

Submission on Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

Having read the draft Bill, the Guidance Note, the “*Have your say*” document and the 2021 ACMA report on the adequacy of digital platforms’ disinformation and news quality measures, I am strongly of the view that the Bill should not be proceeded with. The concept is flawed so the Bill cannot be modified to be made acceptable; rather it must be dropped altogether.

As I will explain,

- it is not a function of government to determine what citizens should and should not believe;
- it is true that there is a large amount of misinformation on social media;
- we now live in a World grounded in deceit - including in all the former pillars of authority that citizens could once trust such as teachers, government, media, banks, scientists, police and so on;
- From the documents, it appears that ACMA is only dealing with a small fraction of the misinformation miasma; ie those areas on social media that conflict with official policy or advice. Consequently we suggest the grand opening statement “*Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as to our democracy, society and economy*” is hyperbole;
- ACMA’s chosen instrument of cancelling/censoring is the wrong policy instrument. Openness and freedom is the way for truth and trust to emerge whereas deplatforming and censorship leads to distrust as well as often counterproductively spawning conspiracy theories; and
- Starkly absent is the protection of rights of individuals’ freedoms of speech and expression.

Role of government

In a free market economy, governments should have no role in censoring information on which citizens make their own decisions and choices. We are not children that need to be told what to believe. That is demeaning to say the least.

There will always be disinformation and misinformation in circulation, but leave it to the intelligence of the population to weigh up themselves what is true. We prefer freedom to someone else deciding what is best for us in their opinion. If specific issues arise such as cybercrime or a campaign by a foreign power, governments can always issue an alert which is probably more effective than trying to suppress knowledge of it.

I make a distinction between what is proposed in the Bill and censorship of offensive material, defamation, perjury, criminal activity, and false representation for which there are already legal frameworks in Australia.

Good policy requires a quantified problem statement

Sound government practice demands that any major new initiative or policy is evidence-based. This usually means an objective study is undertaken to quantify the scope and importance (economic and/or social) of the root problem justifying the new policy. In this instance the June 2021 report by ACMA makes an attempt at quantification using Covid 19 as a case study. In the light of subsequent events however, the report's findings are almost laughable and really exposes the folly of the proposal. A major policy incursion into the freedom of citizens requires a far more extensive quantified problem statement than this with particular emphasis on actual harm. The estimated financial harm in the ACMA report from the 5G component was found to be insignificant.

In the one case study selected, there was undoubtedly misinformation circulating through the internet at the time but did it have a significant effect? Apparently not as vaccination rates were very high reaching about 99% in the ACT. So what was the harm from the misinformation? One could say "negligible".

There is however another story to be told. There was a strident, even vicious, campaign by Australian governments and media to demonize so called anti-vaxxers. Here were governments stirring up hatred against a group of people, many of whom had legitimate reasons for not getting vaccinated. Hatred was the very thing this legislation proposes to outlaw for individuals and organisations! Remember the slogan "this is a pandemic of the unvaccinated".

Firstly the government was guilty of misinformation and disinformation as only a portion of those reluctant to be vaccinated were indeed anti-vaxxers we hear. Others had quite logical reasons for hesitancy.

Secondly much of the governments' advice in hindsight proved to be factually incorrect (transmissibility was not prevented by vaccination, lock downs did more harm than good, we were assured the vaccines were safe yet we know even in our personal sphere of acquaintances a number of cases of vaccination injury, some very severe, yet the risks were hid from the general public, and so on) so governments are not a fount of all truth. And on the question of harm, government agencies were either deliberately choosey with their "facts" or outright misleading. For example, Australia has plentiful epidemiologists who graced our TV screens daily but I understand Australia only had a single qualified toxicologist who could comment professionally on the safety of the vaccines but was never asked. So the hesitators had just cause to be cautious - regardless of any conspiracies theories.

The Covid experience from its origins in Wuhan veiled in government disinformation serves to illustrate that it would have been a serious mistake to allow governments to take sole authority over the information flow regardless of conspiracies and misinformation circulating. Accountability of governments can only be tested from outside.

Fallacy of fact-checking

With science qualifications I have had a career at the interface between scientists and policy and programs covering more than a dozen disciplines. I speak from considerable experience.

