

The following [description of a democratic society](#) is published on the Australian Government's website:

"A democratic society is one that works towards the ideals of democracy:

- Respect for individuals, and their right to make their own choices.
- Tolerance of differences and opposing ideas.
- Equity—valuing all people, and supporting them to reach their full potential.
- Each person has freedom of speech, association, movement and freedom of belief.
- Justice—treating everyone fairly, in society and in court."

The proposed Combatting Misinformation and Disinformation bill is in direct opposition to all five bullet points, but to the second and fourth points in particular.

If this bill were to become law, it would favour the government and privileged institutions over Australian citizens and residents when it comes to freedom of speech. My concern is that there are no firm safeguards within the draft bill against maladministration by those charged with executing its powers. The question I ask myself, on considering the bill in its entirety, is "Would the principles of 'tolerance of differences and opposing ideas' and 'freedom of speech, association ... and freedom of belief' be protected rather than undermined by the proposed legislation?" And I have to conclude that the answer is a resounding "No".

The guidance notes claim that "Misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as to our democracy, society and economy", yet no evidence is offered to substantiate the claim. While I can readily accept that lies and propaganda can be destabilising and undermine social cohesion, I think history shows that censorship poses a far greater threat to democracy and society.

Problems with the definitions in Clauses 2 and 7 of the bill

There are three definitions that I take particular issue with - 'harm', 'misinformation' and 'disinformation'.

There's so much woolliness in these key definitions that whoever is delegated the job of applying them will enjoy considerable latitude in interpreting their scope. This, of course, is an open invitation for political, ideological or personal biases to influence decision-making. For example, the definition of 'harm' includes "hatred against a group in Australian society on the basis of ethnicity, nationality, race, gender, sexual orientation, age, religion or physical or mental disability", yet 'hatred' itself is not defined. The countless examples we've witnessed across the Western world of ordinary people being criminally charged by overzealous police enforcing 'hate laws' should make us pause for thought. It's clear from these outrageous miscarriages of justice that, in the minds of the enforcers, mere criticism is a form of hate - especially if it offends someone.

In the interests of brevity, I won't critique each of the other five definitions of harm individually; they are all problematic and I could write more, but I'd like to pay special attention to item (e) - "harm to the Australian environment". This set off screaming alarm bells for me. I can see it being used to suppress honest, open discussion and debate about the scientific basis for the anthropogenic climate change hypothesis and this - in my opinion - would be very damaging to public discourse on a vitally important subject that affects us all.

On the subject of 'harm' and its definitions, the word 'harm' is used four times to define 'harm', which is so circular and lacking in clarity that - once again - it leaves the door wide open for abuse. Moreover, I can find no description of what constitutes 'serious harm', yet that phrase is

used in the sub-clauses describing both 'misinformation' and 'disinformation' (7(1) d and 7(2) d). Where is the line drawn between 'harm' and 'serious harm'? What measures would be used to gauge the severity of harm (assuming that we can even establish that harm has or will be incurred)?

Similarly, "disruption of public order or society" is wide open to interpretation. Is there a measure that can be applied so it's clear that a threshold has been reached whereby unrest, resistance or protest spills over into disruption? That may be fairly easy to decide when the disorder is taking place in the streets, but is less clearly detectable in cyberspace. In the absence of any approved and agreed-upon measures, who will adjudicate this? And how will they do it?

The most woolly definitions by far are those applied to 'misinformation' and 'disinformation'. The sheer hubris of assuming that one has the knowledge, expertise or right to determine what information is or is not "false, misleading or deceptive" and, furthermore, the insight to be able to dig into the mind of its author to uncover his or her intentions and then to confidently predict that the information is likely to cause serious harm is mindblowing.

