

Senate Standing Committees on Environment and Communications
Communications Legislation Amendment
(Combating Misinformation and Disinformation) Bill 2024 (the Bill)

ANSWERS TO QUESTIONS ON NOTICE TO THE CBAA AND CLARIFICATION OF EVIDENCE

1. Consultation and communication with the Department about the Bill

Senator Hanson-Young asked about the CBAA's correspondence with the Minister or Department in relation to the media exemption (page 4 of the Hansard transcript).

Following the tabling of the Bill and its referral to this Committee, the CBAA wrote to the Minister (copying the DITRDCA) on 30 September 2024. Please see attached correspondence.

As of 17 October 2024, the CBAA had not received a response.

Further, the CBAA wishes to correct Mr Kinnane's answer to Senator Cadell's question about the timing of a verbal communication from the Department of Transport, Regional Development, Infrastructure, Communications and the Arts. (Page 2 of the transcript). The communication occurred during a meeting between the CBAA's Chief Executive Officer Jon Bisset and DITRDCA representatives where the omission of the sector from the media exemption provision in the Exposure Draft of the Bill was discussed. To the best of our knowledge, the meeting was held at 11.15am on 21 September 2023.

The issue was raised again in a meeting attended by Mr Kinnane and Mr Bisset and DITRDCA officials on 26 September 2023.

Clarification around application of current regulation to online activities

Senator Hanson-Young asked a question regarding the regulation of broadcasting services online.

To clarify Mr Kinnane's response: under section 123(1)(b) of the *Broadcasting Services Act 1992*, Community Broadcasting Codes of Practice are required to be developed by community broadcasting sector representatives in relation to the sector's broadcasting operations. Under section 123(4), if the ACMA is satisfied that the code of practice provides appropriate community safeguards, a majority of sector broadcast providers endorse the code and members of the public have been given an adequate opportunity to comment on it, the ACMA must include that code in its register of codes of practice.

Our members produce content on their broadcast services in line with the sector Codes. Our members also stream their regulated broadcast services online and provide on-demand online content produced from their regulated broadcast services. While there is no formal mechanism for regulating the online dissemination of broadcast content, the practical effect is that online streams are currently produced in compliance with the provisions of our sector Codes.

2. Penalties for breaches of the Codes

Senator Canavan asked a question around the penalties for breaches of the sector's Codes of Practice.

As noted in the hearing, the ACMA is responsible for determining appropriate penalties in accordance with the *Broadcasting Services Act 1992* where a community broadcaster is found to have breached the relevant sector Codes of Practice. The outcomes of its investigations are publicly available:

- o <https://www.acma.gov.au/investigations-radio-broadcasters>
- o <https://www.acma.gov.au/investigations-tv-broadcasters>

Our understanding is the ACMA's powers vary according to the rule that has been breached and decisions are made on a case-by-case basis. If there is a breach of a Code of Practice, the ACMA may issue remedial directions or impose an additional licence condition. If there is a breach of the licence condition, there is the further option to suspend or cancel a licence or seek a civil penalty order in the Federal Court. (Section 139(4) and (5) set out civil penalties for community broadcasting licence holders and temporary community licence holders respectively).

As suggested at the hearing, the ACMA is best placed to give a detailed outline of its own decision-making processes. However, we refer to the following guidance available on the ACMA's website:

- o ACMA Compliance and enforcement policy <https://www.acma.gov.au/compliance-and-enforcement-policy>
- o ACMA Industry codes of practice <https://www.acma.gov.au/industry-codes-practice>
- o ACMA Regulatory guides: Regulatory guides <https://www.acma.gov.au/regulatory-guides>

3. Why the community broadcasting sector supports the Bill

The CBAA received the following additional Question on Notice from the Committee by email dated 14 October 2024:

Your submission states that community broadcasters support the Bill to address the proliferation of seriously harmful content online. Would you please expand on why community broadcasters support legislation to address mis and disinformation online?

The serious impact of misinformation and disinformation on digital platforms on Australian democracy and its citizens is well recognised and well documented, including in the explanatory materials and analysis accompanying the Bill. By their very nature, misinformation and disinformation are designed create disharmony and conflict, divide communities and undermine trust in the fabric of society.

We reiterate the findings of ACMA's 2024 *Communications and Media in Australia: how we access news* and Canberra University News and Media Research Centre's 2024 *Digital News Report: Australia* demonstrate clear trends. According to the latter, 49% of Australians use social media to access news, an increase of 4% on 2023, and 60% of Gen Z rely on social media as their main source.

Stations in the community broadcasting sector are obliged, by virtue of their licences, to take account of and serve their community interest. The contribution of our sector to social cohesion is recognised in public policy, and in our own long term strategy Roadmap 2033.

Community broadcasting activities are moderated by reference to their very purpose, embodied in the principles and public interest obligations in the sector's Broadcasting Codes of Practice. This is why we worked closely with the ACMA to embed a specific commitment to counter misinformation and disinformation in the new Community Radio Broadcasting Codes of Practice, registered by the ACMA on 16 October 2024:

5.1 In broadcasting news and journalistic content we must:

- f) exercise special care when reporting on contentious or controversial matters where facts may be contested and not settled and avoid the amplification of misinformation and disinformation;

Misinformation is verifiably false, misleading, or deceptive information that has the potential to cause serious harm to the community and/or individuals, including *disinformation*, which is misinformation created and/or broadcast with malicious intent.

The job of community broadcasters is made significantly more difficult by having to deal with and counteract the proliferation of mis and disinformation encountered by their communities on digital platforms. In recent years, the sector played a significant role in distributing evidence-based health information during the pandemic and critical emergency information during bushfires and floods to counter this. Community broadcasters see first-hand the damaging impacts on their communities of the spread of mis and dis information.

All broadcasters have formal accountability for rectification and redress under industry Codes of Practice and a penalty structure under the *Broadcasting Services Act*. However, there is currently no formal mechanism to make digital platforms accountable in the same way.

For misinformation and disinformation to be seriously addressed, all sectors need to work together and be accountable, not just traditional media. The Bill proposes a framework for digital platforms. It is a step towards giving Australian communities much needed protections wherever information is disseminated.