

## SUBMISSION

from Margaret Kobier

re Consultation on the Exposure Draft for the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

This proposed legislation

1. appears to be an attempt to legitimise the censorship of Australians that the Government covertly carried out during the Covid drama;
2. appears to continue to either use corporations to take actions the government is constrained from taking OR the government responding to the dictates of corporations who are more interested in social engineering than their core business;
3. appears to be an attempt by the government to assume it has the authority or responsibility to control what people see, hear or read;
4. leads to me asking many questions which indicates that though it may be well intentioned, it is not well defined. This lack of clarity can only lead to confusion. The most obvious and most important points that apply to the ordinary everyday conversations and debates of Australians, as we share information from all sources on topics applicable to our lives, is the constant use of the ill defined terms of 'misinformation' and 'disinformation' and the endeavours to legislate regarding emotions such as 'hate'.

### NOTE:

"Since 2012 it has been a legislative requirement that all bills and disallowable legislative instruments must be accompanied by a Statement of Compatibility with Human Rights, containing an assessment of whether the legislation is compatible with rights and freedoms recognised or declared by international treaties which Australia has ratified. The Member responsible for introducing a bill (including a private Member's bill) must cause the statement to be prepared and to be presented to the House.<sup>[45]</sup> Generally such statements are incorporated into the bill's explanatory memorandum, but they may also be presented separately."

[https://www.aph.gov.au/About Parliament/House of Representatives/Powers practice and procedure/Practice7/HTML/Chapter10/Bills%E2%80%94the parliamentary process](https://www.aph.gov.au/About%20Parliament/House%20of%20Representatives/Powers%20practice%20and%20procedure/Practice7/HTML/Chapter10/Bills%E2%80%94the%20parliamentary%20process)

### Issues to be addressed in the consideration of this proposed legislation

Sub clause Schedule 1 Section 7 Misinformation and disinformation (1) (a) and (2) (a)

- "the content contains information that is false, misleading or deceptive; and (d) the provision of the content is reasonably likely to cause or contribute to serious harm; and ... (d) likely to cause or contribute to serious harm.'

### Question 1:

1a. How is misinformation and disinformation going to be identified?

1b. Who is going to identify what is or isn't misinformation or disinformation?

1c. Will 'misinformation' or 'disinformation' be clarified before the event or will it be judged after misinformation or disinformation is said to occur?

1d. What educational and life experience will these judges of information have?

These words 'misinformation' and 'disinformation' are bandied around but what do they really mean?

It appears, based on what has been censored on social media during a recent world wide event, that any information that goes against what authorities are saying is classed as 'misinformation' or 'disinformation' regardless of who is putting forward that information and regardless of their qualifications and work and life experience. I would add that since then a lot of what was censored has been shown to be true. Even a woman sharing in her family and friendship group about her concerns for her husband's health after a post vaccine heart issue had her posts censored. Medical people were censored when they were sharing information that could have saved lives.

With this proposed legislation, this is just as likely to happen again and lives once again be put at risk.

- I would suggest that misinformation is information incorrectly understood and in discussing this misunderstanding with another, one cannot be considered to be committing a crime or, as indicated by this proposed legislation, a digital platform corporation cannot be fined if this discussion is online.

We can have misunderstandings on any matter and it is usual for us to learn and even gain information to change our minds when we can engage in discussion that includes differing points of view and life experience. The fact that our discussions often take place on a digital platform does not change the process of sharing, listening and learning.

Misinformation cannot be legislated against for the very reason it goes against

- (a) freedom of speech;
- (b) our democratic right to access and share information, thoughts, ideas; and
- (c) the freedom to change our view and/or understanding in light of new information and opinions.

- Disinformation could be clarified as the deliberate dissemination of incorrect or incomplete information in order to deceive.

### Question 2:

2e. Who will have the audacity to determine if a person is deliberately disseminating incorrect or incomplete information in order to deceive?