Firstly there has been a decline in the veracity of scientific studies. The British equivalent of our national science funding organisation decided to commission researchers to try and replicate certain randomly selected published studies. To their horror, depending on the discipline, as high as 40% of results if I recall correctly, could not be replicated indicating fraudulence in the original work.

Secondly, “facts” are only part of the story. A narrative is built up on the “facts”. Even if all the “facts” are real and true, one narrative can be built on one selection of the “facts” while a contradictory narrative can often be built on a different selection of “facts”.

In practice, it is usual for the ideology or narrative to come first and then a search for “facts” to support that viewpoint. Fact checkers are likely to be as ideologically biased as anyone. Similarly, in my lengthy experience, it is a rare scientist (and greatly to be admired) who is so disciplined as to be totally objective in dealing with a collection of “facts” that may seem to contradict. Most are loyal to the ideology of their funding source.

Governments are as prone to misrepresentation as anybody else. Take the latest State of the Environment Report. I can only comment on those chapters on which I have expertise but the deception and misrepresentation used to support a preconceived narrative was blatant in its selection of “facts” and disregard for those that did not suit the narrative.

ACMA cannot have expertise in all disciplines to be able to adjudicate truth and if they request the advice of an expert, such an expert may well be biased (beyond very obvious inaccuracies that any well informed person could also recognise). Similarly with government and speaking from experience, many areas do not have sufficient expertise to even judge whether advice received from consultants and scientists is accurate or true.

Much of the misinformation appearing in social media is the result of people making pronouncements outside their area of expertise or competence. That sort of problem has always been with us and will into the future. We all live with that in daily life and don't need the government to step in.

Truth over harm

Truth is more valuable than even serious harm of an economic or psychological nature. If some group is deeply offended by criticism based on truth then so be it. Legislation should not be used to protect the feelings or activities of “in” groups from public exposure of their anti-social behaviour, hypocrisy or excesses.

The World we live in now

Distrust of authority structures by the general public is high and for good reason. “Politicians are all liars” is a common sentiment while of course not true, it represents a prevailing attitude. Any moves therefore by government to silence or cancel alternative sources of information under the guise of clamping down on misinformation and disinformation is likely to backfire and raise suspicions that it is government that is promulgating misinformation and disinformation and hiding the real truth from citizens.

Another trend is the increasing substitution of commentary for factual reporting of news by the media as well as commentators speaking on disciplines outside their expertise or ones chosen to support a certain narrative.

It is no wonder that more people are looking for alternative sources of information. Just as we are a little suspicious of any advertising campaign for a retail product, the media and government have become salespeople for their products and so are viewed with suspicion too. The sad result is that media and government operatives don't see what they are doing is both outside their function and counterproductive in the medium term.

As mentioned the greatest expertise on virtually every subject now lies outside government. It is becoming obvious that governments also now only seek the views of those experts who tell them what they want to hear. That means alternative sources may have access to greater true expertise than government and it is pique for governments to try to shut down such sources or deprive citizens of access to them.

Outsourcing

The Exposure Draft proposes in effect that the big tech companies take on the role of censoring misinformation and disinformation and if they fail they will suffer hefty financial penalties. Others will write on this we expect but we add our concerns that the effect of this outsourcing and the fear of the penalties will mean that the companies will greatly err on the side of caution and delete any material they think will offend the Government regardless of its truth or accuracy.

We already see how the big tech companies (and the banks in the case of Nigel Farage) cancel the accounts of people who hold different political views to theirs regardless of whether any misinformation is alleged. Such an outcome is not in the interests of free speech or a genuine search for truth.

The amount of misinformation and misleading information in circulation is vast so the powers granted by the Bill can only be used capriciously. That of itself is damaging to democracy.

Future

Our great concern is that some future government will weaponise the powers of this Bill to silence dissent against any of its policies rather like the totalitarian

countries do. Too many freedoms were lost already during the Covid pandemic and we cannot afford another erosion of freedom of expression and speech to occur.

The justification put forward is feeble at best and more about shoring up government interests than protecting citizens. The whole tenor of the Bill is one of control with only tiny Section 60 mentioning freedom of political (only) expression but with no mention of how it would be implemented.

Let us make our own decisions aided by open debate.