

To Australian Federal MPs,

A case against the new ACMA powers to combat misinformation and disinformation

The Fourth Estate is a term that refers to news media and the phrase holds its origins in the French Revolution where the Church, Nobility and Commoners comprised the first, second and third estates. The term was coined by Edmund Burke in 1821 who wanted to point out the power of the press.

The press is supposed to act as a watch dog to hold elected officials and public figures to account but that is seriously inhibited in my opinion when you allow the Federal Government to intervene.

There are provisions in the bill that excludes satire what makes this problematic is satire can be very subjective and could potentially mean that people could be charged with misinformation over a meme on the internet. For example, the Instagram account Babylon Bee creates satirical news articles which can easily be misinterpreted as misinformation.

Misinformation is defined as content containing information that is false, misleading or deceptive and is likely to cause or contribute to serious harm.

Harm has a very broad definition from hatred a group in society on the basis of sexual orientation, race, gender, ethnicity to disruption of public order, harm to the health of Australians, harm to the environment and so forth. The main issue with this definition is the subjective nature of it. One such example involves Comedian Isaac Butterfield who was investigated by the Queensland Human Rights Commission over a joke, one may interpret a joke as satire another may call it hate speech. By harm to the environment could this mean online debate surrounding climate change could be called climate denialism? Could a post containing a credible report of a vaccine adverse advent be called vaccine misinformation and harm to the health of Australians? Could this mean the promotion of a peaceful protest could be deemed as a disruption to public order?

Under the definition News Source that is defined as newspaper, magazine, television program, radio, a website or a program of audio or visual content to be distributed over the internet. My concern is that this creates a lot of grey areas in that on a podcast a host may discuss topics with guests and express their opinions which in the pandemic era caused a lot of content to be flagged for misinformation. Which means that some podcasts on platforms may not be viewable in Australia, or Australians podcasters and independent journalists with their own websites will see massive fines if their news contradicts the government.

In Schedule two subsection 5H it states that a penalty of 5% of the annual turnover be paid if a corporation exceeds 25,000 penalty points, to put that into perspective META owns Facebook and Instagram and had an annual turnover of \$23.2 Billion in 2022 so that would amount to a fine of \$1.16 Billion. That will mean that rather than fact checking content META will probably take down or not allow you to post certain content.

The problem with this is you must have a variety of information for people to be able to think for themselves and make an informed decision, for example during the pandemic a lot of information was deemed false by fact checkers and the chief health officer that turned out to be true. Such as the use of Ivermectin and Hydroxychloroquine for treating COVID patients was seen as dangerous and ineffective by the departments of health in Australia but many doctors around the world disagreed and if it was not for dissenting voices in the independent media it is likely that the Australian public would not be aware of alternative treatments. In a democratic society citizens are entitled to the full scope of information to make an informed decision.

Furthermore, limitations in regard to electoral and referendum matters states that the ACMA can intervene with content on a digital platform service when it relates to preventing or responding to disinformation. That is the job of the press to present the facts to the Australian public not a government agency, when you commit a crime, you are not allowed to investigate yourself and prove your innocence the courts will because you have a conflict of interest. So, this should be no different. I am concerned that by allowing the ACMA to interfere with online content relating to political matters that could open the door to election and referendum interference.

The Australian Government is not infallible nor incorruptible therefore you need checks and balances like an independent press, the reason why in a court of Law we don't allow Jury members to know the Defendant is because there is a conflict of interest that will unblind the application of the law.

While I understand this Bill is an exposure draft and is subject to change, I find it very concerning that members of Parliament are thinking in this way.

Sincerely,
Matthew Lorcan Kelly.