

# OBJECTION TO PROPOSED DISINFORMATION AMENDMENT

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## Summary

The legislation as tabled will not prevent disinformation, and on the contrary makes it easier for politicians to spread misinformation, while at the same time silences anyone who tries to point out the politician is deceiving us, and removes any safeguards holding politicians to account for fraudulent claims. This appears purely to be a back door attempt at draconian censorship, while acting as a significant enabler for unrestrained government propaganda. Literally resembles a law described in the book 1984 called "wrongthink" and creates a "ministry of truth" !

It also contains several out of scope powers that are not even legal to begin with, including claiming jurisdiction that would include all other countries and their citizens, regardless of their own laws on the matter, violates legal policy on serving legal summons, and specifically singles out the United states constitutional right not to self incriminate, wording it in such a way that it would likely cause a diplomatic incident with the United States if passed into law.

In addition it includes several clauses and loopholes purely designed to single out individuals, and other loopholes that could be used to evade the ban on reading private messages in "special interest" scenarios – one of which is forcing the disclosure of sources of misinformation, which itself is in violation of the spirit of the whistle-blowers protection act.

## Main concerns

1. This bill goes out of its way to point out; multiple times, that politicians are free to be as deceptive and spread as much misinformation as they like without any consequence – if anything this bill would also enable politicians to silence people pointing out political disinformation too!.
2. Strangely - it contains provisions permitting lies and misinformation if it pertains to the buying or selling of property, or if someone is profiting from the misinformation. Eg clause 61, or 8,2
3. Equally it excludes video / audio streaming / broadcast services, at 3/e,f then goes on to include them in clause 8!?
4. Clause 12, the legislation effectively grants itself unlimited universal global jurisdiction over the affairs and citizens of all other sovereign nations.
5. Clause 21, specifically references the term “self-incrimination” and is clearly worded in such a way when combined with clause 12 to specifically single out and revoke the United States constitutional right against “self incrimination” this clause is clearly designed to insult the United States, and will likely result in an international diplomatic incident if this is passed into law. At the very least this may result in a ban on Australian users using digital social media platforms not operated within Australia. (ie, facebook could ban all Australian users from using any “META” related service)
6. There are a number of open ended statements, which could be interpreted to mean anything they like, such as 7,3i “any other relevant matter” could be used in any number of ways to suppress open discussion other than misinformation, or combined with clause 19 it could be used to gain access to the details of private conversations, or attack people who have not used any public social media at all.
7. In parts this legislation extends itself out of scope, to allow it to single out /individuals/ unrelated the use of a media platform, and could be used as a “back door” way to chase, identify, and illegally interrogate anonymous sources and whistle blowers. Eg Clauses, 18/19/22
8. In practical terms this creates an Orwellian “ministry of truth” and the crime of “wrongthink” where only the government is permitted to decide what is misinformation or not, and it free to spread disinformation itself unrestricted, while at the same time silencing those who would tell the truth that would contradict the governments own disinformation.
9. This bill in practice would represent a strong censorship framework; which could be used to silence everything from whistleblowers, to comedy and satire
10. This bill specifically require legislation to revoke its powers (eg clause 52)
11. This bill in addition to the existing draconian meta data retention laws would place an unfair burden of workload on media platforms to spy on and create detailed intelligence reports on all of its users, then periodically report them to the “thought police” ie clause 14,1c,1d,1e,5,6,8
12. This bill also allows warrantless searches and demands for evidence in clause 19
13. The bill will create effectively a “blacklist” where they publicly publish a list of shamed individuals and organisations, regardless of if they are even guilty since the list of “prohibited content” is entirely open ended, arbitrary, and subject to change without notice by a 3<sup>rd</sup> party who it seems there is no provision for being accountable to anyone.
14. This bill gives ACMA the ability to directly punish, fine or issue infringements (in effect charge them with a civil criminal offense) as discussed in Subsection C ( clauses 43 to 44) and using conflicting justifications as exemplified by clause 33.
15. This bill effectively means ACMA will create and retain intelligence dossiers on individuals and organisations outside of the legal/court system where criminal records and convictions are normally recorded. *In effect they would become a spy agency*, monitoring domestic and foreign civilians and organisations.
16. This would also allow ACMA to simply “make up” crimes at a whim, or following whatever political correct lunacy happened to be popular that week, or to pick on any particular individual a politician happens to take offense to that day by either adding arbitrary rules to their “3rd party” (such as an organisation as mentioned in clause 32) managing their list of crimes, or doing whatever the “spirit” of the legislation is decided to be that day as per arbitrary ideas of “inconsistency” inferred from however they deem “misinformation standards” should be interpreted at that moment as specified by clause 56 that states “misinformation standards prevail over inconsistent misinformation codes”
17. It specifically allows election/referendum fraud and misinformation at clause 35? WTF?
18. It does not differentiate between misinformation (which could be an honest mistake, misdirection or a joke) and disinformation (which is that which is specifically aimed to deceive)

