



SUBJECT: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

July 24, 2023;

This is to be considered the formal submission by Freedom Publishers Union to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, in response to the Exposure Draft titled, "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023", hereafter referred to as "the bill".

Submission authorized by GC Media Publishing Management (ABN: 98 317 740 240).

Free speech - A core principle

Freedom Publishers Union firmly believes in, and stands for, free speech and it remains the core principle of our entire global operations.

We declare any measure or system which impedes free speech, intentionally or unintentionally, to be censorship.

We believe free speech is an inherent human right of all citizens of the world and will continue to condemn governments who seek to impose on this inherent right.

Increased censorship

The bill will empower the ACMA to demand digital platforms establish measures, on top of existing measures, which will see censorship become routine.

The ACMA claims it wants to "strengthen" and "encourage" the existing voluntary industry disinformation code (through the Digital Industry Group Inc.), however if it feels the voluntary code is ineffective, it will develop and enforce a new system (Code of Practice) of its own and digital platforms will have no option but to comply or face possible legal penalty for non-compliance.

Such extreme measures, performed through the ACMA, negates the whole purpose of the voluntary disinformation code that ACMA supports and wants to “strengthen”.

Freedom Publishers Union observes an obvious disparity between the claims of intent of the ACMA and the actions it may take against digital platforms, creating a complex scenario where multiple systems are in-effect, which will only lead to industry confusion.

We see no benefit to be gained from taking action against digital platforms that are already taking hostile actions against account holders, using in-house measures, which is already resulting in overzealous censorship.

By the ACMA potentially taking further action against digital platforms, we see no positive outcomes – particularly related to free speech – as further action, through force, will only enhance censorship.

Closing the door on free speech

The complete absence of any reference to the terms “censor” and “censorship” in the bill is notable.

It is somewhat disingenuous to be hiding behind the terms "misinformation" and "disinformation", as this is a censorship bill.

The bill suggests such content has the potential to inflict serious harm on Australia's democracy, economy, environment and citizens.

Freedom Publishers Union argues to the contrary.

We have always argued that eroding and closing the door on free speech is a much more dangerous threat to democracy than allowing free speech to flourish without government interference.

The bill, by its very design, is framed around a core purpose of restricting free speech and opinion to a tightly controlled and regulated scope, to be defined by the ACMA.

Claims there are "strong protections" for free speech in the bill are simply untrue.

There are none.

The ACMA controlling the narrative

The bill will not provide the ACMA with powers to demand the removal of individual posts, however this is primarily because it is already being done through other departments within the Australian Government.

At face value, not providing the ACMA with these powers may seem like a positive, however it is negated by the fact the bill is providing the ACMA with alternative powers on a much larger scale – powers to control the narrative, through defining what can and cannot be posted to digital platforms.

Defining what citizens can and cannot say is censorship.

Any content outside of the defined scope may be classified as “misinformation” or “disinformation”, by the ACMA, and prompt it to demand the digital platforms do more.

Freedom Publishers Union welcomes and encourages dialog and consultation between the ACMA and digital platforms, however the opportunity should not be abused by the ACMA to place pressure on digital platforms to remove individual posts which triggered it.

Such aggressive tactics, if adopted by the ACMA, would inevitably see an increase in individual posts being removed as a form of mutual understanding to settling content disputes between the ACMA and the digital platform, which runs the risk of censorship becoming even more routine than it already is and systemic.

The ACMA, an intelligence asset?

The ACMA has conceded that concerns being raised about the bill are “valid concerns”, however the comments do not reflect the position of the ACMA in 2021 when, in a 146-page disinformation report titled, “A report to government on the adequacy of digital platforms’ disinformation and news quality measures”, they requested exactly these new powers.

The ACMA was responsible for maintaining secret website blacklists (2008-2009) which could potentially be used for a government-sponsored mandatory internet filter.

We find it extremely concerning that the ACMA is demanding new powers which continue to expand its scope of operations, all without providing any assurance that a mandatory internet filter is not the next phase in censoring Australian citizens.

