

3 August 2023

To: The Department of Infrastructure, Transport, Regional Development, Communications and Arts

This submission relates to the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

I consider components of this bill to be dystopian, in particular the components relating to the definition of misinformation, the excluded parties from the misinformation provisions, and the size of penalties.

For society to function together we need to be careful not to have false dualistic dichotomies such as truth and falsehood. In reality, there is much which is 'grey'. The scientific method is to marry theory and practice, and to continue to ask questions. Radical new ideas which help society are often borne from what were previously deemed 'falsehoods', and therefore could not be envisaged by those who only believed the 'truth'.

With respect to the components relating to disinformation – content that is disseminated with the intent to deceive – I see benefits from placing greater onus on the carriers of such information, but only within reason. Where the disinformation pertains to fraud, there should be severe penalties to any party that perpetuates the fraud, including the carriers of that fraud who continue to facilitate the fraud after becoming aware of the fraud.

Section 7(1) sets out the definition of 'Misinformation'. The definition as it reads could include content that is deemed false, but is not deceptive. At a minimum 7(1)(a) should be amended with the 'or' replaced by 'and', so that the information to be misleading needs to be deceptive. Even then, it may be too easy for an authority to say that because something is deemed false it is by definition deceptive. As such, I recommend the removal of any penalties or action relating to 'misinformation'.

The definition of excluded content for misinformation (and therefore disinformation) purposes is troubling given its 'Animal Farm' hits of 'All animals are equal, but some animals are more equal than others'. Why would it be okay for 'professional news content' providers to deceive the public? Why would it be okay for 'Australian, State or Local government' officials deceive the public? Why would it be okay for 'Accredited education provider' to deceive the public? As the exclusion is also made in 7(2)(b), that would make it okay for professional news content providers, government, and education facilities to intend to deceive the public. Surely this is the definition of State funded propaganda. The exclusions make a mockery of the Act, by suggesting it is only applies to the content of the common people, the plebs of society. There is no good reason why such rules against deceptive behaviour shouldn't apply to all citizens, government and organisations in Australia.

With respect to penalties, the proposed size of penalties to digital platform providers is more than excessive. As the size of the penalties would be sufficient to put at risk a providers solvency, providers will need to act with excessive caution to not be subject to a fine. This would involve either no longer providing a service in Australia or heavy-handed censorship, neither of which would be in the interest of the public – but may suit some government agencies and the mainsteam press who don't like criticism.

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