

Submission: Exposure Draft: Communications legislation Amendment (Combatting misinformation and Disinformation) Bill 2023

As an Australian citizen I cherish the freedom of expression that has, until now, been a distinguishing feature of Australian life. Anecdotal evidence suggests this is one of the reasons refugees come here. I would like to see such freedoms remain as they currently are. I therefore make the following submission regarding this proposed Bill.

Introduction

This Bill represents a big shift in Government practice; it contains several inconsistencies that threaten its survival; and includes many points that need clarification and/or justification.

Shift in Government practice

The existence of this draft Bill raises several questions. What is the Government's intention in introducing this Bill? Is the current freedom of speech that forms a crucial part of Australian democracy seen as undesirable? Is the Government signalling the intention to transition Australia to a Totalitarian state? If this is false extremist fearmongering, the Government needs to explain how it will retain the Democratic process once this Bill is introduced.

Inconsistencies

A Bill seeking to combat falsehood implies a definition of truth. The Bill at no point defines the term 'truth'. This is probably wise, in that this highly complex philosophical question has eluded humanity's best minds for thousands of years. It seems that this Bill relies on a static, objective 'rule book' against which it can check any communication. This model is out of step with the post-modern concept of relative, subjective truth. Defining truth becomes highly difficult in the context of, for example, gender fluidity. This Bill seems to be teetering on two conflicting concepts of truth.

If the Government intends to rely on Fact Checkers (implied in Schedule 1 Subclause 33), it needs to be demonstrated that these are entirely independent and free of a conflict of interest. This demonstration would need a transparent and un-censored investigation by a trusted body; alternatively, by letting any individual do his/her own research. This Bill places the responsibility of deciding what is true in the hands of Government; this seems to seek to stifle trust in anything other than the official Government position. So, the Government

would have to endorse the trustworthiness of its own fact-checkers. This is entirely unconvincing. In an environment of censored reality, fact-checkers are irrelevant.

This Bill must not infringe freedom of political communication (Sch 1 Sbc 60). It is not clear how this Bill would not impede freedom of speech around political issues. It could be argued that this subclause renders the Bill ineffective if this point refers to individual freedom of speech. If it refers to Government communication only, it reveals a deep inconsistency where the Government is the only free entity.

If misinformation and disinformation pose a threat of harm to Australians, why is exemption given to entertainers, educators, official media and the Government? Are these the only allowable sources of such harm?

- One such example in the Bill is the threat of harm to the integrity of the democratic process (Sch 1 Sbc 2 c). This proposed Bill represents great harm of that kind.
- Another example, harm to the health of Australians (Sch 1 Sbc 2 d) may yet prove to have been caused more by Government communications than by any other source. The Weekend Australian of 29 July documented disinformation of this kind from the American government via official publications which was replicated in Australia.
- Of particular concern is the specific mention of exemption given to disseminations regarding elections and referenda (sch 1 Sbc 35). It needs to be clearly explained why such content does not need to be true.

This Bill does not allow the Government to take away property unless it is deemed to be “just” (Sbc 61). This needs to be fully explained. Given that this Bill accords the Government exemption from embargoes on disinformation, it needs to be explained how the justice of such a Government can be trusted.

In general, this Bill seeks to replace the rights and responsibilities of individual people to make critical judgments regarding content they encounter. This implies a lack of trust in the intelligence of Australians. It also has the dangerous potential to reduce that capacity by removing the opportunity to exercise critical thinking. It could be argued therefore that this Bill poses a threat to the intellectual health of Australians. In a country that has emphasised critical thinking as a desired educational outcome (a search of the NESA website returned 1062 results), such a Bill does seem surprising.

The existence of this draft Bill may have serious impacts on the ongoing trust of the Australian people in the current Government. This would erode its effectiveness, in that it calls for trust in the Government’s decision about what is to be trusted as true.

Points for Clarification/Justification

If some part of the Government is to be the decider of what is true, this needs to be clearly expressed and justified. It also needs to be clearly explained how this will differ from what has been observed in Communism or other forms of Totalitarian government.

This Bill makes numerous references to the implied claim that misinformation and disinformation pose a threat of harm (Sch 1 Sbc 2,7; Sch 2 Sbc 7,8). This notion needs to be substantiated and clearly defined with concrete examples from history. In particular:

- Harm to the integrity of the democratic process (Sch 1 Sbc 2 c)
- Harm to the health of Australians (Sch 1 Sbc 2 d)
- This Bill gives vague reference to future powers of the ACMA to:
- Change rules and guidelines (Sch 1 Sbc 4,6,39,51)
- Require tracking and reporting of content (Sch 1 Sbc 14)
- Gather information (Sch 1 Sbc 18)
- Intervene if this Bill fails (Sch 1 Sbc 48,9) or if something new happens (Sch 1 Sbc 50)

These real or implied powers need to be fully explained and justified. It needs to be demonstrated how this would differ from Totalitarian and Social Credit styles of government. If this cannot be demonstrated, or if indeed the Government intends to become a Totalitarian State, this should be put to a Referendum.

Conclusion

This Bill contains several serious inconsistencies, unsubstantiated claims and unexplained implications which seem to represent far more threat of harm to the Australian people and the Democratic process than the sources of misinformation and disinformation that it purports to address.

I therefore submit that:

- this Bill be extensively reviewed addressing the above points
- any underlying issues be presented transparently to the Australian people
- a reviewed Bill be put to a Referendum.

Submission by Suzanne Rosenberg, [REDACTED]