

The Great Misinformation Panic

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The definition of misinformation provided in Australia's new draft law reveals its inherent elitism. According to the [guidance note](#), misinformation refers to "online content that is false, misleading or deceptive, that is shared or created without an intent to deceive but can cause and contribute to serious harm." Significantly, the definition exempts content produced by [professional news outlets, governments, or educational providers, as well as artistic content](#).

This implies that information disseminated by mainstream media and the government can never be classified as misinformation or disinformation. But if the objective of this law is to prevent harmful lies, it is illogical to assume that an institution with more authority and power is less likely to cause harm with false information than a less authoritative source.

The exclusion of mainstream media and the government suggests that those drafting the law believe that they will never disseminate untrue information, or, that any false information they spread is for the greater good and therefore not harmful. Whilst the former belief is incredibly naïve, the latter belief is far more nefarious and explains why the law favours established information institutions by burdening new entrants with excessive regulation.

A Double Blow to Independent Platforms

Consider Substack, a platform that has revitalised journalism and enabled independent voices, as an example. Substack will be directly impacted by this law in two ways. Firstly, as a digital platform, Substack will be required to ensure that no misinformation is disseminated on its platform, which is a highly costly endeavor. Monitoring all the posts, videos, podcasts, and user comments on Substack would be an immense challenge. Moreover, any content shared from Substack to another digital platform, like Twitter, would also be subject to regulation. This increases the risk that either platform could deem information in a Substack post as misinformation, leading to censorship or even the removal of content and blocking of user accounts. In contrast, digital platforms are explicitly prohibited from blocking the sharing of content from traditional media sources. This law creates a reverse Robin Hood

effect, taking from the democratised platforms by burdening them with excessive regulations while treating information from powerful institutions as sacrosanct.

This elitist concept of misinformation should concern everyone, regardless of their political leanings.

The Illusion of an Arbiter of Truth

Critics of the concept of misinformation have likened it to the creation of a Ministry of Truth, but in reality, the law does not assign ACMA (the regulator under these new laws) the role of determining truth. ACMA's role is to compel digital platforms (broadly defined to include various content aggregators, from social media sites to dating apps) to establish processes for identifying and removing misinformation. In essence, the concept of misinformation transforms digital platforms into censors, similar to [Oliver Cromwell's ordinance to printers](#). If a misinformation regime is imposed, digital platforms would be forced to become the arbiters of truth, rather than the regulator.

Women advocating for sex-based rights have been among the first to campaign against this law.

Looks like I'll lose access to [@TwitterAU](#) because I refuse to believe men are women. Wonder if [@elonmusk](#) will fight for us on ethical grounds? Australia isn't a very big market & we have no resources to challenge this ideological fascism legally.


<https://t.co/0jskSyDSmt>

— Angie Jones (@angijones) [July 11, 2023](#)

Many of these women have experienced firsthand the consequences of Silicon Valley determining truth, which often includes accepting the idea that 'womanhood' can be self-identified. Prominent sex-based rights activists, including academics like Australia's Professor Holly Lawford-Smith, have had their accounts and content permanently removed from digital platforms for challenging this notion.

Ending Discrimination by Twitter

Gender critical feminists are among those who have been excluded from Twitter for years. The time is right for a correction.

 Quillette • Holly Lawford-Smith

Forcing digital media companies, mostly headquartered in other countries, to determine what constitutes misinformation in the Australian context will increase the influence of American ideas in Australian discourse, which has already resulted in the acceptance of unfounded notions, such as the denial of biological sex.

In all likelihood this law will not lead to the removal of unequivocally false information but the censorship of ideas that are contrary to the platform's ethos. If this law is passed ACMA will give these platforms free rein to determine the truth as they see it.

The Chilling Effect

The severe penalties associated with non-compliance, up to [AUD 6.88 million or 5 percent of global turnover for corporations, and AUD 1.38 million for individuals](#), will make digital platforms overly cautious about the content they allow.