The importance of free speech in a democratic society

Deception, mistakes and false assumptions are an unavoidable consequence of a democratic society that values free speech. They constitute part of the process of thinking - of formulating new ideas and challenging old ones. In the main, people and bodies that publish false information or beliefs do so unwittingly, but by airing mistaken ideas and receiving feedback they can correct and refine them, bringing us all closer to the truth. There is, admittedly, a minority that specialises in deliberate falsehoods and misdirection either out of pure mischief-making or to deliberately destabilise our society, and I agree that we need to do what we can to minimise their influence, but censorship is not a solution. It's not a precise enough surgical instrument to excise only the corrupted flesh; this blunt tool will inevitably butcher the healthy interactions of free-thinking inquiring minds which play the important role of exploring beyond the bounds of established wisdom and of challenging the status quo. That's how we make progress as a society.

When attempting to remedy any social ill, we should always consider whether the proposed cure is likely to cause more harm than good, and I'm convinced that in this case trying to suppress the speech of a minority of bad actors would result in immense damage to our society.

Once you place restrictions on speech, it ceases to be free. This proposed legislation - despite its framing as 'protection from harm' - is without doubt an attempt by the Australian Government to censor free expression by outsourcing the job to private enterprises, thus creating the illusion that the Government is not itself engaging in censorship.

Why this legislation would do more damage than good

Just reading this draft legislation makes my heart heavy with foreboding for the future stability of a nation that has, until now, flourished as a liberal democracy where ideas may be freely expressed, examined, critiqued, rejected or adopted. It is only through this process that a society can thrive because it encourages innovation, the exploration of new ideas and social mores, the expansion of knowledge and the progression of cultural values. World history shows that censorious governments preside over stagnant societies which contain the seeds of their own decline. This was as true for the Catholic Church's forlorn attempts to ban heretical (Protestant) books after the invention of the printing press as it will no doubt eventually prove to be true for North Korea.

Just imagine if legislation 'combatting misinformation and disinformation' had been in place just a few decades ago when the majority (including the Government and the educational establishments of the day) sincerely believed that indigenous Australians were innately inferior to citizens of European descent. Dissenting voices challenging the prevailing orthodoxy would have been suppressed for attempting to disseminate 'misinformation' and social recognition of indigenous rights would have been seriously delayed or would maybe never have materialised. Are we really prepared to risk social progress for the sake of avoiding 'harm'? Surely a stagnating society represents a far greater harm.

In the late 1950s/early 1960s it took 5 years to discover that thalidomide was causing birth defects. If parents had had access to a tool like the internet and the freedom to share their stories, the connection between the drug and their miscarriages and malformed babies may have been made many years sooner, thus avoiding much injury and heartache. Imagine that the thalidomide disaster were manifesting in our day rather than 60 years ago; would Facebook, Twitter and other social media sites be compelled by this kind of legislation to restrict or censor parents' stories as misinformation just as they're doing today to personal stories about Covid-19 vaccine injuries? After all, at the time that Thalidomide was being widely taken for morning sickness, medical authorities and regulators believed it to be safe; in fact, the TGA approved it as an over-the-counter medication.

Truth and Lies

There is so little in life that we can all agree is true. The belief that the sun always rises in the east, that gravity will prevent us spinning off into space, that we need to eat in order to stay alive are 'truths' that we probably all share. These are only some of the mundane realities of everyday life that go unquestioned. But most of what we think we know beyond the mundane is still contested and uncertain.

Yes, we can all agree that we need to eat, but we're not all in agreement about what we should be eating. Nutritional science advances slowly, but it does advance. What was widely considered to be a healthy diet when I was a child is not what the [Australian Dietary Guidelines](#) recommend today, and the current guidelines are based on scientific research that is 10 years old. Over the past ten years, there's been an ever-growing body of evidence that the guidelines are in dire need of radical adjustment (i.e. they may well prove to be misinformation harmful to health).

