

Submission in opposition to the

Communications Legislation Amendment  
(Combatting Misinformation and Disinformation)  
Bill

This communication is to respectfully register my objections to the proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 (The Document).

My overall objection is that The Document is little more than a collection of vague catchall statements and phrases each open to a significant number of interpretations as a result of an almost complete absence of specificity in key areas. This is amply demonstrated in Section 2 Definitions where neither **misinformation** nor **disinformation** is defined.

#### SOME CONCERNS

The Document is very clear in specifying the **responsibility** of media platforms to identify and censor any material that could be construed, or misconstrued, to be misinformation but does not go as far as to specify what constitutes actual breaches.

The definitions, or lack thereof, of misinformation and disinformation in conjunction with that of truth are, or should be, at the heart of this proposed amendment but only generalised "meanings" have been provided. For the purposes of The Document the "meanings" (not definitions) of misinformation and disinformation are to be found in subclauses 7(1) and 7(2) but sadly any relationship to a definition is sadly lacking in both cases (conveniently perhaps) and that of truth is completely absent.

#### Subclause 7(1)

*(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"*

This part of the "meaning" rests solely on the understanding of the word "false" which is inextricably linked with that of "truth". As stated previously the authors of this amendment failed to include a definition of the word "truth" as it would apply to The Document or make any reference as to who or what body does or will have divine access to all that is "true". It is entirely consistent then that the **word** "truth" is not mentioned once (0) in The Document. This strongly suggests that the proposed amendment is not about truth but control. The word "**false**" on the other hand is mentioned fifteen (15) times. Surely this begs the question "If truth is of no importance why bother creating this amendment because it protects no one?"

*(b) The content is not excluded content for misinformation purposes*

In order to get a sense of what this point is describing it is necessary to go back to the Definitions section.

In Section 2 Definitions Line 11 **excluded content for misinformation purposes** all exclusions except those covered by the first point relate to content provided by the government or bodies either accredited or licensed by a level of government or reliant on funding from the state or federal governments. An obvious conclusion is that there exists a conflict of interest on the part of media entities preventing them from presenting anything other than government approved or supported content. Nevertheless all information from these sources is not to be questioned only that originating from other sources is to be checked.

Line 30 in the exclusions raises an interesting question.

*"content authorised by :*

- (i) the Commonwealth; or*
- (ii) a State; or*
- (iii) a territory; or*
- (iv) a local government*

This amendment defines neither misinformation nor disinformation and the words truth and true (except for a mention on page 30 regarding a "true copy") have been omitted but the exclusions identified above suggest someone knows that what may be said in the future by any and all branches of government is to be relied upon as being true (trust us, we are the government) as is information from dependent media and educational sources as well as platforms approved by the minister.

The first point (a) is the exception alluded to previously :

*content produced in good faith for the purposes of entertainment, parody or satire;*

This point returns once more to generality open to interpretation. Given that the audience judging all content are all media organisations and not a court of law how they are to determine intent is not mentioned.

There does not appear to be any mechanism or process to determine whether or not content is "Produced in good faith". No mention of consultation with the source of the content or a review process. Will there be a mechanism for appeal? As for the specifying of ". . . for the purposes of entertainment parody or satire" this suggests that any content produced in good faith (no ulterior motive) for the purposes of educating, informing, stimulating debate or thought would be censored. Only "fluff" pieces containing nothing to contradict or question the government narrative would be acceptable.

*(c) the content is provided on the digital service to one or more end-users in Australia; and*

My understanding is that this "meaning" is related to the scope of the process of distribution and not to a definition.

*(d) the provision of the content on the digital service is reasonably likely to cause or contribute to serious harm*

This point is in keeping with The Document's apparent intent in that it is loaded. It requires the reader to interpret the meanings of "**reasonably likely**" and "**contribute**". As with the previous two points, this is unrelated to the word definition. Not only is it wide open to interpretation it requires interpretation / misinterpretation, surmise and a crystal ball rather than providing a clear basis on which a "reasonable" decision can be made. Thankfully ". . . **reasonably likely to cause or contribute to serious harm**" is covered in 7(3) or so it is intended to appear. I will leave it to the honourable members to decide.

## Subclause 7(2)

This subclause intended to define the word "disinformation" is a repetition of the definition provided for misinformation save the addition of an extra condition 7(2)e.

"For the purposes of this Schedule, dissemination of content using a digital service is **disinformation** on the digital service if :

*(e) the person disseminating, or causing the dissemination of, the content intends that the content deceive another person.*

Once again "intends that the content deceive" requires at least some degree of omniscience to know if the intention was to deceive. This is especially true given that no checking process is mentioned. Perhaps the unstated "intention" is that the platforms concerned work out the details.

The word "deceive" is defined the Cambridge Dictionary as " to persuade someone that something false is the truth; trick or fool:" Here again the words "true" and "false" are pivotal. That troublesome word "truth" has raised its ugly head yet again and as stated on other occasions no mention of the word is made in The Document. Without truth as the deciding factor and by association falsehood, how is deception to be judged?

Please consider this scenario. A person with impeccable credentials, acknowledged by the world as an expert makes statements relating to their area of expertise. The statement is supported by irrefutable facts but that person is then accused of deception because a particular media platforms or governments finds the statements to be inconvenient. Under this proposal would the person be judged guilty of misinformation?

Such scenarios were common during the recent pandemic and we relied on fact checkers to inform us of the truth only for it to be admitted later by a social media mogul that what was claimed to be true by these people was in actuality only their opinion not fact. Will this proposal lead us down the same path?

## POSSIBLE REPERCUSSIONS

When it comes to truth, the proposed changes are at best vague, ignore truth, the elephant in the room and fail to address how and by whom (the unmentionable) truth is identified or decided, but surprisingly clear on what will be considered to be true (or acceptable), what platforms will be considered "trusted" and the penalties that could / will be applied for breaches (failure to censor unauthorised truths) by media platforms. It can only be inferred from The Document that the government department made responsible for identifying dangerous content may not know for what to look but that they will know it when they see it.

It is unimaginable that media platforms will be able to interpret the government's "accredited truth" without additional information not included in this document or access to omniscience. It appears that one of the document's intentions is to allow an unelected government (not to be confused with parliament) to set the "rules" but to then distance itself from the execution of those rules by making the media platforms responsible for wielding the hammer, thus avoiding any public responsibility for its role. When the many grey areas are identified by the media platforms they will of course err on the side of caution and censor the content to avoid the possibility of incurring a fine.

Businesses such as X (Twitter, which prides itself on no censorship) would appear to currently not comply with this document and so face the difficult decision to censor or exclude Australians from participating.

## CONCLUSION

This amendment is clearly intended to establish the censorship of all information that may result in the population of Australia questioning the many government narratives expressed through our parliament. The suggestion that it is intended to protect an innocent public, incapable of coming to the governmentally approved views without yet more government assistance, is not only an admission of the failure of our education system but suggests a much darker motivation.

The very few points raised in this objection represent a small part of my overall opposition to this document. I am aware that censorship laws like this proposal are on the agendas of many other foreign governments including new Zealand but if it is allowed to proceed then it signals the end of Australia as we have known it. The negative effect of the COVID response on the Australian population was very significant but if this amendment proceeds the result will be disastrous.

I hope that the expected tide of other submissions expressing equal concern comes to fruition and that reason will prevail.