

Submission Concerning the Proposed Misinformation and Disinformation Bill

Benjamin Franklin once said that: “Without freedom of thought, there can be no such thing as wisdom – and no such thing as public liberty without **freedom of speech**.”. Hannah Arendt thought that the ability of people “to hold different opinions and be aware that other people think differently on the same issue (that) shields us from that god-like certainty which stops all discussion and reduces social relationships to those of an ant heap”. She had seen what happened when a totalitarian government controlled the press, and realised that it was better to let disagreements see the light of day. Otherwise, the risk of conspiracy theories going underground rises, and society can even see an increase in people being attracted to extremism, and terrorism.

There are several arguments against the proposed Bill. These include the suggested powers of the Australian Communications and Media Authority, the definitions in the Bill and the fines for spreading disinformation and misinformation. If this Bill is enacted, it is likely to have “a chilling effect on free speech,” as the Victorian Bar Association has stated.

The Suggested Powers of the ACMA

The ACMA would have sweeping powers under this legislation. As the government can appoint the ACMA, direct its actions and even get rid of it, this is arguably not an independent organisation! Under the proposed new legislation, the ACMA would have the power to take down tweets or posts which it considers could cause serious harm, as well as charge enormous fines to online companies which breach the legislation. The Bill unfortunately gives the unelected bureaucrats of the ACMA too much power to silence speech in the public square without transparency or accountability.

It also would be given powers that could be used against individuals who may have information or documents which are relevant to misinformation or disinformation on a digital platform service. The suspected authors or disseminators would be likely to be affected here. There is also no protection from civil penalties, which is extremely unusual. This is also a worrying breach of privacy.

Vague Definitions

The definitions in the Bill are extremely vague. The Bill is intended to combat “misinformation’ and ‘disinformation’ which allegedly ‘pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy”. The ACMA will be able to compel online service providers to censor online speech that it considers ‘harmful’.

‘Misinformation’ or ‘disinformation’ is vaguely defined as anything that ACMA determines is false, misleading or deceptive’. This is incredibly vague. Would arguments against climate change be restricted because they are unscientific? What about vaccines? If someone has an opinion about the risk of injuries from vaccines being enough to deter them from receiving the Covid vaccine, is that ‘disinformation’? Would this kind of post be removed, because it deters others from getting the vaccine?

Incredibly, ‘harm’ is not defined, but ‘serious harm’ is. The definition is extremely subjective, however. The ACMA would be given enormous powers to decide whether posts, tweets and articles online could cause serious harm.

Enormous Fines

If companies don’t take down ‘false’ information, they could be forced to pay billions of dollars in fines. The fines can be up to 5 per cent of a company’s global turnover. This could mean a fine of over \$8bn for Meta, because it’s global turnover is around \$170bn.

These enormous fines don’t apply to any other breaches of any other legislation in existence, and are unknown. Why are they so high? Is there such a huge risk of spreading ‘misinformation’ or ‘disinformation’?

Apparently, the government is exempted from the Bill. This is hypocritical and inconsistent and will establish an asymmetry that results in one rule for government and another rule for Australians in what they can say.

Another excellent argument against the Bill is that it is inconsistent with fundamental freedoms of speech and communication under international human rights instruments like the UN Declaration of Human Rights and the International Covenant on Civil and Political Rights.

This significant overreach by the government should not be passed.

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(Individual submission)