2f. How can the government of the day attempt to fine a digital platform corporation or business for not correctly reading a person's motives?

To attempt to do so can only be classed as an abuse of power by the government or its agent in the first instance and the digital platform corporation in the second instance.

Harm should be clarified as 'Physical harm or damage to a person or property'

Question 3:

3a. Who decides what is hate in pictures or words?

3b.. Who will decide what a person's motive is for posting a quote, meme or information?

If 'harm' is not easily identified, it can lead to the situation of a person being classed as guilty in the first instance instead of being considered innocent til proven guilty.

Hate is a feeling or emotion. It is subjective. It is impossible to legislate for feelings or emotions because we all have different levels of tolerance for the way someone speaks to us and even this is subject to our personal situation at any given time. Because words can be offensive it doesn't mean that offence has to be taken. People can choose to be offended or not. To even consider that legislation can be drawn up to deal with a feeling or an emotion is a fanciful idea and we do not live in a world of fantasy.

Who is given Authority to make decisions for every Australian? Our elected representatives are supposed to be working for us not trying to control us

Question 4:

Under what right or authority can our government or its bureaucracy think it should have the right and capability to determine what an Australian may see, hear or read?

In fact, this proposed legislation will take us back to the 1950s when books were still under censorship in Australia. We could not read anything that was classified as blasphemous, indecent or obscene, emphasised (unduly) sexual matters, horror, violence, crime or encouraged depravity. Reading through this list now shows how uncensored we are as to what we hear, view or read.

In the 1970s the Whitlam Governments policy was that adult persons should be free to read, view and hear what they wish; persons in their care should be protected from exposure to unsolicited material offensive to them AND the reasons for censorship decisions should be published.

Prior to this, the Hon Don Chipp MP called 'for as little censorship as possible (within the limits set by community standards), great public scrutiny and community responsibility (in particular parental responsibility).

These rules were applied at the point of import or customs but were changed to apply to point of sales and suddenly we were flooded with pornographic images when the requirements regarding the display of this type of video and magazines were ended. No more separate areas or under the counter sales and no real limits on the sale to minors.

This brief telling of our censorship history is to point out that this proposed legislation is a step backwards to where the government wants to regain control of what a person, hears, views or reads but on their terms not on a community standards test or what the community wants or needs regarding available information.

Yes, we do live in an age where digital platforms encourage and enable wider dissemination of information. There is so much information that it is difficult for anyone or any bureau or government to think they can or should censor what any man or woman in Australia can hear, view or read.

We are all equal under our Constitution. There is Parliamentary privilege for politicians speaking in Parliament and that is where that privilege ends. The Media can not and do not have such a privilege. The role of the media is to search out and present the truth not just regurgitate a set narrative.

Question 5. Sub-clause Section 1 Section.6 Excluded services for misinformation purposes

5a. Why exclude media from this proposed legislation?

5b. Has the media given us misinformation or disinformation or deliberately deceive us in relation to Covid or immigration or indigenous matters? The media has certainly not given us the full truth on these matters as well as other matters.

5c. Is this proposed legislation a means by which to curtail 'alternative' or 'citizen' media.

The media have already shown they are capable of misinformation and disinformation according to the understanding given by this proposed legislation. We know if we want to get an understanding of an issue we have to purchase newspapers from different media companies (each one has its bias) and we also apply this same principle to our television news viewing or the digital platform channels we follow.

When stories are presented after editing, we get a sanitised version or a narrative that is approved or incomplete information that can lead us to wrong opinions, assumptions or vital knowledge. We only have to look at one major story that ran over a period of years to recognise how the media can manipulate public opinion and that is the Lindy Chamberlain case. We have in recent years experienced the manipulation of information by the media regarding Covid information and their attitude to people expressing a differing opinion and which was eventually shown to be correct.

My personal experience with the press has shown me that the media do not let the facts get in the way of a good story or even if a story gets published or not.

