



An Australian Government Initiative



RDA SOUTH WEST

Feedback: ACMA powers to combat misinformation and disinformation

Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

June 2023

Purpose

This feedback is provided in response to an invitation to comment on a new framework to empower the Australian Communications and Media Authority (ACMA) to hold digital platforms to account for harmful misinformation and disinformation online.

Introduction

Social, and other, media is both a gift and a curse. Digital platforms have the capacity to achieve great good – and do great harm. The difference is largely based in what information comprises the truth and what is simply ill-advised opinion or what is deliberate fabrication with the aim of fulfilling perverse agendas.

While a strategy to control misinformation (calculated or misguided) is to be welcomed, there will inevitably be some tension between those who see themselves as ‘holders of the truth’. And so, the key will be to unlock what most Australians will accept as constituting legitimate control over their right to freedom of expression.

The psychology of fear is also important. Scaremongering is an oft-used political campaign tactic and has genuine power. The link between sowing seeds of fear and cognitive polarisation are well documented in academia ie once a person has been exposed to a viewpoint that sparks alarm, then no amount of science, data and evidence can make them dispel all doubts.

Cautionary data

Noting the 2023 Edelman’s Trust Barometer¹, society is increasingly divided and distrust in government is reaching more polarising levels.

That data shows that 54% of Australians believe the nation’s social fabric no longer unites the community and 61% say today’s lack of civility and mutual respect is the worst they have ever seen. Only 24% would help a person in need who strongly disagreed with their own views on a societal issue, and only 19% would be willing to work alongside them.

While it is encouraging to highlight the observation that the least trusted source of information is social media, it remains that one in four users do trust the information source. It would be interesting to see if empirical evidence identifies link polarisation to social media influences.

Users

To what extent the community seeks its own version of the truth will need to be considered. Algorithms plot searches and screentime. So, do social and media sites look to unreasonably target and influence, or do users merely wish to search for content that validates their own worldview?

Looking at it pragmatically, platform providers are pursuing revenue streams and giving customers what they want. Therefore, making positive change is not just about targeting providers but also users. Would an education program, especially targeting younger people through schools, help lower demand for conspiracy theory and claptrap?

¹ <https://www.edelman.com.au/australia-path-polarisation-edelman-trust-barometer-2023>

Voluntary code

Voluntary codes are non-binding and rarely produce the results that are being sought. While signatories to the ACCC's Australian Code of Practice on Disinformation and Misinformation included Meta, TikTok and Twitter, there has been a wave of concern over all three in recent times.

The fact that the Australian Government is looking at legal controls, demonstrates that the voluntary code has fallen short of desired goals on integrity, fairness and protecting the community from disinformation, quackery and blatant lies.

Introducing mechanisms to monitor industry behaviour through a mandatory rules and reporting are welcomed. However, enabling "ACMA to request industry develop a code of practice" is a weak position which puts offenders in charge of the system. It would be better to work with industry, but not leave providers to their own devices and expect good outcomes.

Implementing annual reviews would add some rigor to processes as well as keeping abreast of a rapidly-changing media environment.

Regulator

The Australian Government's proposal to introduce new laws and appoint the Australian Communications and Media Authority (ACMA) as an independent regulator are sound.

The ACMA Board appointment process will need to demonstrate a clear distance between political thought/positioning and board membership. It is noted that the statutory authority has five members with three positions listed as vacant. So many vacancies, with another in August, concentrates a great deal of influence in too few hands and exposes ACMA to accusations of bias and political favour. However, proposals to engage with academia and the broader community mitigates against that to some extent.

Proposed actions

While the proposals give industry an opportunity to establish their own code, the position that allows "ACMA to create and enforce an industry standard" lacks conviction. The message may be that the industry can regulate itself or be regulated. It may also expose ACMA as vulnerable regulator that does not have the energy nor the resolve to use its position.

In any case, it is not believed that all industry players will broadly agree, nor is it believed any efforts would be taken and delivered in a timely fashion. The lack of an uncompromising position shows weakness. The legislation should be clear-cut and demonstrate certainty that standards will be enforced.

The Communications Legislation Amendment Bill notes that ACMA will not have the power to request specific content or posts be removed from digital platform services. If nothing can be enforced then what is the point of the amendment?

The default position falls back to the industry code and a multitude of grey areas that would inevitably be tested by providers who see would likely see no value in compliance.

General comments

There is a need to change the narrative. It is in the vernacular to call arsonists ‘firebugs’ and car thieves ‘joyriders’ which sanitises the reality that both behaviours have resulted in the loss of innocent lives.

In the context of this feedback and misinformation, the language is “fake news”. No it is not news. It should be labelled what it is: lies and untruth.

The media has shifted from unearthing the facts to taking a position of ‘he said – she said’. That is not reporting, that is merely publishing opinion. The fundamental values of the future must be based on integrity and so it is very disappointing that “the code and standard-making powers will not apply to authorised electoral and referendum content”. Are we saying that spreading general misinformation is prohibited, unless political election materials can spread falsehood – then that’s somehow acceptable?

It is disturbing that the Australian Government might create a contradiction in law that excludes its members from being subject to the same laws as others. Further, the omission of political materials misses an opportunity to restore trust and perhaps even inspire a new era of community behaviour and respect starting with national leadership.

The amendments must:

- Deliver greater clarity;
- Not rely on multiple interests to form a common view and police themselves;
- Empower the ACMA to effectively regulate misinformation and ensure offending materials are removed;
- Include political materials to ensure credibility, fairness and industry acceptance;
- Gain community buy-in;
- Subject all information to the same test of honesty and legitimacy; and
- Look further to educate the community.

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