

Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

Response to the abovementioned proposed legislation:

This response focuses on some broad, but important, concerns which arise from the content of the proposed legislation.

Key Concerns

Misinformation and Disinformation:

- These terms are very broadly defined.
- How is 'misinformation' and 'disinformation' to be identified and interpreted accurately, especially if AI is used to apply misinformation/disinformation codes?
- How will the truth be determined? Apart from philosophical discussions of what the truth may be, most dictionaries define truth to be: "verified or indisputable fact, proposition, principle, or the like" and "adherence to reality." Truth typically arises through discussion, consideration of multiple unbiased perspectives, and objective analysis of the facts and reliable data. How is this to be achieved when the gatekeepers are big tech and a government regulator?

Administration, Regulation, Enforcement:

- It appears that the power to administer, regulate and enforce this new law will be concentrated in a government agency (Australian Communications & Media Authority) with the help of big tech (under threat of severe punitive measures).
- How will the technology companies and ACMA be accountable (in regard to their activities related to the proposed legislation) to the people of Australia—such as through audit, review, enquiry, and the like; who will conduct such audits, and how will audit independence be achieved?
- What avenues do the people of Australia have to challenge or dispute what is deemed 'misinformation' or 'disinformation?'

Discussion

One definition describes Democracy as: "*a system of government in which laws, policies, leadership, and major undertakings of a state or other polity are directly or indirectly decided by the 'people';*" and "*democracy helps people to protect their fundamental interests, [...] guarantees its citizens fundamental rights [...] and ensures its citizens a broader range of personal freedoms than other forms of government do;*" and furthermore, "*only democracy provides people with a maximum opportunity to take moral responsibility for their choices and decisions about government policies.*"¹

The proposed legislation appears to go against the grain of what Democracy is all about. While the expressed intent is to "keep Australians safe," the proposed law ignores that the Australian people are capable of critical thinking and making choices accordingly. Instead, implementation of controls are proposed that are more in line with Authoritarianism.

There is, arguably, a slight difference between Authoritarianism and Totalitarianism. Authoritarianism in politics and government is defined as "*the blind submission to authority and the repression of individual freedom of thought and action,*"² and Totalitarianism is defined as a "*form of government that*

¹ <https://www.britannica.com/topic/democracy>

² <https://www.britannica.com/topic/authoritarianism>

theoretically permits no individual freedom and that seeks to subordinate all aspects of individual life to the authority of the state;” however, “both of these forms of government discourage individual freedom of thought and action.”³

Given that the proposed legislation will bestow power upon a government regulator and big tech companies to enforce control over what is deemed ‘misinformation’ and ‘disinformation,’ it is suggested that these proposed measures are well aligned with those employed by authoritarian or totalitarian regimes of the past. It is well documented that Stalin, Hitler, and Mao for example, controlled information and free speech. The Bill appears to be proposing legislation that will enable the government to control, or considerably limit, freedom of speech with the help of a technocracy. Such a partnership is likely to creep into abject censorship which is, in effect, a form of thought-control.

Conclusion

In the light of the above discussion, it may be pertinent to highlight a recent lawsuit where a Judge limited the Biden administration from working with social media companies to control the narrative. To quote:

A judge [...] prohibited several federal agencies and officials of the Biden administration from working with social media companies about “protected speech.” [...]

U.S. District Judge Terry Doughty of Louisiana granted the injunction in response to a 2022 lawsuit brought by attorneys general in Louisiana and Missouri. Their lawsuit alleged that the federal government overstepped in its efforts to convince social media companies to address postings that could result in vaccine hesitancy during the COVID-19 pandemic or affect elections.

Doughty cited “substantial evidence” of a far-reaching censorship campaign. He wrote that the “evidence produced thus far depicts an almost dystopian scenario. During the COVID-19 pandemic, a period perhaps best characterized by widespread doubt and uncertainty, the United States Government seems to have assumed a role similar to an Orwellian ‘Ministry of Truth’.” [...]

“The evidence in our case is shocking and offensive with senior federal officials deciding that they could dictate what Americans can and cannot say on Facebook, Twitter, YouTube, and other platforms about COVID-19, elections, criticism of the government, and more,” Landry said in a statement.⁴

It is requested that these concerns, comments and reflections are taken into consideration in further discussions and amendments of this draft legislation. It is also suggested that this proposed legislation is unnecessary and should be dropped in its entirety.

Thank you for the opportunity to comment.

³ <https://www.britannica.com/topic/totalitarianism>

⁴ <https://apnews.com/article/social-media-protected-speech-lawsuit-injunction-148c1cd43f88a0284d5a3c53fd333727>