According to a review of the scientific literature published in 2018, "Numerous meta-analyses and systematic reviews of both the historical and current literature reveals that the diet-heart hypothesis was not, and still is not, supported by the evidence. There appears to be no consistent benefit to all-cause or CVD mortality from the reduction of dietary saturated fat. Further, saturated fat has been shown in some cases to have an inverse relationship with obesity-related type 2 diabetes." ([Gershuni, VM \[2018\]](#))

Note that this review paper was published in 2018, yet the current guidelines still adhere to the outdated (and almost certainly incorrect) scientific consensus of 2013. The sad fact is that official guidelines will always lag behind cutting-edge science, often by a matter of years. But - given that the dietary guidelines are the work of an established government body and constitute official consumer advice considered essential for our health and wellbeing, it's conceivable that, if this legislation is enacted, anybody (including bona fide scientists and doctors) who challenges this orthodoxy will run afoul of the proposed Codes of Practice and find their voices silenced. I would contend that this would not only be perpetuating the dissemination of government-sanctioned information harmful to our health, but would impinge of the rights of Australian citizens to free expression and on the rights of all of us to hear alternative views. That is the nature of a liberal democracy supported by an informed citizenry.

Quite apart from the problem of outdated science, much more worrying is an ongoing irreproducibility crisis in scientific research. According to The National Association of Scholars in the US, “A vast proportion of the scientific claims in published literature have not been replicated or reproduced; credible estimates are that a majority of these claims cannot be replicated or reproduced—that they are in fact false.”

The Association has recently published its second report dealing with the problem. Called *Shifting Sands: Unsound Science and Unsafe Regulation*, it “examines how irreproducible science negatively affects select areas of government policy and regulation governed by different federal agencies.” <https://www.nas.org/reports/shifting-sands-report-ii/full-report>.

The authors conducted detailed analyses of two published meta-analyses in the field of nutritional health. Among their conclusions, they state: “Academic science, both observational and experimental, possesses astonishingly high error rates - and peer and editorial review of university research no longer provides effective quality control.” Clearly, then, accreditation, peer-review and authoritative sources are no longer firm foundations on which to pin one’s trust. As a nation, we need to become more - not less - sceptical of the claims of ‘authoritative sources’ and that includes government bodies, educational establishments and ‘professional’ news outlets.

Empowered Citizens or Control-and-Command?

There can be no doubt that the internet represents a major challenge for society. Like the invention of the printing press, it’s a phenomenon we must find ways of adapting to, both to mitigate the damage it can do and to take full advantage of its benefits.

Of all the tools at our disposal for mitigating the potential damage the internet can inflict, it seems to me that government regulation is the least desirable. It would be far preferable to focus on equipping Australians with their own toolkits to help them navigate cyberspace. First of these would be critical thinking skills, an understanding of logic, learning how to reason and how to identify red flags, verify sources and make informed choices. There is also a growing array of tech tools for combatting disinformation, some of them very innovative. The government could usefully throw its weight behind such initiatives by helping to advertise their existence. You can find many examples of imaginative teaching aids to encourage media literacy as well as tools for filtering bots and malware) on the Rand website [here](#).

Top-down control-and-command ‘solutions’ to social problems almost always have unintended consequences, which is why it’s so important to be very cautious about introducing such measures in the first place. If one were to use the analogy of a medical model, with internet disinformation as a virus infecting the body of our society, the first line of defence should be to bolster the body’s natural immune system before taking the drastic steps of surgical or pharmaceutical interventions, both of which are costly and may bring with them severe and unforeseen adverse effects. Natural immunity against lies and propaganda is strongest when citizens are well-informed and capable of discriminating between truth and lies. This is a personal responsibility that should not be outsourced to government bureaucrats.

Good governance means, among other things, recognising where legislation is appropriate and legitimate and where it’s merely oppressive and damaging. This legislation would be both oppressive and damaging and should be abandoned.

A Personal Perspective

While I don't want to see my rights to free expression infringed, I'm actually far more worried about being denied access to information and ideas that I may find valuable or just interesting. And it's not merely a question of being denied access to information that I know exists. Much more sinister, to my mind, is the scenario where information and ideas are erased from the public square before I have a chance to become aware of their existence.

