

Submission on the
Communications Legislation Amendment
(Combating Misinformation
and Disinformation) Bill 2024
by Turning Point Australia



Executive Summary.

Turning Point Australia is a not-for-profit organisation whose mission is to educate, train, and assist citizens in promoting freedom in Australia by informing citizens of policy positions and creating educational resources for elections.

As a third-party campaigner, we are concerned that the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024* (“the Misinformation Bill”, “this Bill”, “the Bill”) could directly impose burdens and restrictions on the freedom of political communication. Poorly defined terms and phrases used throughout the Bill place discretionary powers into the hands of the ACMA that can interfere with and limit political discourse.

Additionally, our experiences with fact-checking by third parties on social media have demonstrated a genuine potential for biased mislabelling of factual content as misinformation. This Bill will exacerbate this problem, creating a situation whereby scrutiny will likely not apply to certain political participants as it does to others.

We would welcome the opportunity to participate in any public inquiries to help the Legislature by sharing our unique expertise to help strengthen any response by the Government without impacting the rights of Australians. Our view is shared by over 11,000 of our supporters, who have signed a petition expressing their opposition to this Bill in its current form.

We are Turning Point Australia.

Turning Point Australia, known as TPAust, is a not-for-profit organisation whose mission is to educate, train, and assist citizens to promote freedom in Australia. To these ends, TPAust’s primary twin focuses are to:

1. Inform citizens of Government policies and plans that impact their liberties and freedoms; *and*
2. Educate voters on how to make their votes more effective and impactful at elections.

TPAust aims to provide citizens with the information and the tools that will empower them to make a decision on which policies and candidates will help support the country they want Australia to be.

Education is at the core of our efforts at TPAust. Our campaigns are designed to help voters understand the policy positions of political parties and candidates and how these positions relate to the issues that matter to them. This includes policies under consideration by the current Government in the course of the day-to-day governance of the electorate.

As a registered third-party campaigner, TPAust plays a crucial role in the political discourse during election periods. We actively contribute by creating educational resources that help voters rank their options on the ballot.

The Misinformation Bill poses a threat to political discourse.

The ability to openly and freely participate in political discourse is a fundamental requirement for a fair and free society. Our goal is to support and empower every voter to exercise their right to freedom of political communication. We are concerned that the Misinformation Bill could directly impose burdens and restrictions on the freedom of political communication.

The current text of the Bill does not provide adequate protections for political discourse on the analysis of Government policy or the policies of the party of Government. The language used in the Bill, particularly in Section 54 (*Limitation in relation to freedom of*

political communication), does not adequately protect Australian citizen's freedom of political communication due to the subjective nature of the language used.

Poorly defined terms and phrases such as '*reasonably appropriate*', '*adequate protection*', and '*reasonably necessary*' are used throughout the Bill, clearly placing discretionary powers to interfere with and limit political discourse into the hands of the ACMA. These powers are not subject to additional Parliamentary oversight.

A political participant unfairly subject to these powers has no redress other than to seek relief in the courts. A process that is lengthy and expensive at the best of times, let alone in the weeks of an election campaign. Seeking relief from the courts in an attempt to return to a base level of participation in political discourse is fundamentally anti-democratic. It imposes far too much power into the hands of the Executive branch of Government to interfere with the composition of the Legislature.

In addition to placing an increased burden on the Judicial system and drawing the Executive and Judiciary into political discourse, the Misinformation Bill could create circumstances that are incompatible with other legislative frameworks relating to campaign finances and expenditures (legislative frameworks that are predominantly State-based). This would only further burden the ability of an individual to exercise their right to political communication and participation in the political process.

Some political commentators have described this Bill as a 'donation in-kind' to the major political parties from themselves due to the nature of the Bill in allowing an agency of the Executive Government to impose labels such as 'misinformation' and 'disinformation' on political communication made by candidates.

