

Submission

Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

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16th August 2023

Introduction

Before responding to specific elements of the exposure draft of the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 (henceforth "the Bill") I will begin with a simple thought experiment;

If this were the turn of the 18th Century, a mere 300 years ago, and the Bill was passed in Europe or America, then the following would all be "facts" according to the thinking of the time:

- Miasma Theory: "Bad air" caused diseases.ⁱ
- Humoral theory: The notion that humans were made up of four substances blood, phlegm, black bile, and yellow bile and an imbalance caused disease.
- The geocentric model: the Earth as the center of the cosmos or universe, and the planets, the sun and the moon, and the stars circles around it.
- Toothworm: the idea that toothache was caused by the presence of a worm inside the tooth.ⁱⁱ
- Tobacco as a medicinally beneficial treatment

By impeding freedom of speech and expression these ideas would have remained unchallenged and would likely have remained "facts" to the present day.

Further, any person proposing a new scientific, economic or social theory or hypothesis would be subject to the scrutiny of a central arbiter of "misinformation and disinformation" and likewise would have no means to disseminate or test their ideas. Such examples would include theories and hypotheses such as:

- The antiseptic procedures proposed by Ignaz Semmelweis in the mid 19th Century that were ridiculed by other medical professionals yet led to dramatic decreases in maternal mortality.
- The pasteurisation of milk proposed by Alice Catherine Evans in 1917. Evans was initially dismissed by the establishment because she was a woman and did not have a Ph.D. "Evans faced immediate skepticism and severe criticism from scientists, veterinarians and representatives from the milk industry, who dismissed the idea that she could have made a discovery that had escaped the observation of other (i.e. male) researchers."ⁱⁱⁱ

1. Absence of certain sectors in the Bill

There exist organisations and institutions that seemingly fall outside of the defined groups in the Bill. The “Third sector” which is the voluntary sector, the economic sector consisting of non-governmental organizations and other non-profit organizations are not referred to in the Bill. These organisations produce and disseminate large amounts of information digitally and in-person (e.g. The *Safe Schools Coalition Australia (SSCA)* or *Cool Australia*). *Cool Australia* brag on their website of their reach:

“6.1m+ Students taught

8,990 Schools reached

2.1m+ Lessons and activities downloaded

175,000+Teacher members”^{iv}

It is unclear as to whether such organisations fall under the terms of;

“an educational institution accredited by any of the following

- (i) the Commonwealth;
- (ii) a State;
- (iii) a Territory;
- (iv) a body recognised by the Commonwealth, a State or a Territory as an accreditor of educational institutions;”^v

Cool Australia states “Currently, our courses are not accredited with NESA in NSW.”^{vi} Thus, *Cool Australia* and other NGO’s or voluntary sectors that disseminate information should be subject to the Bill. This is not clear in the Bill.

Further, public–private partnerships are not referred to in the Bill.

Lastly, supranational organisations are not referred to in the Bill. “Foreign power” is referenced once but not defined. Again, organisations such as the United Nations (UN), World Trade Organisation (WTO) and World Economic Forum (WEF) produce and disseminate vast quantities of information, these organisations should be subject to the same laws and regulations as everyone else.

2. Government Monopoly on Information

Government and the public service spend vast sums of taxpayers money on collecting, collating, storing and analysing information and data. Often, this data is not accessible to the public (despite having paid for it) or is difficult to gain access to, requiring time and / or money and skills (e.g. filling out Fol’s). Thus, Government has quite a monopoly on information.

There have been several notable issues with public agencies collecting data then altering it for release to the public. A good example is the “homogenisation” of temperatures by the Bureau of Metereology.

To impose restrictions such as those in the Bill on the general public who do not have the same access to the data and information available to the Government whilst excluding the Government at all three levels is completely topsy-turvy. The public do not have coteries of highly paid staff and entire Departments at their fingertips to conjure up information that politicians do. If anything, the Government should be held to a far greater degree of responsibility for spreading misinformation and disinformation. It should be incumbent on Government to tell the truth and be as accurate as possible.

