



# Submission to Inquiry into the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024 [Provisions]

## Contents

Contents	2
Cover letter	3
Summary of Recommendations	3
An overview of our work on misinformation and disinformation in Australia	4
1. Amendment for public transparency over reports submitted to regulator	5
2. Amendment for unfettered access to already existing, public data access programmes and APIs	6
3. Amendment for immunities for accredited researchers conducting good faith research into misinformation and disinformation in Australia	8
4. Further issues of concern	9
<i>Issues arising from digital platforms' self-regulation</i>	9
<i>Support needed for the fact-checking ecosystem</i>	10
<i>It is unclear if fact-checking alone is effective given how little platforms operationalise advice from third-party fact checkers</i>	10

Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Via Email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Reset Tech Australia thanks the Committee for the opportunity to lodge a submission. We are, to our knowledge, the sole 'eligible' complainant under the current industry framework on misinformation and disinformation in Australia. This places us in a unique position as a stakeholder – we represent the modest portion of existing 'public accountability' into platforms' actions and reporting on misinformation and disinformation in Australia.

1. We would like to engage at the outset with our motivations for taking on this role in Australia. It is not to 'run a hit job' on the large tech platforms, but rather to offer vital public-interest scrutiny on the claims made in platforms' Transparency Reports, which as we detail in our materials, are far from transparent and may even fall into misleading and deceptive territory.
2. We naturally support the intent behind the Bill but note that there is no consideration of *public accountability* and *public transparency* in the proposed framework. Rather, it has been crafted as a framework for accountability and transparency with primarily the regulator and Minister in mind. While we have every confidence in ACMA's abilities in this matter, the avalanche of public outcry and perilously low public understanding and trust on this policy area should indicate a pressing need for public accountability and public transparency.
3. The *Digital Services Act*, upon which presumably some of this Bill has been modelled, recognises the need for public-interest organisations and 'third sector' engagement with misinformation and disinformation regulation, and has written in both access rights and implied protections for what is otherwise prohibitively expensive and legally risky work. It is underwhelming to hear that similar provisions have been abandoned in Australia. Organisations like ours face years of continued legal ambiguity as to our rights and protections to research misinformation and disinformation, while being expected to contribute to an 'industry codes' process as a rare public-interest interlocutor.
4. We attempt here to outline a workable path for reasonable amendments on public accountability and public transparency, which in turn may ameliorate some of the public concern over the Bill. These amendments are vital should Parliament intend for platforms to be *publicly* accountable and *publicly* transparent on issues of misinformation and disinformation.

### Summary of Recommendations

1. All industry reports and data submitted to ACMA to be publicly released by ACMA within a reasonable period;
2. Unfettered access provided for Australian accredited researchers to publicly available datasets and APIs provided in other markets, for the purposes of researching misinformation and disinformation;
3. For other sources of platform data relevant to assessing platform efforts on misinformation and disinformation, a specific immunity granted to Australian researchers for the acquisition of platform data for good faith research on misinformation and disinformation.

Yours sincerely

Dr Rys Farthing  
Director (Global Research) Reset Tech

Alice Dawkins  
Executive Director, Reset Tech Australia

## An overview of our work on misinformation and disinformation in Australia

Reset Tech Australia is the Australian affiliate of Reset Tech. Reset Tech’s mission is:

*...to guard against digital threats to our security, safety, and fundamental rights. We seek to “reset” the connection between media and democracy to restore the promise of technology that works for people and free expression. We work to hold the biggest tech companies accountable to the values of democratic societies by promoting new ideas to change laws, industry standards, and consumer attitudes.*

We are, to our knowledge, the sole ‘eligible’ complainant under the current industry framework on misinformation and disinformation in Australia. This places us in a unique position as a stakeholder – we represent the modest portion of existing ‘public accountability’ into platforms’ actions and reporting on misinformation and disinformation in Australia. We have had one complaint upheld and one complaint dismissed.

Our research on misinformation and disinformation has been generously funded by the Susan McKinnon Foundation, an Australian philanthropy with a remit to strengthen Australia’s democracy. Our policy and advocacy on misinformation and disinformation is supported by Mannifera. A summary of our public materials on misinformation and disinformation is below. All bar the last are from 2024.

