

I wish to make a submission regarding the Exposure Draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

There is no evidence to demonstrate the necessity for this bill which seeks to outsource to mainly foreign-owned digital media groups the right and responsibility for censoring what Australians can read, say, hear or see on line.

On the contrary, there is ample and growing evidence that the digital companies have already been censoring speech on a variety of subjects and have been doing so on some occasions in collusion with government agencies both in the US and Australia.

The guidance Notes state that ACMA is to strike a reasonable balance between freedom of speech and the risk of harm. There is no evidence of how this balance will be achieved or measured nor is there any apparent means of ensuring the obligation is met. History would indicate that any bureaucratic entity established to monitor free speech will do so with increasing rigour to the disadvantage of the ordinary citizen. Such entities will also staunchly resist efforts to either examine their activities or call them to account.

Digital media companies exhibit little in the way of transparency or accountability.

The Bill provides that ACMA will not have the power to request specific content or posts be removed from digital platform services but rules made under the Bill may require digital platform services to have systems and processes in place to address misinformation or disinformation that meets a threshold of being likely to cause or contribute to serious harm. This operates to outsource the definition and monitoring of what constitutes misinformation and/or disinformation to foreign entities. Not only are they alien to the Australian culture and legal system they are wholly unaccountable to the Australian electorate. The likelihood of ACMA having any effective control is remote. Indeed, efforts by US companies to restrict free speech may well be unconstitutional in their home environment and ultimately illegal.

Claims of "harm" engendered by mere speech seem to emanate from universities railing against Western civilisation and reducing all problems to the "racism of white colonisation".

No unavoidable harm can flow from information, misinformation or disinformation. On a Web site there is already a perfect defence: the off switch. Those who can't or won't exercise this simple harm management tool, or undertake prudent research should not cry to the Government to protect them from their folly and in so doing limit the information available to other more discerning users of information services.

The proposed legislation will have a chilling effect on expressing opinions involving controversial political subjects such as climate change, pandemic management, trans-gender issues, the voice and social problems arising from mass immigration.

It is outrageous that the bill seeks to exclude government and bureaucracy at all levels when history and recent behaviour confirms these areas are the most likely sources of deliberate misinformation or disinformation.

For example, Linda Burnie, Minister for Indigenous Affairs, in addressing the voice proposal, has repeatedly insisted that people supporting the "No" case are introducing "Trump style politics" into Australia and are guilty of misinformation and disinformation. This is weaponising the Bill before it is legislated by clearly signalling to digital media and ACMA that they should be censoring those who speak against the voice.

TV viewers are inundated with Government sponsored ads typifying the forthcoming referendum as being all about "inclusion and recognition" without actually mentioning the voice. This is clearly a cynical response to polling showing that the Australian community overwhelmingly supports recognition in the constitution but is increasingly opposed to the voice component. It is deliberately

misleading.

Despite her responsibilities for indigenous affairs, the minister has for years falsely asserted that she was once counted as flora and fauna and that she was not counted as a citizen until 1967. These claims have been repeatedly debunked by “fact checkers”, including the ABC. Why, as a government minister, is she to be exempted from deliberately spreading such misinformation?

Before you dismiss these thoughts as the delusions of a fevered right wing imagination, it is instructive to note the breadth of opposition expressing doubts about the proposal: ACMA itself, the Australian Human Rights Commission, most mainstream media and several of the digital corporations involved.

My recommendation is that the Bill be withdrawn in its entirety.

Yours sincerely,

Garry Rothwell