## Summarised interpretation of amendment:

In practical terms the entire legislation document could be summarised as this, if you substitute “ACMA” with “thought police” or “ministry of truth”:

1. Only politicians/government have the right to free expression,
2. Free expression is defined as lies, misinformation, and disinformation
3. nobody else has the right to free speech, if the government does not approve of the subject matter
4. establish a ministry of truth where our thoughts are policed based on a non-fixed list of dynamic wrongthink crimes classed as misinformation, which can change without notice, and is managed by a 3rd party accountable to nobody
5. misinformation is defined as anything that goes against official government policy or announcements, including disproving government disinformation and lies
6. these thought police have the power to record criminal infractions and fines against you
7. their jurisdiction includes all non politicians, individuals and organisations that may use anything considered a public internet media platform that private individuals can write to, in any country
8. all non politicians are required to incriminate themselves, and have no legal protections beyond existing prohibitions on government reading private messages
9. loop holes exist for special interest scenarios where they can force you to disclose details from private conversations - eg, when demanding a source for your designated "misinformation infraction"
10. the ministry of truth must not conflict with the powers of the state
11. the ministry of truth cannot be dissolved without an act of government
12. the list of wrong think crimes must be made available online, and will change without notice
13. you may need written permission to view this list
14. you can be summoned to court even if you never get the summons it is considered served, regardless of where you live
15. even if you didn't get the summons you are considered delinquent if you fail to appear or respond
16. in special interest cases individuals can be persecuted (or interrogated without legal representation) regardless of if they used a public social platform to begin with.(eg if they are a source)
17. the thought police have the power to police any non-government social media platform, regardless of who, how or what it is operated by
18. private government networks, and social media platforms or information media operated by the state is exempt from all prohibitions on deception and disinformation
19. ..also politicians can spread disinformation about elections and referendums

Does this seriously sound like something we want to put into law?

## Item by Item interpretation of amendment

Note: I have used a degree of humor on some of these for purposes of assisting readability.

clauses 6,2 / 7,1b,2b,3e - translation, "government is allowed to spread disinformation and propaganda, and discriminate against individuals they don't like"

clause 7,3i - translation "we will do whatever we like if we think it is relevant, so do as we say not as we do"

clause 8,2 - translation "if we are making money from it, we cant be blamed"

clause 10,2 - "lies spread via our own government network are allowed"

clause 12 - translation: if you are not in Australia we can discriminate against you too

clause 13 - translation: "we can lie to you in government press releases"

clause 14,1c,1d,1e - translation: "spy on everyone and keep copies for us"

clause 14,2 - translation: "respect privacy, unless we don't like them"

clause 14,5,6,8 - translation: "create intelligence dossiers on users for us, and send us copies periodically"

clause 14,9 - translation: send it to us over the internet

clause 14,10 - translation:"tell us what stuff we can blackmail you with"

clause 15 - translation:"do it, or else we will punish you"

clause 16 - translation: "you must do whatever we want"

clause 17 - translation: "don't even think about keeping secrets, or we will punish your organization"

clause 18 - translation: "we can demand you tell us anything or supply any evidence without a warrant, and you have no legal defence and we will punish you if you don't"

clause 19 - translation: completely open ended clause that gives them the right to demand ANYBODY provide evidence or information without a warrant, completely out of scope of any digital platform. Ie in the case of "people they dont like" as above they can be interrogated legally without any legal protection.. unless of course the information they want was a private message, although 7,3,i could be used indirectly on the pretext of "a relevant matter" to get it anyway.

clause 20 - translation: "we might pay for your printing costs if you cant afford it"

clause 21- translation: "you have no privacy, and must confess all to us, even if we cant use it in court." this could also overrule the prohibition on reading private messages (incidentally this directly violates a US constitution right to not self incriminate, i doubt this clause will go down well with US internet platforms)

clause 22 - translation: "if a PERSON even thinks about keeping secrets we will punish you too"

clause 24 - translation: "yeah.. we will be keeping files on all of you"

clause 25 - translation: "we can publicly humiliate you, or in the case of allowed propaganda lie about you"

clause 26 - translation: "we will give you just enough time to set your affairs in order before we publicly screw you over by publicly shaming you, perhaps you can arrange a nice hara kari"

clause 27 - translation: "LOL! just kidding we wont publish your name... probably..... "

clause 28 - translation: "ye you know those other evil rules.. ye they still apply too"

clause 29 - translation: "just reminding you again, we are allowed to lie to your face if it is authorised government propaganda. kthanx"

clause 32 - translation: "the definition of misinformation will be managed and can be changed by allowed 3rd party organisations"

clause 33 - translation: "fun ways we can ruin people lives!"