People already level fair criticism at the major social media platforms for removing content and accounts without providing satisfactory reasons or avenues for appeal. This new regulation will only exacerbate these problems and justify a more censorious approach to content sharing. It will also render the potential improvement of these platforms through crowd-sourced moderation policies, such as involving a jury of peers from the same country with diverse ages and beliefs, unworkable. After all, if asked, people might conclude that the sources considered immune to misinformation (corporate media and government) are indeed wrong, and vice versa.

The Question of Serious Harm

The entire panic over misinformation assumes that the internet amplifies the danger posed by charlatans. The draft laws are a response to a [report by ACMA](#), which claims that misinformation is a significant danger justifying regulation. However, there are concerns about the reliability of the ACMA's research, as it relies on a self-selecting sample of individuals and institutions who are already concerned about the impact of misinformation.

Even if we suspend our skepticism and accept the report as accurate, the only demonstrable harm directly linked to so-called misinformation is the damage to telecommunications infrastructure caused by 5G hysteria.

Not surprisingly the report doesn't mention another group that has been responsible for misinformation that brings about real-world harm — Extinction Rebellion. Under these laws the protest group that has [motivated a number to cause major property damage](#) by telling people that the [IPCC](#) and [governments around the world are playing down the impact of climate change](#) would also fall under the definition of misinformation.

But whether damage to persons or property is caused by a false belief in 5G harms, the coming environmental apocalypse — or any other misguided belief — such real-world harms can be addressed through existing criminal laws.

Actions, not ideas, should be subject to regulation, no matter how outlandish those ideas may seem. Free speech serves as the best mechanism for correcting the challenges that come with the information revolution. We never know if our times' orthodoxies are correct or will soon to be proven wrong. Censorship only serves to prolong the surfacing of information that could prove vital to an updated understanding of the world. To take a contemporary example, it is now being accepted by several countries worldwide that psychotherapy should be the first line of treatment for adolescents with gender dysphoria, and that puberty blockers be limited to clinical trials. However Gender Affirming Care remains the dominant treatment modality in Australia — and if dissenting clinicians, scientists, parents and patients are unable to speak out for fear of spreading misinformation — Australia's standards of care may not receive the appropriate scrutiny. For this reason, the harm of compelling digital platforms to censor information outweighs the risks associated with misinformation.

Likewise, new means of disseminating information may require new institutions. The process of creative destruction brought about by new technologies birthed the current media giants — for example printing press enabled newspapers and television enabled the daily news broadcast — and it is not beyond the realm of possibilities that these sources of information are not fit for the new media landscape. By giving them preferential treatment, the new laws cement the power of organisations should either be evolving or disappearing because they are not fit for purpose.

Any potential harm prevented by these laws pales in comparison to the unjustifiable constraints on free speech and the stifling of emerging institutions enabled by the democratisation of information, such as this one.

Doomed to Failure

Technology, like the printing press, enables the decentralisation of information. Attempts by governments to regain control over information dissemination will likely prove futile, as it is impossible to 'un-invent' these technological advancements.

Technology is already ahead of this law and any restrictions imposed legally can be circumvented through other means, such as VPNs or the dark web.

It is also misguided to assume that all platforms will readily comply with these reforms. Platforms that prioritise free speech and privacy, like Substack and DuckDuckGo, may refuse to operate in Australia rather than implement policies that contradict their fundamental principles. This refusal would generate the [Streisand Effect](#), drawing attention to these platforms and making them appear as sources of forbidden knowledge — a temptation humans have always found difficult to resist. Consequently, the allure of such platforms may increase. (As a Substack user myself, I suppose I should express my gratitude to the government in advance for boosting my subscriber count.)

More to the point, crackdowns on misinformation will not eradicate it; instead, they will make it more alluring and fuel demand for alternative means of accessing the internet. Information has become decentralised, and no amount of government intervention can keep pace with developments in this realm. By going to war against "misinformation" governments are merely diverting finite resources from addressing real harm to people and property, which purportedly justifies the panic in the first place.