Report	Description
<a href="#"><u>Misinformation and disinformation will not be combatted with industry codes</u></a>	Legal analysis into the shortcomings of the current Australian Code of Practice on Disinformation and Misinformation (ACPDPM)
<a href="#"><u>Achieving Digital Platform Public Transparency in Australia</u></a>	A thorough review of digital platform public transparency models and proposal for key regulatory metrics in Australia
<a href="#"><u>Functioning or Failing? An evaluation of the efficacy of the Australian Code of Practice on Disinformation and Misinformation</u></a>	A holistic review of our research experiments and eligible complaints submitted to the ACPDPM, concluding the Code is not working as intended
<a href="#"><u>Green Paper: Digital Platform Regulation</u></a>	Proposed regulatory models for tackling a variety of digital ‘risks’, including but not limited to misinformation
<a href="#"><u>Briefing on Transparency Reports in Australia</u></a>	A briefing reflecting discussions from a roundtable of 20 experts from academia and civil society, where we explored the opportunities and challenges to regulate for transparency in the digital world in Australia
<a href="#"><u>Who are DIGI Transparency Reports For?</u></a>	Our statement on our second complaint submitted to the ACPDPM, and analysis of Transparency Reports under the Code
<a href="#"><u>Statement on our complaint against Meta</u></a>	A short-video presentation outlining the basis of our second complaint submitted to the ACPDPM
<a href="#"><u>Open letter to X</u></a>	Our concerns raised with X, forming the basis for our first complaint submitted to the ACPDPM

## **1. Amendment for public transparency over reports submitted to regulator**

We note that the Bill (s 17) provides for digital platforms to publish their risk assessment report, misinformation and disinformation policies, a media literacy plan, and other information specified in digital platform rules. We commend the spirit of this section, but note that it would be more straightforward for public users to access a single, coordinated repository of information, administered by ACMA.

For completeness, it would be prudent to prevent potential content carve-outs and provide expressly that any further materials submitted to ACMA by platforms are also provided to the public via this repository after a reasonable period of time. The effect of this is there is a central location for comprehensive information on the outputs generated by the Bill, including information made available to the regulator. This extra step of public transparency is, in our view, key for building public trust and understanding of the Bill's functionality.

**Recommendation: Reports submitted to ACMA under *digital platform rules, information gathering powers, misinformation standards, or misinformation codes, to be released by ACMA to the public after a reasonable period.***

## 2. Amendment for unfettered access to already existing, public data access programmes and APIs

Platforms are not voluntarily providing key data to researchers in Australia. For example, when we wrote to Meta with our concerns about their Transparency Report in 2023, we asked for access to the following data:

- Estimates and descriptions about how Meta detects fact-checked falsehoods, including how many remain unlabelled on the platform
- Estimates of the number of pieces of content (in total) that repeat fact-checked falsehoods
- Figures and metadata describing the number of pieces of content (in total) that are reported by Australian based users for being false or misleading
- Figures and metadata describing the accuracy of the content moderation process, including:
  - Details about what proportion of reported posts are subsequently labelled after reporting;
  - Details about how many Australian users dispute labels or removal;
  - The proportion of disputes upheld, and;
  - Other evaluative research.

In rejecting our request, Meta provided the following response:

1. *The requested information is not relevant to reporting on the progress Meta has made towards achieving the objectives and outcomes contained under the Code, which at their core are centred around a commitment to safeguard to protect Australians against harm from online disinformation and misinformation, and to adopting scalable measures that reduce its spread and visibility. The information would also not provide any further enhancement towards Meta's meeting the two key objectives of annual transparency reporting under the Code, specifically to communicate to the general public the measures it has taken against mis/disinformation; and to provide a framework for DIGI – as the independent reviewer – and other stakeholders to assess its compliance with the Code.*
2. *Inclusion of this information in the Transparency Report would be inconsistent with the Best Practice Reporting Guidelines for the Code, which encourages signatories to limit word length. Specifically, the Guidelines suggest that signatories focus on data, changes in the mis/disinformation landscape and their responses to these changes. The information that Reset has requested Meta include falls outside the transparency reporting template for best practice.*

It is clear that—without regulatory incentive—platforms will not make data that is important to decision makers and researchers available. This is not the case globally. For example, Article 40.12 of the *Digital Services Act* (DSA) requires large platforms to:

*'give access without undue delay to data, including, where technically possible, to real-time data, provided that the data is publicly accessible in their online interface by researchers, including those affiliated to not for profit bodies, organisations and associations.'*

We appreciate that the breadth of the requirements proposed under the *Digital Services Act* (Article 40.12) may seem too burdensome at the moment for Australian regulators, however valuable compromises are possible when it comes to providing access to data that is already publicly accessible in their online interface. Specifically, under the DSA platforms have been required to make a number of datasets publicly available, largely via 'APIs', libraries or other tools, available free for vetted researchers to access. These APIs and tools already exist, and do not require further infrastructure from platforms. A full list of currently available platforms can be found in the Appendix of the Mozilla Foundation's [initial report – Public Data Access Programs: A First Look](#). While these APIs and content libraries vary in detail and comprehensiveness, a simple amendment could require platforms that already have existing APIs and libraries available to open these up for Australian researchers as well.