My journey through life has been marked by a constant scanning for what I can reliably assume to be the solid ground of reality in the shifting sands of public opinion, ideologies, beliefs, political views and scientific knowledge. En route, I've learned to navigate the rough seas of propaganda and outright deceit, and although I still sometimes find myself in the shoals of deliberate lies and misdirection, such scrapes are part of the price I pay for freedom to roam. I'm already feeling resentful of internet companies' intrusion into that freedom, but I would be outraged if it were to be bolstered by government regulations.

A few comments on the [consumer research](#) informing the draft legislation

Park, S; McCallum, K; Lee, JY; Holland, K; McGuinness, K; Fisher, C; John, E; Covid-19: Australian news and misinformation longitudinal study, News and Media Research Centre (21 March 2022).

I detected some serious biases in the research design - for example, Q12 asks respondents how often they've come across news or information they know or suspect to be false about Covid-19. The following questions then go on to focus on known or suspected misinformation on online social media platforms, thereby excluding government and mainstream media sources from consideration as sources of misinformation.

In the Appendix, the Wuhan lab leak theory is given as an example of misinformation. At the time, there was already a scientific basis for believing that this hypothesis was probably true; since then, the preponderance of evidence in support of the lab-leak theory has grown to a point where it's widely accepted as the most likely explanation for the virus's origins.

The examples of misinformation used to stimulate discussion in the focus groups include topics that were and are contested, with no firm foundation for believing them to be incontrovertibly false - e.g. vaccines cause autism (a hypothesis that's been gaining traction recently); the idea that Covid vaccines may be unsafe (there's a substantial body of scientific and statistical evidence that they are), the cause of the 2019-2020 Australian bushfires - there are opinions about this relating to climate change, but as far as I'm aware they have yet to be substantiated by demonstrating a causal mechanism that eliminates all other possible causes (e.g. poor management of the national parks and policies that prohibit prescribed burns to keep the tinder down).

All of the above (and more) serve, I think, to demonstrate that our ideas about what is and is not true can rarely be considered as incontrovertible; they should be held only in the knowledge that they are subject to change in light of new information. How, then, would the ACMA (or - for that matter - social media platforms) propose to determine what information is incontrovertibly untrue for all of time as opposed to information that may turn out to be true even though our current state of knowledge condemns it as disinformation?

Despite the inbuilt biases in its design, the research threw out some interesting results that support my contention that we citizens should be allowed (and supported by government) to express, hear and discriminate between a wide variety of opinions.

The focus groups, in particular, produced some interesting comments and results that seem to support the view that the government should treat us as adults capable of navigating our own way through the world of internet information, including mis- and dis-information.

“A common theme across the focus groups was that individuals see themselves as responsible for managing their news and social media consumption. **More than three-quarters (78%) of the survey respondents agree that it is up to the individual to learn to detect misinformation themselves.** A similar number of people (76%) say that social media or online platforms should be doing more, but fewer (59%) agree that governments should be making sure the public is not exposed to misinformation. Somewhat paradoxically, focus group **participants expressed the sentiment that both governments and platforms have a responsibility to address misinformation but were deeply sceptical about giving them such powers.**” (p.15: emphasis added)

“While they acknowledged that measures do need to be taken and there is at least some sort of role for both platforms and governments, **they also recognised their personal responsibility for assessing the quality of news and information and for containing the spread of false information,** particularly that which may be harmful to others.” (p.15: emphasis added)

Crucially, the respondents weren't asked for their opinions about roles that government might play in mitigating the effects of misinformation - e.g. equipping users with the cognitive and technological tools and resources to exercise critical thinking and to evaluate and verify what they're consuming.