I have watched a press conference and then that night watched the news reporting of the same event and noted that the editing had been done in such a way as to give a very inaccurate understanding of the situation.

Most of us get our information from the media but because we have experienced the media presenting edited or incomplete information we do not trust them for the truth. We get more complete and truthful reporting from the so called alternative or citizen media. Limiting this legislation to the digital platforms can easily give a government the means to shut down citizen and independent journalism and shut up dissenting voices.

If this legislation goes ahead, the media cannot be excluded.

Question 6: Why exclude government and government agencies from this proposed legislation?

Politicians have parliamentary privilege when speaking in Parliament but they should not be allowed to use this to spread false information. This has happened in the Senate in recent times and though the issue was raised, no response was received.

During Senate Hearings, those answering questions dance and weave around some answers and in doing so they are not giving open and honest feed back to the Senators. By doing this they are in fact providing misleading information or maybe this legislation would call it misinformation.

We can go back to the Covid situation and it was clear that bureaucrats were ignoring information that would have led to a different outcome for many people.

Because of misinformation and disinformation by political leaders, senior bureaucrats and media and the censorship of information from other sources, much harm was done to the health (and lives) and finances of Australians. This is measurable harm and based on this proposed legislation could not or would not be acknowledged or dealt with if it was not regarded as harm by the 'fact checkers'.

If this legislation goes ahead, government members, their staff and government agencies cannot be excluded.

Question 7:

Schedule 1.2(a) Definitions of (a) content, professional news content etc - all items here need more defining and explanation. I will highlight just three (3).

7a. Who decides what is entertainment, parody or satire?

Everyone has differing ideas on what is entertainment, parody or satire so who gets to decide what any one individual would class as acceptable in this area. We know, from experience, that even comedians have been censored if their routine did not back what the government wanted.

7b. Will this proposed legislation prevent that from happening again?

7c. What will be the parameters to classifying professional news content?

7d. Will this classification of 'professional news content' be used to stop their very important reporting to the community?

We have already seen and experienced the treatment of 'other than' mainstream media journalists and previous attempts to denigrate and sideline them.

7e. What are the guidelines for education content?

Many parents and others in our communities are far from happy with the current school curriculum and we would like to see a change to some of what is currently in the curriculum for our children's schools. Remember that what was called for was 'as little censorship as possible ... (in particular parental responsibility)'. Recent governments have forgotten this.

We would agree to the censorship of pornography in that it should not be easily available for viewing or reading or listening to by young children. We, who are parents, appreciate it when our society supports us in helping us control what our children have access to be it movies, reading material or harmful substances.

OTHER:

Fact checkers:

As I understand, 'Fact Checkers' are employed by the digital platform companies but how reliable are they to make decisions on misinformation, disinformation and hate?

There is a licensing or accreditation agency but what forms the basis for this accreditation?

What do we, the public know about this?

I know, for a fact, that 'Fact Checkers' have got the source of their 'fact check' from a newspaper article so I, like others, have no faith whatsoever in 'Fact Checkers' getting it right.

Collusion between Government and Media:

In a personal capacity, I had written to the head of a government agency with what I considered a professional question. In response I was referred to the ABC's Fact Checkers website. Because of my past personal experience with media, I was not impressed. This was not an appropriate response from a senior bureaucrat and highlights the collusion between government and media.

Voluntary Code:

The digital platforms have a code that is supposed to deal with possible terrorism planning of or inciting physical harm to a person or thing. These are the only things that should entail scrutiny.

Feelings, viewpoints, opinions (correct or otherwise) cannot be censored. To do so is taking us back to the dark ages.

We already have copy right rules and defamation laws. We already have electoral rules

Digital companies should be allowed to provide the best service they can for their users, the suppliers of content and advertisers. Governments should not be involved.

Daily penalties of such magnitude indicate financial manipulation by government on corporations for the governments purposes and without basis this could be seen as money making more than the imposition of a penalty for committing an offence.

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