**Recommendation: Require any available researcher API, content library or other platform researcher access tool, that is already operational by a company be made accessible for free to Australian researchers who:**

- a) **Hold an affiliation to an Australian research organisation, including an academic entity or not-for-profit organisation,**
- b) **Where the researchers, or at least the lead researcher, is an Australian resident or citizen,**
- c) **With non-commercial purpose limitations**

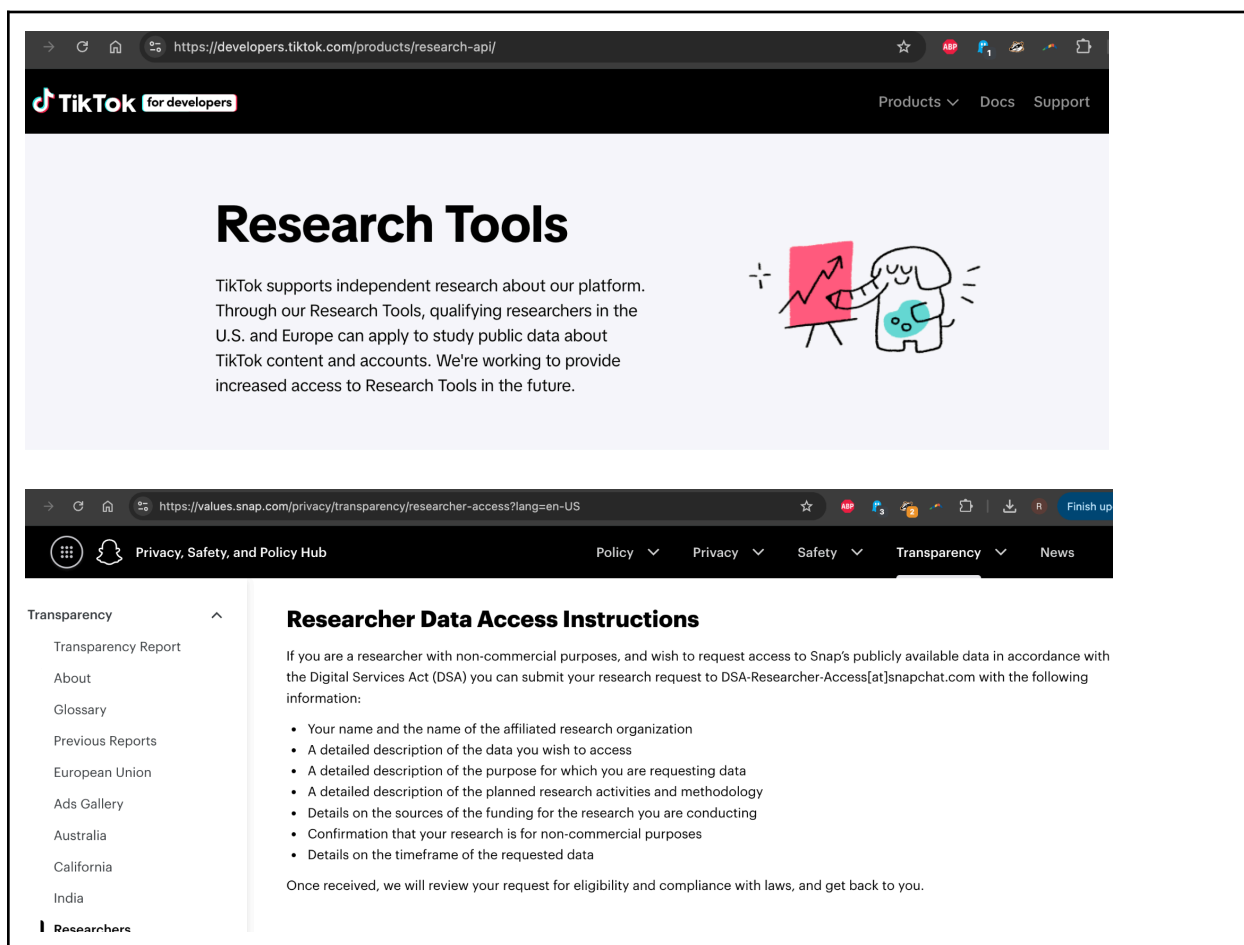


Figure 1: Examples of publicly available datasets and tools available on TikTok to US and EU researchers, and on Snapchat to EU researchers. Platforms could be required to make any existing 'publicly available' data sets or tools freely available to qualified Australian researchers.

