

**Response to the exposure draft of the
Parliament of the Commonwealth of Australia
Communications Legislation Amendment (Combatting Misinformation and
Disinformation) Bill 2023
[the misinformation bill 2023]**

This response is from an individual Australian citizen. I have no political affiliation.

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I have read the exposure draft of the bill and find it utterly repugnant to me as an ordinary person living in a country which has a fine tradition of democratic representative government based on freedom of speech for the people.

I ask that the bill be withdrawn. It is not possible to rehabilitate this odious document with any kind of amendment.

The problems in my view can be understood as operating at two levels.

The first level is ideological and conceptual.

I acknowledge that the spectacular rise in popularity and power of digital platform services and social media brings with it a responsibility upon governments to establish a framework within which these platform services can operate to the benefit of ordinary citizens in Australia.

However the Disinformation bill as proposed is not capable of forming a useful part of that framework. We already have laws about hate speech, discrimination and defamation. These apply to any kind of publication.

The simplified outline of the schedule on pages 3 and 4 of the exposure draft indicates that the purpose of the bill is to ...*provide adequate protection for the community from misinformation and disinformation on digital platform services.*"

I contend that attempting to "protect" the community from misinformation and disinformation is neither possible nor desirable.

In order to determine what is or is not "disinformation" somebody somewhere has to make a judgement call about this. In the mediaeval era this was in the hands of the high priests who ran a religiously dominated society in which correct thoughts and beliefs were defined by the prevailing doctrine and woe betide any one who challenged this.

The reality is that the prevailing wisdom about anything is always subject to revision as new information comes to light. For this to happen we need a society in which the expression of new information is encouraged. That means opening the public space to free expression and debate about views which challenge whatever happens to be the orthodoxy of the time. In due course the view based on best evidence will prevail but only if challenge, discussion and debate about that evidence is encouraged in the public domain.

Consider a current issue:

Are battery electric cars better for the environment than those which burn petrol ? The current Australian government and governments of other countries want us to believe the answer to that question is yes but there are many dissenting expert views with supporting evidence for their position. The only way to resolve the issue is by ongoing debate in the public arena into which evidence can be brought and discussed. If we have some bureaucratic high priest who has the power to decide that one or other of these views is “misinformation” or “disinformation” then we have abandoned one of the fundamental bases on which democratic society can flourish.

The second level is the detailed content of the draft exposure bill as published.

There are so many serious problems with the content of the bill I could not deal with them all in this short submission. So I will just mention two of them.

If as an ordinary citizen I publish something on a digital platform which the high priests of correctness, whoever they might be, deem to be “misinformation” I could be held in breach of the law and fined. But if the government or a government agency or incredibly, someone producing content in good faith (whatever that means) for the purposes of entertainment, parody or satire should publish the very same thing then under the bizarre provisions of this draft bill that would be quite acceptable.

The definitions of *harm* are so subject to interpretation, again one assumes by the high priests of correctness, that they are for practical purposes useless or worse, subject to the whim of the government of the day. For instance what is “disruption of public order or society in Australia”. This opens the way to the kind of administrative tyranny seen in countries run by totalitarian powers and is totally unacceptable in Australia.

If the disinformation bill is not the way forward, what is ?

Let us consider publications in the pre-internet era. If a newspaper reporter thought she had a hot story, she would take it to the editorial meeting where she would have to make the case that her sources are sound and believable based on evidence produced and that the story is not defamatory or likely to incite riot or insurrection. If the editor needs further assurance of the story’s fitness for publication it goes to the legal division who make a determination. Thus by the time an article appears in a reputable newspaper it has been tested in several ways as to fitness for publication.

Now in the internet and social media era I can publish on Facebook or other platform that my mate Johnny Smith ran in one day from Lukla to Everest base camp then up Mount Everest and back again then all the way back to Lukla for an ice cream. Who is responsible for this nonsense ? Facebook ? How could they be ? No, I am the one responsible for what I publish. But there is very little restraint on what I publish and nothing like the editorial oversight which is embedded in the tradition of newspapers.

So my proposition is that the person or entity publishing material is the one responsible for the content of it. How then can the person or entity be held to account ?

By requiring all publications to be authorised by a specific individual person who must prove their identity before being able to post on social media.

I propose that the person be required to prove photo identity at the same level as is required for a driver's license or a passport. This will make it difficult for a person to hide behind a pseudonym.

Yes, I know some people will try to find a way around the regulation. Whenever there is a law or regulation someone will expend great effort to subvert it. But most people will have to publicly reveal their true identity in order to be able to publish material on a digital platform service. If there is a complaint then the complainant or relevant authority will know where to look for further clarification.

If the person claims to be representing an organisation or other group they must prove that.

I propose that this regulation run as a trial for 5 years with ongoing evaluation.

Of course the Australian Government can only require Australian residents and citizens to abide by this regulation. However other countries might implement the same policy.

This regulation will not make the problems currently burdening digital information platforms magically disappear but it could go a long way towards holding authors of publications responsible for their contributions.

Andrew Smallman

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2 August 2023