

Dear Sirs/Madams,

In our reading of the draft Bill it clearly sets out in our opinion a framework to restrict speech that is deemed to be 'misinformation' or 'disinformation' which is vaguely defined in the Bill as anything that ACMA determines is false, misleading or deceptive. Digital platforms such as Facebook and Instagram, Google and Netflix will be required by ACMA-regulated codes and standards to police and remove 'misinformation' and 'disinformation'. However, as we will detail later in this submission, government communications are exempted from the Bill as are comedy/entertainment programmes, professional news content, and private messages.

An example of the vagary of the Bill is to take the term that misinformation or disinformation might provide "Harm to the health of Australians." Let us remember the debacle that we have all gone through with our health during the covid pandemic. Yesterday's misinformation turns out to be today's truth. For example, the supposedly COVID vaccine misinformation that was censored indicated that the vaccines would not stop you catching covid or spreading covid. This of course has now turned out to be today's truth. Or take yesterday's misinformation that early treatments for covid with safe drugs such as Ivermectin and Hydroxychloroquine has again now turned out to be today's truth. How many lives might have been saved if this information had not been labelled misinformation or disinformation and ultimately censored by the main stream media as well as the digital media platforms.

And then apparently, we'd have nothing to fear from this legislation if for example we went online and said that marriage is only between one man and one woman. Or if a person stated that no amount of surgery or chemicals could change a person's biological sex?

Why has the Government excluded certain things from the bill's scope.

The mainstream media for example is protected – as though every newspaper and TV station was somehow a reliable, Gospel-truth institution...

Private messages and SMS messages are also exempt in this draft Bill – but instant messaging services are not exempt if messages are publicly available.

How can the government or anyone guarantee, once policing mechanisms are established, that neither ACMA nor any future Government would seek to extend laws to cover private messages? Or to text messages?

No one can make such a guarantee – and that’s what makes this bill so scary. It’s the thin end of the wedge.

As if to reassure us, the bill’s ‘guidance note’ references the “constitutional doctrine of implied freedom of political communication”.

This may sound good to the average reader. “Don’t be worried by this bill – the Australian Constitution has you covered” Except that’s not the case. There’s no constitutional get-of-of-jail-free card in an Australia where courts have interpreted freedom of political expression very narrowly and where we have nothing even remotely like the United States’ First Amendment.

In Summary of our opposition to this Bill we note:

- The Bill is a significant overreach by the government.
- The Bill 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.
- The Bill puts too much power in the hands of unelected bureaucrats to silence speech in the public square without transparency or accountability.
- The Bill includes a vague and ideological definition of “harm” which risks it being weaponised to shut down legitimate speech on pressing social issues.
- The Bill does not require mechanisms that will hold digital service providers liable for excessive and onerous policing of legitimate speech.
- The exclusion of government-authorized content from this censorship regime 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.

- The Bill gives ACMA excessive powers to compel owners and private users of digital platforms to provide information and evidence about misinformation and disinformation that is a worrying breach of privacy.
- The Bill does not provide a sufficient standard of accountability and oversight for misuse of censorship powers.
- The few provisions that have been included to acknowledge the competing right to freedom of expression are tokenistic and do not satisfy the high bar required in international law for the interference with fundamental rights of freedom of expression.
- And finally, the severity of the penalties for failing to comply with the misinformation codes and standards and for failing to provide evidence requested by ACMA is excessive and will provide a 'chilling effect' on free speech.

For these reasons, we are very firmly of the opinion that this Bill should be completely scrapped.

Yours sincerely,

Andrew & Jill Ricker