### **3. Amendment for immunities for accredited researchers conducting good faith research into misinformation and disinformation in Australia**

The research environment for misinformation and disinformation is in a fraught state, with significant financial hurdles and evolving legal risks for researchers and research organisations. There is a grim reason why Reset Tech Australia is one of few organisations who work on misinformation and disinformation in a platform accountability context – few organisations in Australia have the means or risk appetite to do it.

- These are **legal concerns**: In June 2023, X (Twitter) took [legal action](#) against the Centre for Countering Digital Hate. The case centred around the way the CCDH accesses and collects information about the public content that is shared on X, both by storing data and using an analytic tool called Brandwatch. Both of these are ubiquitous research tools, and since X closed its third party API access, there is no other way to understand what is happening on the platform at scale.
- But transparency and **researcher access had already been on the decline**, before legal action was taken. Meta has announced the 'deprecation' of CrowdTangle, which gave researchers access to analyse what was happening on Facebook at scale.

X's litigation strategy and broader issues of transparency-collapse has serious implications for the misinformation and disinformation research community in Australia. There are now no clear cut ways for researchers to track content at scale on social media. Few organisations have the legal risk appetite to continue. The only entities with reliable access to that vital public policy information are the US and Chinese based digital platforms themselves. Mitigating misinformation and disinformation is a whole-of-community effort and the efficacy of this Bill relies on a sustainable and supported research ecosystem.

**Recommendation: The Bill should be amended to provide Australian researchers with a specific immunity for the acquisition of platform data for good faith research on misinformation and disinformation.**



## 4. Further issues of concern

### *Issues arising from digital platforms' self-regulation*

We refer to our previous input on the issue of platform self-regulation with respect to misinformation and disinformation, including [our recent report on the poor state of affairs](#) around platform Transparency Reports.

Our previous research has already documented how self regulation in the ACPDM fails to deliver effective rules. Specifically:

- 1) The 'transparency' mechanisms under the ACPDM, which require platforms to self-publish 'Transparency Reports' each year, are worryingly poor. A Transparency Report may comply with the requirements of the ACPDM while simultaneously breaching misleading and deceptive conduct for the purposes of *Australian Consumer Law*.
- 2) The 'accountability' mechanisms under the ACPDM, namely an Independent Review Process and a 'public' Complaints Model, are defective:
  - a) The Independent Review Process simply cannot incentivise best practice and compliance in reporting, as its scope is confined to publicly verifiable claims. This means platforms' claims cannot be independently scrutinised. In other words, platforms can freely mislead the public in their reports without the same fact-checking their users are subjected to on their services.
  - b) The Complaints Model severely disincentivises public complaints against Code signatories:
    - i) There being no mandated access to platform data about representations contained in Transparency Reports,
    - ii) A burden on complainants to satisfy a 'materially false' threshold, which arguably imposes a higher threshold of accuracy on complainants than the standard required to be adhered to by signatories when composing Transparency Reports,
    - iii) A perilous environment in general for organisations collecting evidence on misinformation and disinformation risks on platforms. Routine social media research techniques can lead to massive platform legal action.
- 3) Combined, this represents a hostile environment for public accountability and demonstrable failure of the self-regulatory model.

We submit the threshold for ACMA to develop an industry standard has long passed. Noting ACMA's third report and appreciating the Government's desire for a graduated approach, we nonetheless believe that the ACMA should be immediately empowered to bypass industry codes and set a standard, an approach with regulator drafting as the primary route, as is now proposed in the Privacy and Other Legislation Amendment Bill 2024.

### *Support needed for the fact-checking ecosystem*

Australia's fact-checking architecture is critical to the approach outlined in the Bill, but is brittle and requires urgent attention. Specifically, fact-checkers face a number of challenges:

- **Size:** We have a modest pool of Australian fact-checking organisations, although international fact-checking organisations may cover some relevant issues.
- **Trust:** A lack of trust and perceptions of bias<sup>1</sup> poses a risk to this ecosystem.
- **Worsening situation:** The rise of generative AI poses a risk to their functionality. The ability to detect deepfakes and other misinformation generated by AI is a labour intensive task. There are no sufficiently accurate automated tools to do this independent of human analysis, and each piece of content flagged for fact-checking requires human and technical analysis to make an assessment of credibility. Australia's pool of fact-checkers have their work cut out for them as bad actors turn to readily available off the shelf generative tools to create political deepfakes.