Due to the nature of the Westminster Parliamentary Executive Government, it is unlikely that the regulator will equally enforce the Bill amongst all political participants, such as Ministers of the Executive Government seeking re-election. Instead, it is more likely that

Independents, Minor Parties, and non-Parliamentary candidates will have their political speech categorised as misinformation on a higher basis than their major Party opponents, leading to a wildly inappropriate situation where favourable treatment is given to a class of political participants due to their Party and their positions.

Biased application of Misinformation labels.

As the creator of educational content for elections, TPAust has extensive experience dealing with fact-checkers engaged by Social Media platforms. Unfortunately, while these fact-checkers have an ethical obligation to act without bias and be impartial, our experience demonstrates that this is not always true. Overly aggressive scrutiny of content can classify a truthful, informative post put up in good faith as misinformation on the basis that it is missing context- something that can be equally applied to any political communication, as there is always a degree of context that is not provided (take for instance a Minister's second reading in comparison to the full text of a Bill).

One example is a [fact check by RMIT University](#) of a [TPAust video on Facebook and YouTube](#) informing voters about public funding in NSW Elections. The video in question is 89-second video informing voters that a candidate given a first preference vote has access to public funding by virtue of that first preference vote.

Being an 89-second video, it was impossible to explain the entirety of the NSW Election Campaign funding framework in substantial detail. As such, only the essential facts were presented to voters that aimed to summarise the public model, notably:

- The dollar-per-vote amount for votes in that election that was consistent between candidates endorsed by a registered political party and independent candidates; *and*

- The number of first preference votes a candidate would need to achieve to be eligible to receive public funding (this being at least 4%).

The fact-check noted that the summary of the information was correct but that there was more to the process. The fact-check stated the following:

What was claimed (by TPAust)	The verdict (by RMIT)
Candidates at the NSW election will receive a dollar per vote figure if they achieve more than 4 per cent of the vote in a Legislative Assembly district race or are elected to the Legislative Council.	Missing context. Eligible parties or candidates must provide evidence of their electoral expenditure to gain access to public funding, and there is a cap on how much they can claim.

“The video provides only a snapshot on how much a candidate or party might receive per vote and their eligibility criteria for such funding. There is much more to this process than is stated in the video.”

-RMIT University

The video published by TPAust never claimed to be an exhaustive explanation of the public funding system in NSW Elections, but rather a video designed to inform voters of the existence of public funding, what the current dollar-per-vote rate was, and that political parties and candidates relied on the public funding garnered by their first preference. The goal was to enable voters to exercise greater discretion in choosing which party/candidate would receive their first preference, knowing that it potentially had a financial component attached.

These educational resources that informed voters of an additional benefit candidates/parties may receive with their first preference vote were unfairly and predatorily classified as misinformation despite containing correct information and never claiming to be an exhaustive explanation of the public funding system. RMIT made no contact with TPAust before their ‘fact-checking’ of the video, and all subsequent attempts to contact the fact-checkers to ask for a review were ignored.

Nonetheless, the ‘fact-check’ applied by RMIT University labelled the video as misinformation for ‘missing context’, not only preventing the video from being organically promoted by the algorithm and limiting voter education, but limiting the organic promotion of all future content by the social media algorithm. In this instance, this misinformation label limited the promotion of content on the page by the algorithm for three additional months after the campaign. Not only did the fact-check impact our NSW election campaign by limiting TPAust’s reach for the election’s final days, but it also impacted the campaign around the Voice Referendum three months after the NSW election.

This demonstrates that correct information can be unfairly labelled as misinformation due to the subjective discretion of a biased assessor to overly scrutinise content for missing context. This poses an issue in political communication as all political communication has a degree of assumed, summarised or omitted context to distil information into the most condensed format containing only what is critical for the message to resonate.

If the standards that previous fact-checking bodies have applied are applied for the mechanisms in this Bill, then it demonstrates the very real and almost certain potential for biased misapplication of the Bill that unfairly targets one political participant despite no wrongdoing on their part.

The role of TPAust in correcting false information.

With our mission to educate Australians in making their voice heard in the political processes, TPAust has played a crucial role in correcting misinformation without relying on censorship or forcibly removing content- but with open debate.

