistake in and of itself. By defining a "hate crime" to include conduct engaged in *before* the provision commenced (Section 114A.3(2)), the government destroys the certainty of law, forcing citizens to live with the fear that what they say today could be held against them if it is outlawed tomorrow. While this stops short of creating new criminal offences retroactively (which would be unconstitutional), it nevertheless introduces a form of de facto retrospectivity. The government, with its high unlimited resources, can then use the 'Process as Punishment', rendering life inhospitable for the accused without the need to bring criminal charges.

This Bill goes further still however. **Section 114A.4(5)** explicitly states that the Minister "*is not required to observe any requirements of procedural fairness*" when deciding if a group is a prohibited hate group. Coupled with **Section 114A.4(4)**, which removes the requirement for a criminal conviction, this grants the Minister the power of a Judge without the constraints of a Court.

The Minister can unilaterally declare an entity a "Hate Group" based on secret evidence ("intelligence") that the accused is never permitted to see or contest. This is not justice; it is administrative fiat. It replaces the "Presumption of Innocence" with a "Presumption of Guilt by Ministerial Decree."

Furthermore, under the proposed **Section 80.2BF(3)**, there is not even a need to prove the threat *actually* caused a specific member of the targeted group to fear the threatened force or violence - only that a "reasonable person" might. Coupled with the expansive and subjective nature of the definition of hate speech, this makes the Bill a blunt weapon the government can use to silence any dissent it finds inconvenient.

5. The "Trojan Horse": Conflating Lawful Ownership with Extremism (Schedule 4)

I object in the strongest possible terms to the inclusion of Schedule 4 (Firearms Amendments) within a Bill purporting to address "Hate and Extremism."

By burying a National Gun Buyback scheme (Schedule 4, Part 1) inside this Bill, the government is engaging in cynical legislative maneuvering, conflating lawful firearm owners with "hate groups." Furthermore, the amendments to the *Australian Crime Commission Act 2002* introduce a "Star Chamber" capability. Under the proposed Section 54D(7) and 54E, the CEO of the ACIC can issue an "adverse criminal intelligence assessment" to revoke a license while explicitly withholding the grounds for that decision from the applicant. It is a fundamental principle of justice that an accused person must see the evidence against them. This Bill allows the state to revoke property and licenses based on secret "intelligence" that the citizen is forbidden to see, making a mockery of the appeals process.

Conclusion

This Bill acts as a Trojan Horse for totalitarian behaviour. It uses the cover of "combatting hate" to introduce retrospective crimes, remove the right to a fair trial, kill Australian satire, empower religious fundamentalism, and subject lawful firearm owners to secret administrative bans. It punishes ordinary law-abiding Australians, and rather than eliminating extremist behaviour, it rewards it. It is a totalitarian overreach that breaches not just the most basic principles of the Rule of Law but also the fundamental spirit of the Australian people. It must be rejected in its entirety.

Sincerely,

Liam Gilroy

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