clause 34 - translation: "since we officially are not meant to read your private messages we should not officially record ways to mess with people who say things we don't like to avoid people looking to closely"

clause 35 - translation: "the government can lie to you about elections and referendums so don't mention this either"

clause 37 - translation: "when a politician lies it is considered freedom of expression, [\*\*\*also you need our permission to get a copy of our codes and practices <sup>\*\*\* this seems to have been removed in current version of document</sup>], and we will let people submit requests and reports on you"

clause 38 -translation: "we can make you implement our policies, and make you tell us how you intend to do it"

clause 39 - translation: "if we cant figure out who to blame we will just warn everyone about it until we do"

clause 40 - translation: "once again politicians can lie to you, also we must be mindful if our policy causes an unreasonable Burdon on politicians.. everyone else not so much, although you can ask for help with meeting our demands.. your welcome."

clause 41 - translation: "you are allowed to sort your list of offenses, but dont you dare remove anything"

clause 42 - translation: "we can remove them tho"  
subsection C we can charge you and issue fines  
clause 45 - translation: "politicians can lie, so we should not bother them"  
clause 46 - translation: "if you don't implement our policy, we will enforce one anyway"  
clause 47 - translation: "if we don't know who you are, we will enforce our policies until we do"  
clause 48 - translation: "if you implement a policy we don't like, we will enforce ours"  
clause 49 - translation: "if your policy is fine, but we don't like something or we change our mind, we will enforce our own"  
clause 50 - translation: "if a new website is considered a threat, we will attempt to enforce our policy there too - but we will consult with who ever is in charge"  
clause 51 -translation: "we can change the rules any time we like especially if we dont like you, just as long as you are not a politician that is."  
clause 52 - translation: "you cant get rid of us unless a law is passed"  
clause 53 - translation: "do as we say or else"  
clause 54 - translation: "fix stuff we dont like or else"  
clause 55 - translation: "we must keep a list of all our rules, standards and definitions of disinformation and make it available on the internet for people to check"  
clause 56 - translation: "the spirit of the rules can apply more than the rules themselves."  
clause 57,58 - translation: "if we email you or contact you on the internet it is considered the same as physically handing you a court summons, even if you dont see it, or even if you dont live in Australia, and all the penalties therein caused by failing to respond or turn up to court still apply. Muahahaha!"  
clause 60 - translation: "just in case you missed it all the other times - politicians are allowed to lie and spread disinformation all they like, and just to screw you up more if you call them out on it, we can charge YOU for disinformation because they are a politician and their lies are to be treated as truth for the purpose of these policies"  
clause 61 - translation: "you are allowed to lie about property you are buying or selling"  
clause 62 - translation: "we didnt intend this to contradict state government rules.. so er both rules apply even if they contradict.."  
clause 63 - translation: "ye we messed up clause 62, what we really meant was that state government powers are not to be restricted by our rules.. basically the state government can do as they please.  
clause 64 - translation: "we can tell you how you should run your internet business, but not anything that lets you use any of our powers, or alters our rules"

## Conclusion

This amendment moves out of scope on several matters, has far too much reach, going beyond even that of the rule of Australian law to intrude on the legal affairs of other nations, in once instance even creating the risk of a diplomatic incident with regard to the United States specifically – and would turn our Communications and Media authority into both a propaganda / censorship appliance, in the form of a “ministry of truth” as discussed in the Owell book “1984” and a de-facto spy agency tasked with ruling over individuals opinions and social discourse within social media platforms. Not to mention make Australia once again a laughing stock internationally by trying to strong arm foreign social media companies.

At the very least, this would render ACMA unable to function at all without a *significant increase in funding and personnel* to soak up the major increase in workload and causing it to step on the toes of existing federal agencies such as ASIO, ASIO, AFP, Military Intelligence, and Border protection.

In the worst case, all non Australian operated social media platforms could immediately ban all Australian residents from using them globally as it would be an unrealistic regulatory burden to otherwise comply with it.

***This amendment should not be passed.***