

## **NEW ACMA POWERS TO COMBAT CERTAIN INFORMATION 'The Draft Bill on Disinformation and Misinformation'**

(Comment and Feedback herewith)

I have major objections to this legislation and I list those below. It will constrain ordinary Australians from freely communicating **in good faith** about topics they are concerned about or feel inclined to comment upon. That means they cannot speak openly and freely. That threatens any democracy.

### **1. The Role of Government in Regulating Communications between citizens**

It should be the job of government to protect our right to free speech. It is simply NOT the job of government to dictate, to enforce or coerce others to enforce restrictions on what Australians can choose to say in conversations, on media or privately, on open media including chat groups. That is a role for unbranded parties to use common and civil law and the Judiciary.

There are adequate laws eg for defamation, damages already in place. The Australian people are capable of having open robust conversations including where factually wrong matters are stated. That is the beauty of digital platforms where contrary views and falsehoods are regularly debated. We should not be afraid of open, honest and many times contentious and controversial debate. It does not matter that some are 'offended', certain views will offend but that is the right of the viewpoint maker. The offended can respond, that is their right too.

It is dangerous to stop wide and robust communications made in good faith. I see no provision for 'good faith' in this legislation. I see no provision for intent to not cause harm in misinformation under this legislation. Example: Government bodies stated vaccines prevented transmission of infection. That has since been proved false and it is now fact that COVID vaccines did not prevent transmission of infection and research data disclosed this. Under the proposed legislation those views, for example, by respected immunologists which ran counter to the government view would be silenced and perhaps penalised.

### **2. Misuse of Legislation**

Activists and pressure groups will love this legislation. Persons abound today who seek to close down conversations that oppose their narrative. They will expansively and expensively use this legislation to bludgeon digital media and commentators to not publish. Meaning those in media will need to determine misinformation, which they are not well equipped to do financially, educationally or skills wise. This will lead to a 'no risk' approach which will lead to a dumbing down effect applying constraints on robust, controversial or objectionable views expressed.

Example: Digital media like Twitter is a case in point. These platforms are open, robust and free, allowing all to express views and opinions. Public and open chat by individuals acting in good faith on Twitter will now be subject to review/ penalties and the platform to costs and penalties. That is reprehensible.

### **3. Costs**

i). Digital Media platforms with opinions, chat channels, Twitter, Parler, etc. and podcasts will bear the brunt of expensive resource costs to implement review systems under threat of regulation and penalties. This could severely curtail operational efficacy in this country.

Where do startups go with very limited funding if faced with costly government intervention and regulation. This is a direct threat to innovation in this country.

Will digital platforms like Twitter in its present form with the breadth of comment, etc be forced to change? USA allows Twitter. Or, has nobody checked the practicalities of this legislation?

ii). Bureaucratic cost to the Australian taxpayer. This will lead to yet another large bureaucracy as the sheer size of the job of ensuring compliance and regulation is enormous and growing as the digital world expands exponentially. Costs which add to the largest debt position in Australian history. Government priorities should rule it out on this basis alone.

### **4. Definitions**

The use of the words 'harm' and 'hate speech' are highly subjective and too often invoked by parties offended by identification or harsh criticism. Identification which is simply useful and sensible to pin down costs, issues, responsibilities. Criticism which may well be deserved in the eyes of ordinary citizens. The application of this law may well reinforce division in our society. Unbranded groups, be they ethnic or topic based, now have another means to wage mayhem or simply avoid responsibility.

When one constrains or enforces language it is a direct constraint on free thinking. It ekes into educational systems and youth which will affect generations to come in free speech and thought. Consequently any application through use of these terms must be subject to a very high standard of proof, of serious harm, plus the requirement of 'intent to cause harm' and must exclude comments made 'in good faith'.

#### **4. Penalties**

Penalties are so large, particularly for misinformation, that fear of application will lead to curtailing free speech in media. Digital media platforms have millions of participants and it will be all too easy to cite multiple contraventions to raise up penalties on these particular media groups.

#### **5. Appeals process**

There is inadequate protection of individuals and organisations to appeal application of regulation, constraints and penalties where unjustly applied.

#### **6. Disinformation**

Disinformation by foreign governments/parties with intent to influence integrity of Australian elections is a legitimate concern. How ACMA intend media, podcasts, individuals to not only identify but prevent sophisticated, clever but harmful intelligence activities is beyond reason. If these media etc do become aware of activities of this type it would be more appropriate to have them work in conjunction with our appropriate intelligence etc agencies to identify and thwart them. As opposed to costs of identification, regulation and penalty falling on the corporate and citizens world.