3. Failure of Government to police itself

With the above in my mind let us consider some examples of Government misinformation and disinformation.

- In 2007 soon-to-be Prime Minister claimed that green energy targets would cost each person "\$1 per person per year".^{vii} This is clearly misinformation as energy costs have increased by hundreds of dollars per person.
- The Gillard Labor Government claimed the NDIS would cost \$14 billion a year. It is currently costing over \$30 billion^{viii}.
- Tim Flannery, the Climate advisor appointed by the Labor Government, claimed in 2007 that climate change would mean "So even the rain that falls isn't actually going to fill our dams and our river systems"^{ix}. As a result State Governments spent billions of dollars building desalination plants, all but one were later mothballed. Yet in 2010, just three years later, there were floods in Brisbane and the Wivenhoe Dam overflowed causing 33 deaths and over \$2 billion in damages.

There are thousands of other examples that could be cited, Government is often the greatest purveyor of misinformation and disinformation. The economic costs of the above few examples have been astronomical and the social costs have included deaths.

4. Proposal

The Government cannot and should not exclude itself or any other institution from the Bill. In fact the Government should be leading by example. The Government (including the Civil / Public Service and any Government funded entities or corporations) must be held to a higher standard on the issue of misinformation and disinformation than the people. To make this Bill fair and equal the following should be considered for addition to the Bill:

- The public may bring charges of misinformation and disinformation against any Government official, politician etc. that results in economic, financial or bodily harm. The charges will be heard and adjudged by Jury selection (the Government cannot be allowed to police itself).
- The Government must provide all data it collates and collects to the public in its raw form in real-time (if possible) except data that may compromise National defence. The data can be de-identified if necessary (e.g. health data).

Penalties will vary accordingly. I shall provide a few suggestions:

- Should a Government project blow out by more than 10%, every member who voted for the Bill will be docked 10% of their annual salary and the top layer of the civil service involved in the Budget blowout will be dismissed.
- Public servants fabricating data or information or transmitting fabricated data and information should face suspension without pay and / or termination.
- Any politician or Government or official coerce a medical intervention that causes harm to people whilst claiming it is safe and effective should face criminal penalties of up to life in prison.

5. Conclusion

The Bill is skewed, it is not inclusive, fails to lead by example and it places onerous and costly burdens on Social Media companies and digital carriage services. Obviously, I do not agree with the Bill however I see it as a good opportunity for the public to hold their elected officials and the public servants to account if the Bill is passed with the above proposed amendments. It is time elected officials and public servants are held to a higher standard in the realm of "misinformation" and

“disinformation”. The warning should also be made that those proposing this Bill should be careful of the machine they are building as one day that machine might be taken over by others who decide that your information is “misinformation” and “disinformation” and puts you in the firing line of the weapons you built.

ⁱ <https://www.sciencedirect.com/topics/medicine-and-dentistry/miasma-theory>

ⁱⁱ https://en.wikipedia.org/wiki/Tooth_worm

ⁱⁱⁱ Alice Evans, A Pioneer for Women in Microbiology, March 31, 2023

<https://asm.org/Articles/2023/March/Alice-Evans,-A-Pioneer-for-Women-in-Microbiology>

^{iv} <https://cool.org/about/impact>

^v *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023*, pg.5

^{vi} <https://learn.coolaustralia.org/faq/>

^{vii} <https://www.heraldsun.com.au/blogs/andrew-bolt/rudd-claimed-warming-policies-would-cost-just-1-per-day/news-story/ef58777eeb2194b3681335d681ad563a>

^{viii} <https://www.abc.net.au/news/2021-05-10/federal-budget-ndis-funding-to-surpass-medicare/100129582>

^{ix} <https://www.abc.net.au/local/archives/landline/content/2006/s1844398.htm>