

Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

Introduction

It is rare for me to make comment or provide feedback on a proposed bill to parliament. However, what the Albanese Government is proposing is the most significant attempt by an Australian Government to suppress free Speech online in this country. It must not be allowed to be passed

Currently average Australians have little opportunity to make their concerns and or views heard other than on an online platform. without restrictions until now.. This has enabled online debate even if these views are not always those of others on the digital platform. This is healthy

The Draft Bill

This draconian bill seeks to place unprecedented power and authority into the hands of a group of unelected public servants within the Canberra based government bureaucracy “the ACMA”.to determine what is true and what is false. What is “misinformation and what is disinformation.

The authority vested in the ACMA seeks to preside over what they will determine is the truth of the widest range of information placed on digital platforms ranging but not limited to race, religion, sex, gender and the environment.

Through this proposed bill the government will have the power to control what an individual or a digital media platform provider may say online.

The draft bill proposed under the guise of keeping Australians safe will inhibit free speech. It will do so by using the authority requested in this bill by the ACMA by extending authoritarian government overreach on everyday Australians to voice concern or opinion on line. The ACMA seeks to have the power to impose substantial fines or even imprisonment on an individual or platform operator that it decides does not comply with its self-determined rules.

The ACMA has produced a wordy 60 page legalistic document supporting the proposed bill listed as *an exposure draft of A Bill for an Act to amend the law relating to Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*.

This document is full of legal boilerplate, complex in its wording and multiple cross references

Below the ACMA defines Misinformation and Disinformation in their terms and what it wants as its authority to .“draw on its reserve powers to register enforceable industry”

7 Misinformation and disinformation (Direct extraction from the draft)

- (1) For the purposes of this Schedule, dissemination of content using a digital service is **misinformation** on the digital service if:
 - (a) the content contains information that is false, misleading or 8 deceptive; and 9
 - (b) the content is not excluded content for misinformation 10 purposes; and 11
 - (c) the content is provided on the digital service to one or more 12 end-users in Australia; and 13
 - (d) the provision of the content on the digital service is 14 reasonably likely to cause or contribute to serious harm.

(2) For the purposes of this Schedule, dissemination of content using a 16 digital service is **disinformation** on the digital service if: 17

(a) the content contains information that is false, misleading or 18 deceptive;

(b) the content is not excluded content for misinformation 20 purposes; and 21

(c) the content is provided on the digital service to one or more 22 end-users in Australia; a

(d) the provision of the content on the digital service is 24 reasonably likely to cause or contribute to serious harm; and 25

(e) the person disseminating, or causing the dissemination of, the 26 content intends that the content deceive another person. 27 Note: Disinformation includes disinformation by or on behalf of a foreign

Referencing the above extracts

item a) for both cases

The following questions must be answered

- a. How can a team within the ACMA make an absolute determination on what is false misleading or deceptive?
- b. On what grounds
- c. Who can contest such determination? These are unelected public servants.
- d. Who will be the arbitrator of an ACMA determination?

Item d) for both cases

The ACMA has the power to determine what could reasonably cause harm. When reviewing what is listed as harm(see below) It is a list so broad it is easy to imagine for any online statement that the ACMA / government doesn't agree with, a case could be conveniently mounted for and determined as harm under one of the multiple listed interpretations below.

In **schedule 1 harm is declared as:**

(a) hatred against a group in Australian society on the basis of 9 ethnicity, nationality, race, gender, sexual orientation, age, 10 religion or physical or mental disability; 11

(b) disruption of public order or society in Australia; 1

(c) harm to the integrity of Australian democratic processes or of 13 Commonwealth, State, Territory or local government 14 institutions;

(d) harm to the health of Australians; 16

(e) harm to the Australian environment; 17 (f) economic or financial harm to Australians, the Australian 18 economy or a sector of the Australian economy

Item e

Here the ACMA wants the power to determine that the Disinformation content is intended to deceive another person.

Without a doubt item(e) provides the ACMA /government the widest scope to create their own view on what the original creator has intended.

How can the ACMA make any absolute determination on what an individual intended? This is unbelievable power in the hands of such a government department

The questions listed above under item a d and e begs the question to the government on what censorship model is it planning to adopt as it smacks of the sort of media suppression imposed in Russia and China.

Division 2 of the document addresses Record keeping and reporting by the Digital platform providers.

It is unclear how well advanced the ACMA has progressed on the rules to be imposed on the platform providers as there is continual use of the word “may”

What is clear is that the ACMA intends to enforce rules on platform providers

“ACMA will be equipped with new information-gathering and record-keeping powers to oversee digital platform providers, and will hold these online service providers responsible for the accuracy of information and their response to disinformation on their services.

Record keeping and reporting

2 14 ACMA may make digital platform rules in relation to records 3 Records 4 (1) The digital platform rules may require a digital platform provider 5 of: 6 (a) a digital platform service specified in the rules; or 7 (b) a digital platform service in a class of digital platform 8 services specified in the rules; 9 to make and retain records relating to the following: 10 (c) misinformation or disinformation on the service; 11 (d) measures implemented by the provider to prevent or respond 12 to misinformation or disinformation on the service, including 13 the effectiveness of the measures; 14 (e) the prevalence of content containing false, misleading or 15 deceptive information provided on the service (other than 16 excluded content for misinformation purposes)..

Registration of misinformation codes

The ACMA states that it may introduce Misinformation codes. I do not intend to comment on this as the wording in the document is confusing and unclear.

What is important is that the rules imposed on the content providers do not cause unintentional gagging of the users due to holding the providers responsible for what is true or what is false. What is an opinion? Providers may refuse content as they cannot be sure if a statement is an opinion or fact.

the provider may be forced to shut down content rather than face yet to be disclosed fines. This is censorship.

In conclusion

The Disinformation Misinformation bill is a major overreach by “big government” and is against democracy in Australia

It has major consequences on the freedom of speech of all online users in Australia.

The proposed power within the Misinformation Disinformation bill to be given to an unelected team of public servants under the control of the Albanese government is an unprecedented attempt at online censorship .

If passed this will be the most deliberate act of censorship by any western government. .

The timing of this bill is so transparent and cannot be ignored as it is within just months prior to one of the most important Referendums in Australia's history.

This can only be interpreted as an act of desperation by the Albanese government to silence online opposition to the Government's plan to change the Australian constitution to include an indigenous voice to parliament.'

This bill must be rejected