

SUBMISSION REGARDING NEW ACMA POWERS TO COMBAT MISINFORMATION AND DISINFORMATION

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THE MAIN ISSUE

THE IMPOSSIBILITY OF AN ENTITY POSSESSING THE POWER AND KNOWLEDGE TO DETERMINE CORRECT INFORMATION ON ANY MATTERS AT ANY TIME

THE OMNIPOTENCE ASSUMPTION

The main problem with the proposed legislation is the assumption underlying same. This assumption is that the ACMA would have an inerrant and omnipotent knowledge and understanding of being able to determine what is “misinformation and disinformation” pertaining to *any subject or matter or item of debate at any one time*, and as such, is capable of determining what would be “misinformation or disinformation” conclusively; or indeed has the capacity of conclusively determining the opposite of same, being what could be described as “correct information”. Those publishing the perceived misinformation or disinformation are under the threat of major financial penalty for publishing the DEEMED misinformation or disinformation and accordingly will act as censors stifling free speech so as to avoid being massively fined as is proposed.

These proposed powers would make the ACMA the most powerful entity in Australian society as the bill would effectively institute a regime to control the free flow of ideas, knowledge, opinions and discourse between citizens, due to the fear imposed upon social media outlets of incurring significant and potentially ruinous financial penalty for publishing deemed misinformation/disinformation.

Social media companies will then become de-facto government censors fearing financial retribution if the information published could be deemed misinformation or disinformation by the ACMA, or potentially for merely being contrary to a prevailing narrative. The bill will thus stifle free speech, the expression of competing ideas and ultimately the quest to improve the human condition. Where freedom of thought flourishes the recipient populus flourishes. Such is the cornerstone of western liberalism. The proposed bill is the antithesis of what has made western civilisation great.

The question that further arises from same, is *how* could the ACMA or any authority or entity, statutory or otherwise, be able to conclusively determine what is misinformation and disinformation *at any one time on any matter*, when the history of the evolution of knowledge, is that knowledge is always changing in light of new discoveries, new revelations or things that were previously not known ;or relevant information that was previously or even contemporaneously hidden, partly or wholly, from public knowledge or discourse. Further there is the question of competing or contrary facts, the relative value or weight attributed to such competing facts, and the question of subjective assessment of competing facts or information.

Some ancient Greeks consulted the Oracle at Delphi for such definitive knowledge and guidance. The proposed role of the ACMA is no different than the belief of these ancient Greeks, in that apparently the ACMA will be endowed with *all-encompassing knowledge as to information*. The underlying pre-supposition is that the ACMA will have knowledge the equivalent of a mythological entity; *and at all times and on all matters, can determine misinformation and disinformation from correct information*. The writer cannot do this, nor can any reader of this submission. How then could the ACMA have such capacity?

In this submission, the underlying assumption as to the capacity of the *ACMA as effectively the final arbiter of truth*, is preposterous and contrary to the human experience and history.

RELATED ISSUES

THE PROBLEM OF OBJECTIVITY AND SUBJECTIVITY

One problem with determining misinformation or disinformation from correct information involves issues relating to objectivity and subjectivity when assessing the subject matter.

This can occur with competing facts or contrary facts supporting different conclusions regarding a subject matter. Therefore it is common to have two contrarian views both supported by different facts or interpretation of facts.

Determining what is correct information or misinformation or disinformation, is then difficult to determine and a determination regarding the topic could well be subjective having regard to the knowledge or biases inherent in the adjudication process.

One arbiter may favour a certain view or interpretation giving facts that support their conclusion, higher value than competing facts. In such a situation of competing facts and interpretation it is a matter of logic that there should be no definitive view as to what is correct information or disinformation as same cannot be conclusively determined whilst information is in a state of flux.

However a body such as the ACMA could well determine in such as area of dispute, that one view or interpretation is misinformation or disinformation due to a subjective bias. Such a determination could be consistent with a "prevailing narrative" that may be commonly accepted related to the area of dispute.

Such conflicts would potentially give rise to a corruption of the process and government authorities could give preference to giving a determination as to misinformation when it is politically expedient or supports government initiatives or policy. For example if there are competing views as to the effectiveness of lockdown measures during a pandemic, the process could be tainted by a determination of a view as misinformation, if information was viewed as undermining government pandemic policy. Here I cite the well known academic research of Professor Gigi Foster of University of NSW and the Harvard University Study indicating the ineffectiveness of the lockdowns during the pandemic. Views and speech consistent with these studies could well have been deemed misinformation by a body such as the ACMA, and such an adjudication would of course been wrong and reprehensible.

FACTS EVOLVE AND NEW FACTS - THAT IS NEW INFORMATION, IS DISCOVERED OVER TIME

“YESTERDAYS MISINFORMATION, TODAY’S FACT” or yesterday’s correct information, today’s falsity.

THE NOBEL PRIZE WINNING EXAMPLE OF AUSTRALIANS BARRY MARSHALL AND ROBIN WARREN - Nobel Prize Winners in 2005 in Physiology and Medicine.

Today's misinformation regularly becomes tomorrow's fact. This is highly true of developments in science and technology.

A classic example of such is the well known incident of when an Australian gastroenterologist announced at a 1982 medical conference of his peers, that most stomach and peptic ulcers “were caused by a bacterium”. This then novel revelation was met with ridicule bordering on contempt and even with threats against the doctor’s continued practise of his profession.

The Sydney based gastroenterologist presented research conducted by the aforementioned Australian researchers Barry Marshall and Robin Warren, indicating that stomach and peptic ulcers were largely as a result of the *bacterium heliobacter pylori*.