### *It is unclear if fact-checking alone is effective given how little platforms operationalise advice from third-party fact checkers*

Beyond the difficulties and limitations of the fact-checking landscape, it remains unclear how effective digital platforms' responses to third-party fact-checking really are. In response to a complaint about inconsistencies in their annual transparency report under the Australian Code of Practice on Misinformation and Disinformation, Meta clarified how narrow and limited their response to a third-party fact-check is in practice. Meta, like other platforms, only label or remove the exact post that fact-checkers address, and near identical copies. Posts that repeat the same falsehoods, or attach images or swap the order of words, remain unaffected even when reported (see Figure 2).

To provide an indication of the limitations of this approach, the three Australian focussed third-party fact-checkers that Meta work with — the AFP, AAP and RMIT FactLab<sup>2</sup>— in the month of May 2024 fact-checked 37 'original posts' in total.<sup>3</sup> These ranged from a claim that France had imposed martial law on New Caledonia<sup>4</sup> to a claim that Greta Thunberg is a Rothschild.<sup>5</sup> Save for the existence of non-publicly listed fact-checks, this means that in the month of May 2024 only 37 original posts, and copies and near identical copies of this post, would have been removed from 'Australian specific' Facebook during May. While Meta's responses to international fact-checking would also affect what Australians see and consume, this leaves us reliant on an international fact-checking community that by definition lacks domestic nuance, raising issues of sovereignty. Clearly, this approach is not desirable and will struggle to meet the scale of the accelerating risks.

---

<sup>1</sup>John Storey 2023 'Biased "Fact Checkers" Show How Misinformation Laws Will Be A Disaster For Australia' *Institute of Public Affairs*  
<https://ipa.org.au/publications-ipa/media-releases/biased-fact-checkers-show-how-misinformation-laws-will-be-a-disaster-for-australia#>

<sup>2</sup>Meta 2024 *Where We Have Fact Checking*

<https://www.facebook.com/formedia/mjp/programs/third-party-fact-checking/partner-map>

<sup>3</sup>Calculated from their publicly available list of 'fact checks' including 32 from the AFP, 32 from AAP and none from RMIT FactLab. (See AFP 2024 *AFP Australia* <https://factcheck.afp.com/AFP-Australia>; AAP 2024 *Factcheck* <https://www.aap.com.au/factcheck/>; RMIT FactLab 2024 *Debunks* <https://www.rmit.edu.au/about/schools-colleges/media-and-communication/industry/factlab/debunking-misinformation>)

<sup>4</sup>AAP 2024 *No, French have not imposed martial law in New Caledonia*  
<https://www.aap.com.au/factcheck/no-french-have-not-imposed-martial-law-in-new-caledonia/>

<sup>5</sup>AFP Australia 2024 *Experts rubbish claim Greta Thunberg related to non-existent Rothschild*  
<https://factcheck.afp.com/doc.afp.com.34QL3B3>

The image shows a social media post layout. On the left, a fact-checker's finding is displayed in a light blue box. It has a title 'WHAT WAS CLAIMED' and a sub-section 'OUR VERDICT'. The claim states that Russia and Australia are the only two countries still considered sovereign. The verdict states that this is false because around 200 countries meet the criteria to be sovereign states. To the right of this box is a separate piece of text, 'There's only two countries that are still sovereign in this world: Australia & Russia', which is surrounded by pink heart icons. Below the fact-checker's finding box, there are two explanatory labels: 'This is a fact-checker's finding' pointing to the blue box, and 'This is content that is not labelled despite containing fact-checked misinformation, as it was not the exact post the fact-checker reviewed<sup>6</sup>' pointing to the heart-filled text.

## No, Australia and Russia are not the only sovereign states

David Williams | October 5, 2023

**WHAT WAS CLAIMED**

Russia and Australia are the only two countries still considered sovereign.

**OUR VERDICT**

False. Around 200 countries meet the criteria to be sovereign states.

**There's only two countries that are still sovereign in this world: Australia & Russia**

This is a fact-checker's finding

This is content that is not labelled despite containing fact-checked misinformation, as it was not the exact post the fact-checker reviewed<sup>6</sup>

Figure 2: An example of content that will not be labelled despite a fact-checker's finding

<sup>6</sup>See Reset.Tech Australia 2024 *Functioning of Failing* <https://au.reset.tech/news/report-functioning-or-failing/>