

**To:** The Department of Infrastructure,

Transport, Regional Development,

Communications and the Arts,

GPO Box 594

Canberra ACT 2601

**Re:** New ACMA powers to combat misinformation and disinformation (the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*)

ACMA Bill Submission

Dear Officer,

The Bill, if passed in its current form, would allow the Australian Communications and Media Authority (ACMA) substantial, unilateral and discretionary authority to govern all forms of media save those explicitly excepted from the Bill's operation. Such law would make Australia's commitment to freedom of speech and expression questionable at the highest order. The Bill is also, frankly, a poorly drafted piece of proposed legislation that does not do enough to define the key terms and the scope rendering the Bill open for misapplication by nefarious or negligent future and/or current members of ACMA; or Government more generally. Our freedom of speech and expression deserves much more protection i.e what this Bill is NOT offering.

There are many points and facets involved in living within a democratic society where one has the right to preserve individual autonomy about assessing information. See the following points

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. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

In today's world, freely pursuing one's economic, social and cultural development is a process intertwined with and dependent on digital platforms, and the internet generally. Most individuals and most businesses use websites and social media platforms to share information. "Social and cultural development" necessarily includes the interaction with, and sharing of, ideas online. All of these processes have become integrated and intertwined. It would be a simplistic and naïve view to claim that restrictions placed on people and their businesses by ACMA with respect to what they can and cannot post on the internet would not impede on their right to self-determination.

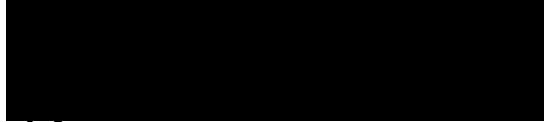
As to the statement "misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy", who exactly is going to decide what constitutes misinformation and disinformation? The Guidance Note states that "ACMA [will not] have a role in determining what is considered truthful". This is misleading. While the Bill itself doesn't explicitly allow ACMA to define or determine what information is true, misleading or deceptive, it does allow ACMA the power to create enforceable and compulsory rules, codes and standards that will do just that.. In this way, the drafters of this Bill have avoided the impossible task of drafting definitions of "false, misleading or deceptive" by passing the buck to social media companies, without considering that it will be impossible for those companies to properly define those terms themselves. The result of all of this will be ACMA and/or digital media companies arbitrarily, and without proper qualification, frantically determining what is true and what isn't, in a world where what is true and what isn't is constantly changing. It will be a mess for ACMA, for digital platforms and for individuals; with civil and criminal consequences. The uncertainty this creates would almost certainly result in censorship out of caution in an effort to avoid potential liability.

In its current form, not only is the Bill unworkable and illogical, but it betrays a fundamental lack of understanding, or lack of care, for the human rights of Australians; and in particular for the right to freedom of speech and expression. It is unlikely that minor amendments will be enough to save this Bill.

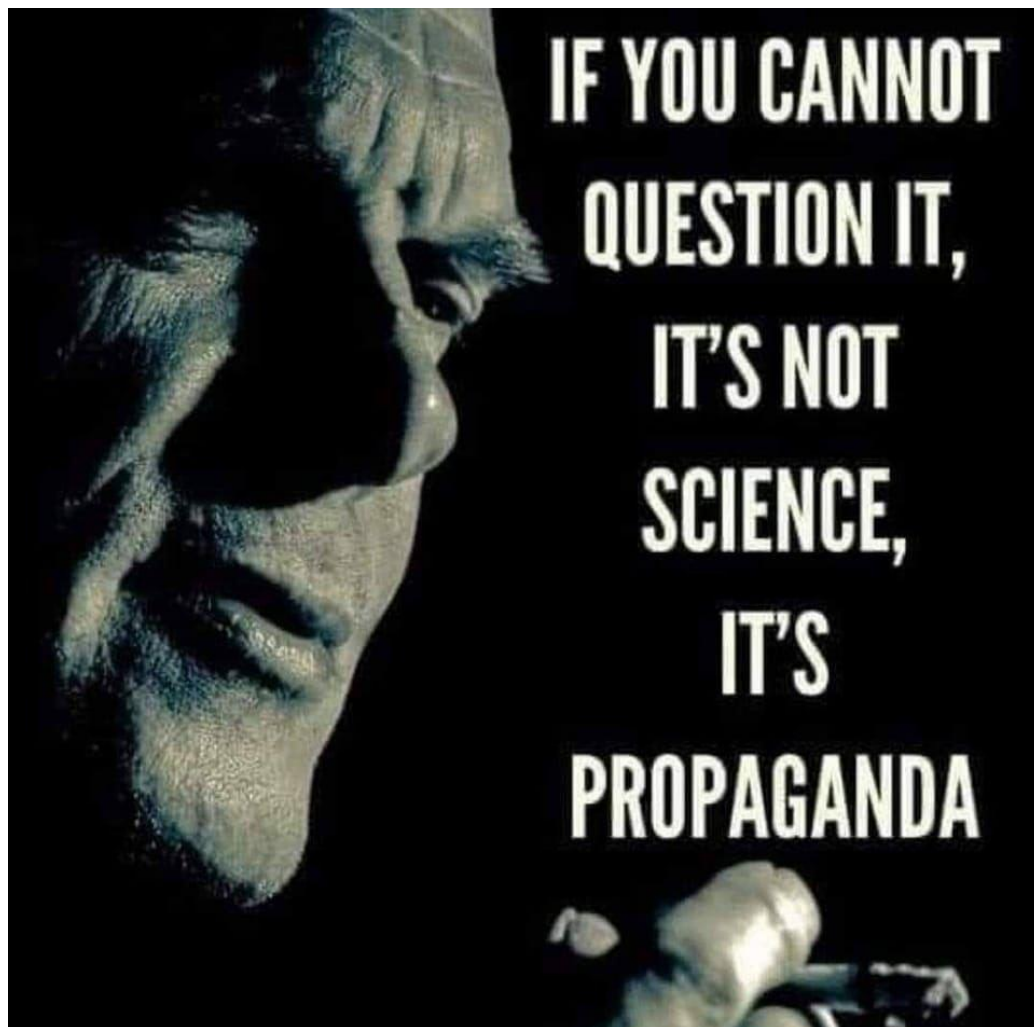
Its sponsors provide no evidence to justify the intrusions it proposes into the private and civil autonomy of Australian citizens. Who do the drafters and supporters of this Bill think they are to 'dumb me down' and decide what to think and not to think for me. I have been to university and have done research of my own and I am quite capable of working things out for myself. The truth will always rise to the top and be self-supporting so it is questionable why this Bill is required in the first place – unless it is aspects of inconvenient truths that are to be censored.

As it stands, I fundamentally and vehemently oppose this Bill. If such law is allowed to pass, it will not only signal the death knell of the internet as a free marketplace of ideas in Australia, but it will signal to Australian citizens, and to citizens of the globe, that the Australian Government seeks total control of the dissemination of information within its borders, and that such control is more valuable to that Government than the individual rights of its citizenry. That would be a dark day for democracy indeed, were such a thing to pass.


Regards



J.Smith





**Toby Rogers, Ph.D., M.P.P.** 

@uTobian



"You cannot, a priori, know what 'disinformation' is before the debate takes place. Science does not start from 'facts' and then eliminate all else from discussion. It starts from competing hypotheses, methods, and lines of argument and it works forward toward 'facts' by open, adversarial engagement."

--el gato malo



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