

Submission to the

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

providing my feedback on an

exposure draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

Comment

The abovementioned Bill must be withdrawn in its entirety.

There must be no attempt to rewrite this Bill or introduce it in any other form. At its core, this is censorship, which must never be considered in a democratic society.

Re: "threats to safety, wellbeing, democracy, society and economy"

It appears that when a government or ruling authority wants to increase its powers, the first step is to generate fear by emphasising some kind of threat and then sell the notion that "they" can protect "us" against that threat. In this case the reason for proposing the Bill granting the government the power to restrict our activity through censorship is due to a "threat to safety, wellbeing, democracy, society and economy".

This Bill is a threat to our democracy. We must have the freedom to discuss any and every topic for better understanding, even if we do not agree with the point of view being presented. This Bill would censor part of a discussion hindering the democratic process and must therefore be rejected.

This Bill is a threat to our society. Silencing any point of view silences portions of the community. Nobody should be granted the power to decide which Australians have a voice and which Australians are not allowed to speak. History is filled with disenfranchised groups who were unable to voice their concerns over an issue. Look to any communist nation or tyrannical regime from the past for examples of how badly this can go for the people. This Bill is the true threat to our society.

This Bill is a threat to our economy. The control of information during the recent Covid pandemic is a horrific example of how such power can hurt the economy. Control of social media posts by government and its agencies combined with an overbearing and one-sided narrative delivered through compliant (that is unquestioning) mainstream media closed any debate over the value of lockdowns. This has had an enormous impact on our economy, not to mention the lives of a great many Australians.

This Bill is a threat to our wellbeing. The control of information during the recent Covid pandemic also prevented discussion of possible alternative treatment measures. It is only now being revealed, more than two years later, through relentless probing by tenacious investigators that there could possibly have been a better approach to dealing with the pandemic. By discrediting and ridiculing anyone who tried to present alternative treatments our government risked our wellbeing. Decisions were being made without due consideration of all the available information. This Bill would mean that in a similar future scenario only partial information, acceptable to the government and large pharmaceutical companies, would be permitted. This form of censorship has been used by tyrannical rulers in the past to control the population and rewrite history.

This Bill is a threat to our safety. The control of information during the recent Covid pandemic and subsequent enforcement of lockdown measures did nothing to improve the safety of Australians. In some instances, it was used to justify unprecedented levels of brutality by police to control protestors. In other cases, people were afraid to visit their doctor, exacerbating other medical conditions. All of this would have resulted in a much better outcome if full and open dialogue was permitted.

The power being requested in the Bill was exercised during the Covid pandemic and the ability to protect against every one of the threats described in the first line of "The Issue" was a colossal failure.

There is no justification for giving the Government of Australia power to censor information.

There is no evidence it will help to manage "threats to safety, wellbeing, democracy, society and economy". The opposite has proven to be true.

Censorship and control of information has been shown to be a threat to the safety and wellbeing of Australians, as well as to our democracy, society and economy.

Misinformation and disinformation are relative terms.

It is all "information". Information can be right, wrong, or ambiguous and open to interpretation by the giver and the receiver. It only becomes "mis" or "dis" when it does not align with our own view. Getting to a place where we can agree if information is right or wrong (or we may agree that we can not know) requires mutual understanding created through conversation.

It is possible to "combat misinformation and disinformation" without controlling information or having the power to remove that with which one does not agree. This is through measured discussion and offering credible alternative information. Silencing opposing views does not make any piece of information right.

This Bill seeks to give the Government of Australia the power to censor dissenting narratives. It denies us the ability to investigate truth together.

"Truth" becomes "owned" by the controller of the information.

The definition of mis and dis information is entirely malleable as it will be different for every person assigning either nomenclature. By definition, a piece of information someone disagrees with will be mis or dis information to that person. Disagreeing is not sufficient reason to conclude that certain information is wrong, it only means that the information is contrary to the person making the decision.

Definition from the "Exposure Draft":

7 Misinformation and disinformation

- (1) For the purposes of this Schedule, dissemination of content using a digital service is misinformation on the digital service if:
 - (a) the content contains information that is false, misleading or deceptive; and
 - (b) the **content is not excluded content** for misinformation purposes; and
[Does this mean some misinformation is okay? What information could this include and who decides what "misinformation" is okay to disseminate? This is open to abuse.]
 - (c) the content is provided on the digital service to one or more end users in Australia; and
 - (d) the provision of the content on the digital service is **reasonably likely** to cause or contribute to serious harm.
["reasonably likely" allows for broad interpretation and would be very expensive to defend against. The average person would not have the necessary resources or funds to push back if accused of disseminating mis information. They would simply be compelled to fall silent.]

