

13th August 2023

Submission regarding new ACMA powers to combat misinformation and disinformation.

Dear ACMA

As an Australian, I do not, personally, wish to be “protected” from information. I would prefer to use my own discernment and fact-checking when processing information from any source, whether digital platforms, the “professional” media, government agencies or NGOs. I don’t wish to have digital platforms, the ACMA or the Government influence what information may be viewed, via the application of penalties and fines.

Rather than suppressing or censoring the offending information or accounts, my preference would be to have the digital platforms apply labelling or disclaimers to flag potential misinformation or disinformation. This way, freedom of speech and access is preserved. In addition, a link to the open, transparent and well-referenced “truth” could be provided. In addition, Twitter community notes and YouTube video comments also already allow users to disagree with, or correct, potentially false content.

In my opinion, the main issue with this Act is the subjective viewpoint of what may constitute misinformation, disinformation and harm. If misinformation and disinformation are defined to be false, misleading or deceptive information, then the ACMA, the digital platform or the complainant should be able to prove, via an independent arbitration process, that the information is false, misleading, deceptive and harmful. For example, by providing hard evidence, data and referenced studies. In the same way, the digital platform, publisher or end user should be able to argue that the information is not false or may not be false, by providing similar evidence or demonstrating personal experience. Please could an independent arbitration process, to decide the validity and harm of information, be added to the Act?

Alternatively, if the ACMA or the digital platform decide to maintain a list of what they consider to be current misinformation or disinformation, then this list needs to be contestable by the publishers and their end users. The list should be published by the ACMA/digital platform and there should be open discussion with the Australian public and an arbitration process to challenge and amend the list. Perhaps a digital forum could be established where Australia can freely debate what is misinformation or disinformation, without censorship (one account per voting adult)? This would provide equity of input to the consensus. Please could this be added to the Act?

Many posts on digital platforms contain opinions, personal experiences or religious beliefs. Do these need to be controlled if the digital platform thinks they may be inaccurate? Given that opinions, personal experiences or beliefs are not defined in the Act then they should be excluded (or defined). I would also propose that defamatory or abusive content should be defined and treated separately in this Act so that different rules and actions can apply.

What is the purpose of the ACMA requesting records and reports from digital platforms? Is this to monitor compliance with the Act, or is it to collect information on companies and individuals? Please add into the Act, how the ACMA and the Government will be using these records?

Penalties: the penalties for non-compliance seem quite harsh – up to 25000 penalty units or 5% of turnover and 12 months’ imprisonment per infringement. These appear disproportionate? As a comparison, the ACMA only imposes 500 penalty units if a household product (such as a baby monitor), doesn’t comply with electromagnetic energy emission rules.

[https://www.acma.gov.au/step-1-check-rules-follow#eme-rules.](https://www.acma.gov.au/step-1-check-rules-follow#eme-rules)

The MPs voting on this Bill should consider whether these measures or penalties are proportionate and appropriate when applied to just one sector of the media. They should also consider future governments, from a different political party, who may utilise this Act and the ACMA's influence to control information on a particular topic. They should also consider if voting for this Bill is a vote-winner in the next election.

In my opinion, this Act could have the effect of removing some digital platforms and services from Australian view as it will not be practically possible to monitor or report on the accuracy of all content and posts. Algorithms will need to act as a drag net, capturing accurate & true information along with suspected misinformation or disinformation, in order to avoid penalties and fines. Is the purpose of this Act to remove Australian access to these platforms so that the Government can have better control of information?

Prior to the digital age, we used to have two sayings: "don't believe everything you read in the newspapers" and "never trust a politician". However, this Act exempts "professional news services" and governments from mis and dis information rules, and now assumes that they are the sources of truth? The existing Codes for the professional media do not appear to prevent bias, conflicts of interest or personal opinions from influencing the information presented.

Let's look at a scenario: a government minister misallocates public funds due to a conflict of interest. They can be dishonest about this (or "spin"), with little consequence. However, if questions and concerns are posted on a digital platform, they could be suppressed as misinformation because the government is classed as the better source of truth? This is good for politicians, corporate donors, lobbyists, foreign allies and the sponsors of commercial media but not so good for the taxpayers.

I think most people understand that this Bill will increase the Government's ability to censor and manipulate available information; they will trust their politicians and bureaucrats even less and will understand that the "professional" and digital news is approved content only. The Government needs to be careful to avoid overreach and the alienation of those Australians who would like to use digital platforms to share ideas. I believe that most people would agree that increased Government control of information is a threat to our democracy.

Thank you.