

Thank-you for the opportunity to respond to the Exposure Draft Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

The government wants to introduce a law that will give the Australian Communications and Media Authority, a Commonwealth statutory authority, the power to decide what is or is not true or reasonable information. This will give the government of the day deniability when free speech is curtailed. ACMA will have the power to deny the expression of dissenting views, of free speech. The government will embolden ACMA to intimidate digital platform providers through hefty fines that possibly could ravage those businesses into overly self regulating the communications they broadcast. It will give ACMA the power to intimidate individuals with fines of \$8000 per day until they front up with the evidence of their transgression.

Harm

Take a closer look at the definitions of harm in the Exposure Draft.

harm means any of the following:

- (a) hatred against a group in Australian society on the basis of ethnicity, nationality, race, gender, sexual orientation, age, religion or physical or mental disability;
- (b) disruption of public order or society in Australia;
- (c) harm to the integrity of Australian democratic processes or of Commonwealth, State, Territory or local government institutions;
- (d) harm to the health of Australians;
- (e) harm to the Australian environment;
- (f) economic or financial harm to Australians, the Australian economy or a sector of the Australian economy.

I agree that continual bullying and harassment of a person or group can lead to mental harm or physical harm. The person can attest to that. Friends, family and colleagues can attest to changes in behaviour. Doctors can attest to physical changes particularly self harm and psychological changes. There may be texts, video, a variety of evidence to prove the source of the harm.

We already have the Racial Discrimination Act 1975, the Age Discrimination Act 2004, the Disability Discrimination Act 1992, and the Sex Discrimination Act 1984. These laws apply to the source of the issue not the digital carrier. As a comparison to the fining of digital carriers, is Australia Post responsible for drug muling, or the people who posted the drugs?

Causing harm to the environment is dubious. What I don't understand is how digital communications, abstract notions - ideas, words, thoughts, pictures, sounds - can be linked to hard, real facts. You can't ask a tree. You can't ask a lump of coal. While poets might tell you the wind can whisper and howl, it wouldn't stand up in court.

An individual or association communicating on a social media site about the destruction of pristine rain forests in northern Queensland to make way for wind turbines or the energy super-highway, for Australia's green energy transition, is overwhelmingly different to an angry crowd marching towards contract workers performing their jobs and ultimately forcing work to stop because of the danger to workers. One scenario is passive communication, the other is destructive action. Are we really saying that the communication is equal to the action? And then, does this action constitute harm to the Australian environment by preventing the construction of green energy services, or does this example of green energy service construction constitute harm to the Australian environment, through the destruction of pristine forests? Or is it breaking laws referring to the prevention of a person going about their lawful business?

Is it now a legitimate defence to say the web posts made me do it? When did we as a society relinquish responsibility for our own actions? Can a society be maintained if no one is responsible for their actions?

If the government is saying digital platforms have such a vast reach on the psychological enfeeblement of Australians, then that is a different problem.

Free speech

Of all the rights granted to us by Australia's liberal democracy, free speech is the most fundamental. Without it, we cannot make a claim to a legal right that is the duty of the government of the day, to provide. How do we have an opportunity to make a claim if we have no right to ask for it or present a case for its need?

This bill implies a difference between physically standing up in front of a crowd, a public march or a town hall as examples, and posting our ideas and opinions on a digital service. In modern Australia, very few members of the public would see that as different, particularly now as working from home via internet access is so widespread. In days past, meeting people in a place was the most common agency of communication. In 2023 communicative agency is more likely to be provided by online access at a computer or on a phone.

Communication is necessary to demand or request your right be upheld.

Communication by one citizen, then many, could become understanding and acceptance by most, until it becomes a citizens' movement and laws are changed.

Incremental change through popular acceptance is how a democracy develops.

Alternatively, a citizen communicating prejudices, inflammatory claims and falsehoods, without qualifying evidence, can be proven wrong and dismissed. The public arena is the great washing machine

of reasoned or not so reasoned argument. It is in the back and forth of an argument where we present, modify, develop and crystallise our thoughts. Or reject completely.

Free speech is the right to speak, but that doesn't mean we need to listen.

In Australia, free speech is not an absolute right. We already have legislation that restricts some forms of speech, e.g. defamation, copyright, privacy, incitement to violence, racial discrimination and treason.

