



AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

General Secretariat

30 September 2024

Committee Secretary

Senate Standing Committees on Environment and Communications

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Parliament House

Canberra ACT 2600

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Dear Sir/Madam

Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 [Provisions]

This submission from the Australian Catholic Bishops Conference (**the Conference**), as prepared by the Bishops Commission for Life, Family and Public Engagement (**the Commission**), is to comment on the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024.

2. More than half of all Australians profess a religious belief. One in five Australians identify as Catholic. The Catholic Church and its agencies contribute in various ways across the spectrum of Australian society. As an integral part of its core mission, the Church seeks to assist people to experience the fullness of life. It is concerned with all that impacts on human dignity and wellbeing for the common good.
3. The Conference is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance.
4. The Commission is one of several commissions established by the Conference to address important issues both within the Church and in the broader Australian

community. The Commission has responsibility for commenting on human rights law and particularly religious freedom.

5. The Conference seeks to participate in public debate by making reasoned arguments that can be considered by all people of goodwill.

6. Misinformation and disinformation represent difficult issues for public policy makers, but legislative responses raise serious concerns about the potential to unreasonably limit free speech, particularly religious speech. Given the Committee has only allowed one week for the preparation of submissions, the Conference has not had time to give the Bill adequate consideration and urges the Committee to take the time necessary for a careful and detailed consideration of the Bill.

7. In the Australian Catholic Bishops' 2024-2025 Social Justice Statement *Truth and Peace: A Gospel Word in a Violent World*, the bishops state "disinformation and misinformation may not be a new phenomenon, but what is new is the way the internet and social media have enabled widespread and rapid dissemination of disinformation and misinformation."

8. "In the end there is no such thing as truth in a post-truth world; and if there is no such thing as truth, there is no such thing as a lie. There is only your truth and my truth, your facts and my facts; and truth can be manufactured or at least manipulated in any way you choose. Any notion of objectivity is abandoned; the turn to the subject is complete."

9. "So too is the basis of democracy eroded, since it depends on citizens weighing evidence and debating policies on an informed basis. This becomes practically impossible when facts are regarded as a matter of opinion or partisanship."

10. The bishops argue that "a renewed commitment to a culture of dialogue based on encounter in social relationships and in international relations would not only break down misunderstanding and build trust; it would lead us to discover more deeply the truth that the other is not my enemy but is my sister, my brother, even my friend."

11. Given the Government desires to legislate to address disinformation and misinformation, the difficulty that arises is how to balance the freedom of the individual to express their own beliefs and to challenge beliefs contrary to their own.

12. This freedom is fundamental to a flourishing society because human beings are both impelled by their own nature and "bound by moral obligation to seek the

truth, especially religious truth.”¹ Part of the search for truth necessarily involves “communication and dialogue, in the course of which [people] explain to one another the truth they have discovered, or think they have discovered, in order thus to assist one another in the quest for truth.”²

13. For this reason, any proposed limitation on the discussion of matters of religious faith and the search for religious truth must not be taken lightly.

14. If aspects of dialogue are silenced in the search for truth in an environment where the very existence of objective truth is contested, how can a person truly be free to seek the truth? Who decides what is objectively true in a pluralist society?

15. In particular, any proposed limitation on the discussion of matters of religious faith and the search for religious truth must not be taken lightly.

16. For example, some people consider elements of religious belief to be misinformation.

17. Australia is a pluralist – not a secular – society; and inherent in a pluralist society are different views, beliefs and traditions, as well as the challenge of accommodating those different approaches to public life. Excluding the practices of people who have a religious faith or discouraging their views would not only risk impoverishing public life but is also unjust. Part of recognising beliefs is to honour them in practice.

18. As a signatory to the International Covenant on Civil and Political Rights, Australia is party to an international agreement to ensure that its people are free to manifest their “religion or belief in teaching, practice, worship and observance.”³ International human rights law provides that the public manifestation of religion or belief can be limited only where strictly necessary for narrow and defined public purposes and may not be abridged even in times of public emergency.⁴ This is universally accepted to indicate that communicating sincerely held religious beliefs is an important contribution to the common good that should be safeguarded when drafting legislation.⁵

¹ Second Vatican Council. *Dignitas Humanae* [Declaration on Religious Freedom]. 7 December 1965. Vatican. [online]. Available at: http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html, no 2.

² *Ibid.*

³ Universal Declaration of Human Rights, Article 18.

⁴ International Covenant on Civil and Political Rights, Article 4(2).

⁵ United Nations Human Rights Committee, General Comment 22: Article 18 (Freedom of Thought, Conscience and Religion) (1993) (General Comment 22), §1: Article 18’s ‘fundamental character is reflected’ in art 4(2).

19. The Conference raised this concern last year in a submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts regarding the exposure draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

20. The Conference is grateful that the Government has taken these concerns seriously and in the Bill introduced to Parliament has included "religious purpose" in the meaning of "excluded dissemination":

"16 Meaning of excluded dissemination (1) For the purposes of this Schedule, the following are excluded dissemination: ... (c) reasonable dissemination of content for any academic, artistic, scientific or religious purpose."

21. The Bill is a significant improvement on the exposure draft but leaves open the question of what is considered "reasonable" and whether a "religious purpose" extends beyond religious institutions to Australians practicing or sharing their religious faith. It also leaves open to a judicial authority to decide what is and is not "reasonable" when it comes to expressing a religious belief, and whether the expression of a religious belief is always for a "religious purpose." As the Conference has stated in numerous submissions on other items of legislation, it is suboptimal to have courts and tribunals adjudicate on the reasonableness of religious expression.

22. A more comprehensive approach to excluded dissemination would allow communications of religious belief "in good faith". Ensuring the exemption includes "good faith" communication would bring the Bill into line with other Commonwealth legislation such as section 18D of the *Racial Discrimination Act 1975*.

23. The Conference is grateful that religious purpose is included in the definition of excluded dissemination but is concerned about how this provision will be interpreted and about the potential of the Bill to unreasonably limit free speech.

24. The 2023 exposure draft provided for a definition of excluded content for misinformation purposes which incorporated "content produced by or for an educational institution" accredited by the Commonwealth or a state or territory. In the current Bill this has been narrowed from a definitions clause to the more limited meaning provided by subclause 16(1).

25. The Conference acknowledges that this modification has been made in response to feedback received through the 2023 public consultation. However, the

replacement of the previously employed accredited “educational institution” in the 2023 exposure draft with the new more restricted meaning of content for “any academic ... purpose” at subclause 16(1)(c) of the current Bill does not capture the full range of educational institutions (such as schools) and potentially significantly narrows the intent of subclause 16(1)(c).

26. The National Catholic Education Commission, the relevant Catholic education agency, has not been consulted on these changes or their potential effect.

27. I would be happy to answer any questions the Committee may have. I can be contacted via Mr Jeremy Stuparich, Deputy General Secretary at the Conference on

Yours faithfully

Most Rev Peter A Comensoli

Archbishop of Melbourne

Chair, Bishops Commission for Life, Family and Public Engagement