

Nobel prize winning economist and philosopher Friedrich Hayek noted in his seminal essay, 'The Use of Knowledge in Society' (one of the most referenced articles of the 20th century) that no one individual or entity is capable of acquiring all of the knowledge or expertise required to sensibly and efficiently allocate resources across a broad society. No citizen, no CEO, no government minister, no professor, no union, no medical board, no social media network, nor any other actor or body is capable of performing this task, because all humans lack perfect knowledge. Indeed, realistically no one has more than the smallest sliver of knowledge, and it is only through the exchange of speech, ideas, and information that any market, society, or even democracy can function.

The exposure draft of the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 suggests that 'misinformation and disinformation pose a threat to the safety and wellbeing of Australians, as well as our democracy, society and economy'. The proposed solution essentially amounts to empowering the ACMA to compel social media platforms to monitor and manipulate online speech. Is this an appropriate solution?

An immediate and fundamental question arises. Who will be determining what speech is misinformation/disinformation? Referencing Hayek, no individual or body is capable of attaining perfect knowledge. No one has the perfect knowledge required to determine what speech is misinformation/disinformation.

Is the government capable of determining what is misinformation/disinformation? Is the government capable of doing so in an apolitical fashion, unaffected by lobbyists or stronger incentives such as their perceived popularity/electability? The entire body of the public choice school of economics suggests otherwise. Politicians and bureaucrats are human beings, driven by self-interest like all others and thus as prone to bias as anyone else.

Are scientists, professors, academics and experts capable of determining what is misinformation/disinformation? Perhaps in certain instances, but 'science' is not monolithic, and consensus/majority opinion does not determine truth. One must only remember that for decades, the practice of lobotomy was considered an appropriate, 'scientifically-based' medical procedure, garnering swift acceptance throughout the western world in the 1940s. Dr Antonio Moniz, the originator of the procedure which involved severing brain connections in order to treat neurological disorders like depression, was awarded the Nobel Prize for Physiology or Medicine in 1949. Today, lobotomization is regarded as barbaric and with little scientific merit. Yet at the time, the expert community of the medical field may have dismissed any criticism of lobotomization as 'misinformation/disinformation'.

Let us not pretend other scientific fields are fundamentally different in that all fields are incapable of perfect knowledge and thus incapable to determining without a doubt what information is misinformation/disinformation. All scientists and experts should be free to speak and publicly debate/discuss the truth of information, not attempting to impose an ideological orthodoxy upon society. Equally, the 'majority consensus' does not ensure perfect knowledge or truth, as the previous standard of lobotomy exemplifies.

Since neither government actors nor experts are capable of truly knowing what information is misinformation/disinformation (and the ACMA is comprised of government actors and experts), the ACMA would prove incapable of determining what information is misinformation/disinformation. This is no slight towards the ACMA; no one has access to perfect knowledge, and no one is truly capable of making this distinction without censoring speech that may indeed be true. If legislation existed in the 1940s, would the ACMA then have pressured newspapers to 'combat misinformation and disinformation' from decriers of lobotomy? Would the ACMA have 'enforced an industry standard' (i.e., fines, lawsuits) on newspapers who chose not to comply with 'expert, majority medical industry opinion' about the safety and efficacy of lobotomization?

What is the solution to misinformation/disinformation? The same as the solution to Hayek's knowledge problem: more speech and freer speech. Bring speech into the forefront, out into the open, to be debated, spotlighted, tested, exposed, to succeed or fail based on merit and broad social examination. Let us not pretend that malicious and/or false information will cease to exist if regulated. It will simply move underground to less public channels, where public and expert eyes will be unable to challenge, debate or expose its meritless nature.

This legislation should be rejected and an alternate approach based on encouraging less regulation and potential censorship proposed. Poisonous mould grows best in darkness but dies in sunlight. The best disinfectant for false information is more exposure, not less.

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