Constitutional implied right to free speech

The Australian Constitution gives us the implied right to vote and the implied right of political communication. We, the citizens of Australia, need information to make responsible, reasoned decisions to vote, or govern ourselves; to hold our members and senators accountable and to decide which policies to accept or reject.

Free speech is vital to democratic accountability. The ability, the right, to have a dissenting view from that of the government and to communicate it gives the citizens of Australia the security to live and prosper.

How will ACMA decide who is to be heard and who is not to be heard? How will ACMA decide that investigative reporting is not breaking news? How will ACMA decide what information is needed for citizens to perform their democratic duties?

Managerial democracy or rights democracy

In countries like Russia, the people have health care, education, businesses, transport, television, entertainment, news services; the basic services provided for its people. The people vote. Russia has a constitution and claims to be democratic. Putin has limited public information through the press. He has created a managed economy, a managed democracy.

Are Russians free like Australians? Our fundamental right to free speech distinguishes us as a liberal democracy, a rights based democracy, from that of mere managed democracies. In the past, public dissidents in Russia were sent to the gulag. In Australia, public dissidents will be fined \$8000 a day if ACMA wants to haul you into their offices to show cause. Being fined \$8000 a day would put fear in the hearts of most Australians, many of whom would be lucky to save that amount of money over a few years. This bill will bring us to our knees. If Australian citizens are brave enough to risk the fines, it is unlikely the digital providers will be as brave to risk the solvency of their businesses. A High Court challenge would be inevitable.

This is the path of the Prime Minister who said during his election speech that he wanted to "promote unity and not fear and -- optimism, not fear and division." In his first press conference as Prime Minister, Albanese said, "I want to bring people together and I want to change the way that politics is conducted in this country." This bill will definitely change the way politics is conducted in this country. It will create fear and division. It will force people to take to the streets to have their disagreements aired. It will wake up the people to the insidious reach of a government left unchecked.

By passing this bill, our right to examine and criticise the government will be restricted, putting at risk, our right to hold our representatives accountable.

Purpose of this bill

If the purpose of this bill is to reduce or eliminate the more offensive and intolerant speech of some members of our society, then Prime Minister Albanese must be made to realise that this repugnant bill is not a solution but a poor quality, on-the-run, whack-a-mole bill with the possible trade off of bringing about the decline of our great democracy.

If Mr Albanese wants to reduce or eliminate the more offensive and intolerant speech of some members of our society, then he could start by removing the words, 'culture war' from his speech. Why does anyone want to put one group at war with another? Can't we see each other as people and look to commonalities first, as a starting point.

A robust prosperous society needs robust dialogue. We cannot be prickly and intolerant. But we also cannot be sucked in by 'inclusion' that does not include all people, all facts, all opinions and a continuing dialogue of respectful debate. Debate, in the traditional sense, where opposing views are heard and discussed.

Conclusion

I find this bill abhorrent. This bill is pushing us towards something outrageously similar to the monarchy of the seventeenth century where they claimed the right to rule as guardians of the law, and not be subject to the law; absolute power so they cannot be held to account for the exercise of that power. Like the Star Chamber of the Stuart Kings of old England, this ACMA set up, will be used to suppress opposition to practices and policies of the government of the day. Punishment of individuals and punishment of big corporations will be severe.

In Summary

- This bill will give the government of the day deniability when free speech is curtailed.
- This bill will allow ACMA to intimidate digital platform providers and individuals with hefty fines.
- This bill does not explain how digital communications, abstract notions - ideas, words, thoughts, pictures, sounds - can be linked to hard, real facts and thus linked to serious harm of the environment, health, public order, democratic processes, and the economy.
- This bill deminishes responsibility for our own actions.
- This bill removes our most fundamental right in a liberal democracy: free speech.
- This bill removes our implied right of political communication; to hold our members and senators accountable and to decide which policies to accept or reject. It should be thrown out

for this one reason alone.

- This bill will force people to take to the streets to have their disagreements aired.
- A High Court challenge will throw this out.
- This bill trades our free speech for the removal of offensive and intolerant speech. It is not a fair trade.
- This bill does not promote robust argument and compromise but instead allows the government of the day to stop it in its tracks.
- This bill will lead to a decline of our liberal democratic system of government.