Freedom Publishers Union is concerned the new powerful information gathering powers the bill would empower the ACMA with have the potential of turning the ACMA into an intelligence asset, through information gathering and logging, and the ACMA working outside its remit.

We believe empowering the ACMA with such extensive information gathering powers is overreach and unnecessary, and goes too far beyond the aforementioned core purpose of the bill.

There is insufficient safeguards in the bill to protect any data it may (and will) demand through these new powers, from abuse and access by disingenuous intelligence communities.

Commendation

An exemption is provided for professional news outlets.

Freedom Publishers Union commends the specific exemption for professional news outlets, however believe it could have been broadened to include independent media and community journalists.

But once again, we see critical portions of the media go unsupported by the Australian Government through its failure to recognize their contributions to Australia's free press.

Closing statement

The "Online Safety Bill 2021" enables website blocking techniques to be employed, which we opposed.

The anti-encryption bill, "Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018", which we also opposed, enables for the forced creation of backdoors or some other form of technical access which circumvents encryption - the very technology which is designed to prevent such unauthorized access.

Much like what was done with the swathes of anti-terror laws (which only served to expand the global mass-surveillance networks), poorly drafted bill after bill is introduced and sold to the public as if it's been developed to combat one problem, yet it actually serves to complement a suite of equally poor laws.

It's undeniable this *always* results in government overreach and lack of oversight.

This is always done at the expense of further eroding democracy and inherent freedoms of citizens, and we fear this is exactly what is going to occur if the bill is allowed to pass.

We are concerned this bill will only add to an existing suite of poor laws which are frequently being used outside their designed (or sold) purpose, and together will simply make censorship legal.

We believe 'legal censorship' is chilling and always unacceptable, and is something we will always vehemently oppose.

In March 2021, we stated, "What Freedom Publishers Union is pushing back against is government sponsored attempts to regulate the internet in ways that are simply inconsistent with the founding principles of a free and open internet."

We stand by this position.

We also said, "It is our belief that any 'policing' and monitoring for illegal content on all platforms should be the responsibility of the operators, with the assistance of the community of internet users."

Digital platform operators should remain in control of their platforms and it should not be a sector where governments feel they have the right to regulate, 'act' as internet police, censor and inject themselves to become the arbiters of truth.

In March 2021, we warned that there would be more (and potentially worse) legislation to come that would serve to regulate and censor the internet.

The "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023" Exposure Draft is exactly the type of bill we warned would eventually arrive.

Freedom Publishers Union has a clear, distinct and provable historical record in foreseeing the measures Western democracies have adopted, to censor the internet.

Therefore, we feel our concerns are absolutely credible and must not be ignored for the potentially severe implications to come, otherwise.

We are truly, extremely, concerned that this bill is moving Australia another step closer to implementing a government-sponsored mandatory internet filter, which would also inevitably be administered by the ACMA.

Implementation of such a mandatory filter would be unforgivable and only serves to push Australia further towards adopting the same technical access measures employed by China, North Korea, Russia, Iran and other authoritarian and totalitarian systems.

Is this really where we want to take Australia?

Our submission's core focus is on the "Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023" bill, but it must not be lost on anyone that this bill will serve to complement existing laws and future laws that will inevitably follow.

We believe our uncompromising opposition is entirely justified and we are encouraged by the opposition to the bill which has been expressed by so many across academia, law, media and technology behemoth, Meta.

Even the ACMA - the authority to be granted the new powers under the bill - conceded that the concerns being raised are "valid concerns".

This bill is ill-thought, poorly designed, shows too many inconsistencies and we believe it to be a danger to democracy.

So dangerous is the bill, we believe that there are simply too many problems present to be resolved through amendments.

Freedom Publishers Union opposes the bill, on principle and on concerns it will seed the roots of systemic censorship, placing even further impediments on free speech and turn the ACMA into an intelligence asset ripe for weaponization by governments.

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