In the current environment, where a competing or novel view is commonly regarded as misinformation/disinformation. When this announcement as to the genesis of stomach ulceration was made, it was regarded as shockingly wrong and inerrant, and thus in the modern vernacular, would be categorised as DISINFORMATION of the highest order.

The only problem with that prevailing view - the then knowledge - the narrative - the consensus – the SCIENCE regarding stomach ulcers, was that THE PREVAILING VIEW, THE KNOWLEDGE, THE NARRATIVE, THE CONSENSUS, THE SCIENCE ---- WAS ALL WRONG !!!!! But those that held that view did not initially accept the new research and were highly sceptical and resistant. It went against medical schooling, and the accepted peer reviewed knowledge.

As a matter of logic the fact that the novel idea wasn’t then accepted *did not make it wrong - it was new competing information, now competing against consensus opposing information* that stomach and peptic ulcers were the result of stress.

In the brave new world of “misinformation determinations” there is an *inherent tendency to accept the truth of a proposition simply because it is the prevailing view or the consensus. Truth cannot be equated with consensus.*

As indicated elsewhere, it is the competition of ideas in the public square that ultimately gives a society the best chance of determining where truth lies. The bill restricts the ability to publish competing views and non consensus views. It will fully restrict the flow of information, knowledge and opinion, especially new knowledge and is thus anti- thetical to the human spirit and desire.

Returning to the example Warren and Marshall who were awarded the Nobel Prize in 2005 some 23 years after their initial research.

I now quote directly from a published article in the ANNALS OF CLINICAL MICROBIOLOGY AND ANTIMICROBIALS titled “ 23 Years of the discovery of Helicobacter pylori; is the debate over” by Niyaz Ahmed

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1283743/>

“Barry J. Marshall and Robin Warren, two Australian researchers who discovered the bacterium *Helicobacter pylori* and deciphered its role in gastritis and peptic ulcer disease, have been awarded this year's Nobel Prize in Physiology or Medicine. The Nobel Assembly at the Karolinska Institute has honored them for their *unexpected but paradigm shift discovery [3,4] that revealed that gastritis, and ulceration of the stomach or duodenum*, were the result of infection with some curved Gram negative bacilli.

At that time when Warren and Marshall announced their findings, it was a long-standing belief in medical teaching and practice that stress and lifestyle factors were the major causes of peptic ulcer disease. Warren and Marshall rebutted that dogma, and it was soon clear that *H. pylori*, causes more than 90% of duodenal ulcers and up to 80% of gastric ulcers. *The clinical community, however, met their findings, with skepticism and a lot of criticism* and that's why it took quite a remarkable length of time for their discovery to become widely accepted.

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From the published article we see that the researchers were met with “skepticism and a lot of criticism”. The discovery was an “unexpected but paradigm shift discovery”.

The vast majority of medical authorities of the day and for quite some time thereafter did not believe the research and deemed the research wrong, incorrect, not properly based and effectively as DISINFORMATION.

Fast forward to today, and It is now accepted that H.PYLORI causes 90% of duodenal ulcers and up to 80% of gastric ulcers.

What can we learn from this? *It is clear that if this style of opinion/ research was published today by Warren and Marshall it would be deemed as dangerous misinformation or disinformation.* Why -because it simply went against the prevailing knowledge.

What this classic example teaches us is *that knowledge evolves and what has previously been known or is known today may in fact be wrong* and actually be the true misinformation or disinformation. The free flow of ideas and information must be maintained at all cost if knowledge is to develop and evolve. This is the minimum that we would expect of each other if we are truly to accept our fellow human being as being an equal person and having inalienable rights.

If conversely we think that a government authority has the right to determine misinformation or disinformation or correct information, what then does it say about us as a society?

Have we lost that much respect for our fellow man that we do not trust their honestly held views, opinions, knowledge or research, that we no longer are prepared to give our fellow human being equal time and equal rights and the ability to express those ideas?

The proposed bill although arguably well meaning, is philosophically and fundamentally flawed at its core and represents the most atrocious attack on human liberty, free speech and the human spirit.

The amount of lives that have been saved and the reduced suffering brought about by the above research, is testament to the free exchange of ideas.

Had the prevailing view of the then experts been maintained, science would not have advanced, human suffering in this instance would not have been alleviated, and the earnest and honest endeavours of two brilliant men never come to light.

However the bill under consideration effectively bestows upon the ACMA the power to determine what is information and what is truth on all matters. In the above example those putting forward the views of Warren and Marshall would have been viewed as purveyors of disinformation as in fact occurred. The ACMA would have done likewise.

At any one time there are almost infinite competing views on subjects, or alternate views on matters, and new knowledge and evolving information, novel and confronting ideas and information, ideas and research that challenge consensus or accepted narratives or orthodoxies.

Are we now so intellectually fragile that we need to determine, that which confronts or challenges prevailing orthodoxy, as being misinformation or disinformation? That is not the history of western liberalism nor enlightenment. The attitude should be to test and challenge everything, and let competing knowledge and opinions actually compete in the public square, and rise or fall upon their respective merits, and then and only then can we move towards truth and what is beneficial.

There are in place appropriate laws in Criminal Codes and pursuant to defamation laws to restrict criminally inciteful speech or civilly defamatory speech.

There is no need for an entity that would literally become the rightly feared Orwellian MINISTRY OF TRUTH to determine right speech from wrong speech – what is true and what is not. The concept is ultimately abhorrent.

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