

Submission on *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023*

The *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* will conflict with the spirit of Article 19 of the *International Covenant on Civil and Political Rights (New York, 16 December 1966)*, which came into force in Australia on 28 January 1993 (<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1980/23.html>) and states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

The legislation will be an undesirable departure from the Australian Government's current approach:

“The right to freedom of opinion is the right to hold opinions without interference and cannot be subject to any exception or restriction. The right to freedom of expression extends to any medium, including written and oral communications, the media, public protest, broadcasting, artistic works and commercial advertising. The right is not absolute. It carries with it special responsibilities and may be restricted on several grounds. For example, restrictions could relate to filtering access to certain internet sites, the urging of violence or the classification of artistic material.” <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-freedom-opinion-and-expression>

The Australian Government's *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* pretends its aim is to protect Australians from online harm. However, the bill defines harm as expressing "hatred against a group" based on "gender" and "sexual orientation". And "hatred" is all based on individual offense, which is extremely subjective.

The proposed bill could crush freedom of speech online, giving government bureaucrats the power to be the “thought police” for the internet, imposing massive fines against platforms that fail to remove so-called “misinformation”, which, for example, will include any comment made that the radical LGBTIQ+ lobby deems as “hatred”. Saying that a man (XY) cannot be a woman (XX) will very soon have one censored by law. The proposed law will cover social media platforms, search engines, news aggregators, web forums, video platforms like *YouTube* and podcasting platforms. Just about everything on the internet is in the firing line of this new Australian “Ministry of Truth”!

George Orwell wrote the novel *1984* in which a totalitarian government determines what “facts” are allowed to be believed via its Ministry of Truth. The Federal Government desires setting up its own “Ministry of Truth” here in Australia, with potential for abuse of its power, especially if . The

Authority is said to be independent but if the Chair, Deputy Chair, Member and Associate Members of ACMA are appointed on the advice of the Government of the day, there is potential for political bias. The Government would be able to trample over freedom of speech by giving a government agency new powers to combat what it deems to be ‘misinformation’ and ‘disinformation’ online. The Australian Human Rights Commission has warned against giving any body the power to be “the sole arbiter of truth” and senior public servants have said that the bill would capture content in addition to that which was ‘intended to cause harm’ (*The Australian*, July 13, 2023). Options should be considered, including improvement of the voluntary Australian Code of Practice without giving ACMA more powers of enforcement and punishment.

Important questions are who gets to determine what is misinformation or disinformation and what is the truth? The past few years have shown us that many things declared as “fake news” one day end up being proven truthful several months down the track. The Government hasn’t said how they will determine what they believe to be false or not, but they have said that they will target anything that they think is:

- hateful against the LGBTIQ community;
- disruptive to society;
- harmful to democracy;
- harmful to the environment; or
- harmful to the economy.

All of this is extremely subjective and open to someone’s interpretation.

As a person who upholds the values of freedom and family in Australia, I don’t want the government regulating what we can and can’t say online on matters of public policy. I don’t want Australia to drift towards an Orwellian nightmare with its own “Ministry of Truth”. Controls must be measured and arbitrators free of political interference. There should be better ways than censorship of this kind to tackle online misinformation.

Threats to freedom of speech, writing and action, though often trivial in isolation, are cumulative in their effect and, unless checked, lead to a general disrespect for the rights of the citizen. George Orwell, 1948

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