“Those who use social media as their main source of news are more likely to search a number of different sources to check the accuracy of information (33%), and seek more-reputable information sources (21%) than those who use other sources.”(p.22)

This is a really encouraging finding. These are still relatively early days in the communication revolution, yet a significant number of people are learning how to manage misinformation themselves. And - if government were to enable this trend by providing educational and other resources to help people develop these skills - the process could be greatly accelerated.

I was particularly interested to read the method the researchers applied for determining which of their respondents were misinformed and which were well informed:

“Based on the responses to questions about the respondents' Covid-19 beliefs, we divided the sample into those who are informed, somewhat misinformed, and very misinformed. The questions addressing misinformation beliefs were designed to assess agreement with official advice on a range of issues related to Covid-19 including mask wearing and appropriate treatment. Those who were in general disagreement with the authoritative or factual advice were labelled as 'misinformed'. Of the five statements, if a respondent was in disagreement with one or two statements of health advice, they were categorised as 'misinformed (low) (30%)'. If a respondent disagreed with three to five statements, they were recoded as 'misinformed (high) (11%)'. The rest were recorded as 'informed' (60%) ... (see figure 83).”

However, this categorisation method has not stood the test of time because many of the statements the researchers clearly thought were 'authoritative and factual' have since been debunked (and doesn't this fact alone demonstrate the stupidity of trying to censor speech based on supposed 'authoritative' sources?). Three of the questions in particular are now known to be untrue and - even before the debunking - anyone with a smattering of knowledge and an active brain would have had a good inkling that they were untrue.

The three most egregious examples in the list of five criteria were: (1) what they think they know about the effectiveness of masks, (2) what they think they know about the safety of a vaccine (which at that time had not even been approved for use in Australia), and (3) a perception that the risks of Covid-19 were being exaggerated.

Disagreement with all of these statements would be reasonable for a thoughtful and sensibly cautious person to adopt in the face of a completely novel situation. For example, anyone with an elementary understanding of the relative sizes of microscopic viruses and the open spaces in the weave of a cloth mask must logically conclude that - despite the official advice being dispensed - the masks were unlikely to do anything to reduce the spread of the virus. This view has since been resoundingly confirmed by a [Cochrane meta-analysis published in January 2023](#).

Similarly, anyone who took the trouble to find out what the normal procedure is for conducting clinical trials for new drugs would know that it would be impossible for health authorities to legitimately claim the vaccines were safe. The safety testing was cut short, the trials were debilitated prematurely and the established timeframe of around 8 years for safety tests was truncated to a mere 4 months, so it's hardly surprising that the officially sanctioned information promulgated in 2021 is now proving to have been built on very shaky foundations. Since then, the sudden increase in excess mortality rates coinciding with the rollout of the vaccines would seem to confirm that the vaccines are far from safe.

As for the risks of Covid-19 being exaggerated, I think that was always the case with regard to the healthy under-60s. The statistical risk of dying from Covid was always extremely low for most of the population and that was common knowledge even at the height of the pandemic.

If this research has stimulated any concerns in my mind about the damage misinformation can do to society, it's the 60% of respondents who believed everything they were told by entities which (ironically) would be exempted from the provisions in this legislation - namely, State and Federal Governments, 'professional' news organisations and accredited educational institutions.

Human Rights and Free Expression

In closing, I would pose this question: If this bill were enacted, would it comply with Article 19 of the International Covenant on Civil and Political Rights, of which Australia is a signatory?

1. "Everyone shall have the right to hold opinions **without interference**.
2. Everyone shall have the right to freedom of expression; this right shall include **freedom to seek, receive and impart information and ideas of all kinds**, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are **necessary**:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals."

In my opinion, in the absence of robust empirical evidence that restricting 'misinformation' and 'disinformation' is absolutely necessary for the reasons outlined in paragraph 3, the enacting of this bill would contravene paragraphs 1 and 2. Given the crucial role free speech plays in our

representative democracy, such evidence would need to be weighty indeed. To date, the ACMA has not made the case to support such profound restraints on free expression.