

The Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023, if passed into law, will destroy our democracy. We must retain the right to challenge governments and demand explanations for decisions. The Government want to silence dissenting voices and rely on blind faith in our politicians. Blind faith is for religions or tyrannies. Democracies are built on the free exchange of ideas and the right to challenge authority.

The Bill is contrary to the rule of law in a democratic society.

Freedom of expression is 'closely linked to other fundamental freedoms which reflect what it is to be human: freedoms of religion, thought, and conscience.

The Bill creates an unlevel playing field between governments and other speakers. Any view authorised by the government is, by statutory definition, not 'misinformation', **however false or misleading it might be**. Only information that is not authorised by government is capable of being 'misinformation' as defined. That double standard disadvantages critics of government in comparison with a government's supporters.

The simplest ways for a digital platform to avoid 'misinformation' being found on its service is to permit only the expression of views authorised by government (which, by statutory definition, is not 'misinformation'), or otherwise to forbid the expression of any controversial, debatable, factually uncertain or politically sensitive views.

Many years ago, hosts of current affairs programs on television would invite guests from both sides of a story to discuss their views and leave it to the viewing public to make up their own minds. That doesn't happen now. TV hosts or journalists only allow the government's view (or the views of whoever owns the TV station) to be heard and they force their own opinions of the viewing public. If someone who holds a different view is allowed on the program, they are accused of being a conspiracy theorist, racist, transphobic or whatever other derogatory name the host chooses to use.

The prospect that ACMA will be required to sift 'information' from 'opinion' or 'claims' is likely to have an effect on freedom of speech; especially in sensitive or controversial areas. The effect may be particularly harmful if a regulator is tempted to be over-inclusive about what counts as 'information' rather than 'opinion'. The risk is that disfavoured opinions might come to be labelled and regulated as 'misinformation' (i.e., as misleading facts, and not as opinions).

The broad definition of 'misinformation' requires the decision-maker to distinguish 'information' (whether misinformation or not) from all other online content, such as opinion, criticism, political commentary, creative writing, or religious expression.

**'Disruption of public order or society in Australia'**: Lawful exercise of the right of public assembly and peaceful protest is often met with opponents (or government authorities) who allege or perceive a risk to public order. For example, the protests against lockdowns and mandatory vaccinations held recently were peaceful protests until the government interfered and ordered the police to act like thugs.

Further, many valuable social movements have been met with accusations that they involve a ‘disruption of society’, even in respect of peaceful and non-violent conduct that involves no public disorder. Such allegations were often made against the movements for women’s rights, LGBTIQ+ rights, or the protection of the environment. Almost any social change — including peaceful change that the majority supports — could be said to ‘disrupt’ society; but the risk of misuse of this definition is particularly acute in the case of unpopular or politically disfavoured minorities.

**‘Harm to the Australian environment’:** It may not be easy to identify what is, in fact, a harm to the environment. Whether information about a wind farm causes ‘harm to the Australian environment’ might depend on whether one’s focus is on reducing carbon emissions, or on protecting local bird life and visual amenity.

It is not clear what justifies the statutory presupposition that ACMA will have the expertise and intellectual resources to identify and distinguish ‘misinformation’ from other forms of online content. Taking only recent examples of contestable online claims, is ACMA well-placed to identify:

- the biological origin of novel viruses;
- the efficacy of newly-developed medical techniques;
- the extent of corruption on the part of politicians.

The everyday experience of the courts shows that discerning truth from falsehood in a procedurally fair manner may be an elaborate, costly and time-consuming process. The statutory supposition that this can be done readily, and with little effort by ACMA or by digital platform operators seems unrealistic in light of real-life experience in relation to, for example:

(a) the truth (or otherwise) of allegations of war crimes committed in Afghanistan;

(b) the truth (or otherwise) of allegations of financial exploitation of Aboriginal people in remote communities;

(c) the truth (or otherwise) of allegations that widely-used medical devices were unsafe.

Finally, regarding the Government enforced censorship in the last three years, trying to silence scientists, medical professionals and ordinary people who were against the mandated lockdowns and vaccinations, it has now come to light that these mandates were dangerous and illegal, and the vaccinations have been proven not to be safe and effective.

As reported in The Weekend Australian on 29 July 2023: “Covid cover-up: how the science was silenced”.

As reported in The Wall Street Journal on 7 July 2023:

“Covid Censorship Proved to Be Deadly. Government and social-media companies colluded to stifle dissenters who turned out to be right.”