- (2) For the purposes of this Schedule, dissemination of content using a digital service is disinformation on the digital service if:
 - (a) the content contains information that is false, misleading or deceptive; and
 - (b) the content is not excluded content for misinformation purposes; and
 - (c) the content is provided on the digital service to one or more end users in Australia; and
 - (d) the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm; and
 - (e) **the person disseminating, or causing the dissemination of, the content intends that the content deceive another person.**
[This appears to be the only difference in the definition of mis and dis information. The reference to intent could become controversial. What happens if you are guilty of disseminating mis information and what if you are found guilty of disseminating dis information? Does this pave the way to imprison someone on the basis of a person's political stance?]

Note: Disinformation includes disinformation by or on behalf of a foreign power.

The provided background information refers to “tackling harmful online misinformation and disinformation”.

Harmful to who and how? This language is designed to trigger an emotional response. An attempt to generate fear in the reader, potentially making them more compliant and willing to accept any measure proposed by the government to “make it go away”.

The ACMA is an unelected body. It is unaccountable to the people of Australia and so should have no power to control what we see or say. An unelected, unaccountable, group must not have the power or authority to

“balance freedom of speech”.

Deleting one side of the conversation is, by definition, creating imbalance. Balanced free speech would mean applying more effort to presenting opposing points of view. We must be able to see the whole picture.

A silly example:

If ACMA decided to silence anyone who claims the earth is flat, i.e. not a globe, they could simply describe this as mis or disinformation. There would be pressure, or perhaps a mandatory instruction, to remove any and all information that proposes the earth is flat. We would no longer have to listen to someone with whom we do not agree. It does nothing to persuade the flat earth proponent that the earth is a globe. Those who believe the earth is flat would feel disenfranchised and become resentful. Their voice has been removed and they may feel like their only option is civil disobedience. This is far more harmful than open discussion. The solution must never be to eliminate the other side of the argument just because you are not capable of getting your message across.

Was it right for those in power in 1633 to find Galileo Galilei guilty of mis or dis information for supporting the heliocentric model of the solar system? How far have we come in the last 400 years?

“The Proposed Powers would enable the ACMA to gather information from digital platform providers”.

Why is there a need to gather information from digital platform providers? This looks very much like a back door method for unlawful surveillance of Australian citizens by its government. It is currently illegal for the Government of Australia to collect and store the personal data of Australians without a warrant.

An absurd situation currently exists that allows private organisations (Facebook, Google, Twitter, and the like) to collect a wide variety of data from people, largely because we agree to it in the terms and conditions of using their product. Under this Bill, the Government of Australia will be granted access to this data (via the ACMA), if they believe someone has disseminated mis or dis information.

Is this an attempt to bypass the Privacy Act 1988?

An unelected, unaccountable organisation with the power to enforce the code.

“Create and enforce an industry standard”. This does not prevent the government of the day from endless adjustment of the details until they have refined the definition of what is mis or dis information for maximum control.

Enforce on who's instruction? What would be the enforcement? Fines? Gaol?

This looks like we are heading for a future where Australia could normalise the targeting and detention of political prisoners.

The "ACMA will not have the power to request specific content or posts be removed" is likely to be temporary. It is fair to assume that this limitation can be changed at any time. Once the Bill is in place, they will have the "power to create and enforce an industry standard" whatever that standard may be.

The government of the day can decide what is appropriate and what is not. Mis or dis information could simply be something that makes the government look bad or reveals corruption or ineptitude.

"This best be removed as the population may lose confidence in the government, which would be bad for..... Economy? Harmony? Feeling of safety?" Take your pick.

Why the need to move from voluntary to mandatory? The intention is clearly to make is applicable to everyone, whether you like it or not. Whether you agree or not. This is clearly censorship.

Will the government be subject to the same regulations? How does this impact parliamentary privilege and ability for opposition to question policy? Can journalists question government policy?

Regardless of what the answers to these questions are today, any future government will be inclined to tighten the regulations.

Even if we naively believed that
today's Government of Australia values above all else
that which is in the best interests of Australians,
there will inevitably be a government that does not.