

Submission on: **Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 – Exposure Draft.**

Introduction

I should not have to repeat Lord Acton's dictum on power. The fact that this Bill has been tabled in the parliament, however, suggests that some politicians and presumably many bureaucrats are unfamiliar with it. I will therefore repeat it.

Power tends to corrupt and absolute power corrupts absolutely. Great men are almost always bad men, even when they exercise influence and not authority; still more when you superadd the tendency of the certainty of corruption by authority.

The Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 is an utter disgrace and thoroughly dishonours the Australians who have built this nation and fought and died to preserve its freedoms. The fact that such a bill has been tabled in the parliament is a sign of the deep sickness that now afflicts our political system and associated bureaucracies. Such a bill should never be tabled again.

Government overreach, extending to outright abuse of power is the major problem impacting the daily lives of Australians. Government interference in the private sphere has generally been by gradual accretion of powers that confine freedom of speech and freedom of action. This bill, should it become law, will inevitably restrict what people can say and after sufficient time, what people can think. Section 18C of the Racial Discrimination Act (1975) was a major step in this direction in that it criminalizes a person's speech on the basis of the emotional response of another individual and not necessarily the individual to whom the speech was directed.

This Bill, however, allows the government to fully control public discourse. In other words, it will enable the government of the day to censor and promote what it believes is advantageous to its current objectives, irrespective of the level of support for these objectives from the citizenry. No one should need reminding that propaganda and censorship form the foundation stone of all totalitarian regimes. And how long will it be before control extends to private discourse? Even a cursory review of present day and historical regimes indicate that such a possibility is entirely plausible.

Definitions- misinformation and disinformation

The definitions of misinformation and disinformation contained in this Bill are so broad that it will enable the government to censor almost any type of information. In blatant cases, there is no need for action as the erroneous nature of the information will be obvious. In less than blatant cases, people should be allowed to make up their own minds because there will always be multiple arguments for and against any particular proposition. People need to have access to all aspects of a subject if they are to make a reasonable decision about it.

In addition, facts may change over time. Those on the leading edge of knowledge who publish widely unknown information will readily be seen as purveyors of mis or disinformation. For multiple examples of this we need only refer to CoVID-19-related material promoted over the last three years by two consecutive governments. There is no question that the government was and continues to be the primary fount of misinformation on CoVID-19. As truth has gradually chipped away at "the narrative" we can now say with considerable certainty:

1. the most likely origin of SARSCoV-2 was the Wuhan Institute of Virology
2. mRNA vaccines are neither safe nor effective for adults
3. mRNA vaccines carry significant risk and no benefit for healthy children

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4. n95 surgical masks do not protect against infection by SARSCoV-2 (or indeed any respiratory virus)
5. lockdowns are not only ineffective at controlling infection but have serious negative repercussions on mental health, particularly that of children.
6. Certain cheap and readily available drugs are effective in reducing the severity of CoVID-19 symptoms and the rate of hospitalisation and death

The above facts were very clear early on at the relevant junctures in the pandemic. Nevertheless, the government and its allies ruthlessly censored alternative views and often pursued, either directly or through institutional allies, the individuals and groups who attempted to publish such information. If this bill becomes law the truth will only appear if it is convenient for the government of the day.

Definitions - harm

The definition of harm is even worse than the definitions of mis and disinformation. The breadth of what is defined as harm simply beggars belief. I would contend that virtually any statement of fact or opinion could be made to qualify as one of the forms of harm described in the Bill.

When these pivotal definitions are viewed from the perspective of their potential for abuse the idea that this Bill could become law is truly frightening.

Excluded Content

Excluded content is merely the complement of the above definitions. Thus, while the government of the day has the power to censor any individual or group, no official government statement can be classified as misinformation or disinformation, in effect, shielding it from any unwanted criticism. It is notable that the other producers of excluded content are organisations that require government approval and in some cases substantial government funding to operate. Again, the potential these arrangements offer for abuse of power cannot be overstated.

Implementation

The Bill proposes that misinformation and disinformation will be controlled by the operators of the “digital platform industry” in accordance with codes of practice for preventing or responding to misinformation and disinformation on their platforms. It is irrelevant whether the codes are voluntary or prescribed, it is obvious that the codes will be registered and deregistered and enforced at the whim of the government of the day. In other words, today’s misinformation would easily be tomorrow’s truth and vice versa. Given the heavy fines that can be levied against organisations that fail to comply with any code, such organisations will naturally tend to favour suppressing rather than promoting freedom of expression. The fact that it is the digital platform industry players who undertake the role of censor cannot hide the fact that it is the government who will orchestrate the nature and scale of the information that will be suppressed. At the same time, any statement by the government or one of its authorised allies cannot be suppressed irrespective of its truth or falsity.

Complaints

Any member of the public who has attempted to ascertain the reason for restriction or blocking of their social media account, let alone lodge a complaint regarding the actions of a provider, knows the utter futility of this process. With the weight of government behind them and the prospect of large fines for non-compliance, this problem will become worse – by orders of magnitude.

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Closing Statement

This bill and freedom of expression cannot coexist. I can see no redeeming feature of the Bill which from the citizen's point of view is a Bill for which there is no justification. We already have laws that deal with incitement to violence. If there are any other information-related issues that require legislation they should be dealt with in a much more targeted way rather than the ham-fisted approach of this Bill.

The fact that this Bill has been tabled indicates that the government has a significant distrust of the Australian citizen and a very low opinion of their ability to separate fact from fiction. I would suggest, however, that the collective intellect of those outside government far exceeds that of the parliament and the bureaucracy, if for no other reason than they must daily surmount the challenges of life in the world as opposed to those who live life largely divorced from its vicissitudes within the tax-payer funded bubble.

Under no circumstances do I want to see the deadly blight of centralised information control embedded in the day-to-day life of this country. If we genuinely wish to prevent the abuse of power, we must be prepared to limit power to such an extent that it may also occasionally prevent its use for beneficial purposes.

I note that Australia is a signatory to the United Nations Universal Declaration of Human Rights.

Article 19 reads:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

While governments of all persuasions have been quick to legislate certain fashionable UN declarations, it seems they are much less keen on doing the same for Article 19.

I will conclude with the words attributed to Voltaire which I hope will inspire reflection on the type of country we were and where the attitudes embodied in this Bill are taking us.

I disapprove of what you say, but I will defend to the death your right to say it