Like many Australians, some supporters of TPAust have found themselves with reduced faith in the political system, feeling helpless in their ability to impact positive, meaningful

change on a policy level. This feeling of helplessness in the system can fester into a more significant issue if not rectified with positive education campaigns.

There has been an increase in the number of individuals worldwide, and in Australia, that have adopted a misguided set of beliefs that they can, in effect, 'opt out' of society and the legislated rules. These beliefs can cause real-world harm when people have physical interactions with law enforcement officials that often result in property damage and bodily harm.

TPAust plays a crucial role in dismantling these beliefs by educating people on how to participate in the democratic process to effect change and showing examples of where their efforts have been rewarded, such as the election of specific candidates or the results of a referendum.

Preventing people from sharing incorrect viewpoints will only make it harder to identify individuals who may be falling victim to these beliefs and help provide them with the education they need. Communities will not dissipate if their content is removed from the public domain; instead, they will become more organised and further isolated, growing conviction in their beliefs free from the scrutiny of others and competition of ideas.

A recent example where TPAust took a leading role was in the recent Voice Referendum. TPAust encouraged participation in the referendum, dispelling efforts that tried to push the view that the referendum process was compromised and there was no efficacy in participating in the vote. TPAust actively assisted people in understanding how the process operates and the measures in place that provided scrutiny of the system.

These efforts on the part of TPAust didn't come about due to assistance or encouragement from the Government, nor is it funded or supported in any way by

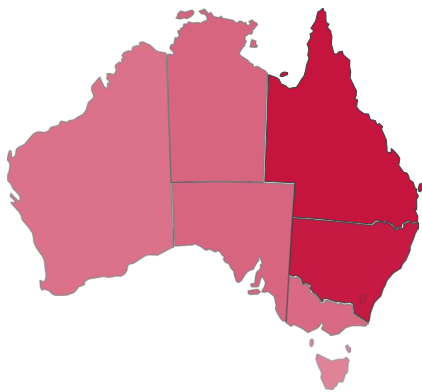
public funds. Instead, it is an organic response to misinformation wholly funded by private citizens through donations. This demonstrates that the free market of ideas will consistently innovate a solution to combat misinformation, often not through censorship or force but through debate and scrutiny.

The views of our supporters.

As part of our education campaign on the Misinformation Bill, we created a petition on our website (www.tpaust.com.au/misinfo-bill) that allowed our supporters to express their opposition to the Bill.

In just one week, our petition has acquired over 12,000 signatures from everyday ordinary Australians who do not support this Bill and the impact it will have on free speech. We had signatories from every State and Territory, with many leaving comments and messages strongly opposing the Bill in its current form.

The most substantial support came from the States of Queensland and New South Wales, with approximately 1 in 1,800 citizens signing our petition.



Australian Capital Territory	97	1 in 4,686
Queensland	2,878	1 in 1,792
New South Wales	4,366	1 in 1,849
Northern Territory	84	1 in 2,769
South Australia	647	1 in 2,754
Tasmania	162	1 in 3,442
Victoria	2,293	1 in 2,836
Western Australia	887	1 in 2,999

Analysis of the support for our petition as at 29 September 2024

We want to be part of the conversation.

TPAust recognises that there will be continued calls for Governments to provide a response to the increase in misinformation as it becomes easier for content to be more widely broadcast to a more significant number of people due to the advances in technology and increased access to online platforms. The ever-increasing capabilities of Generative Artificial Intelligence (AI) and the race to reduce the barrier of entry for these capabilities will only further exacerbate calls for Government response.

However, we believe the Misinformation Bill does not provide a response that will protect Australians without limiting the content Australians can access or consume.

We would welcome the opportunity to participate in the process of improving the Misinformation Bill or other related Bills by participating in public hearings, public inquiries or other such opportunities.

The opportunity to help the Legislature by sharing our unique expertise and experiences will help strengthen any response by the Government without impacting the rights of Australians to access important information and the ability for open political discourse.

We can be contacted by email at contact@tpaust.com.au or on our website at www.tpaust.com.au.