

A few thoughts on the Big Brother bill for ACMA

With regard to the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023* soon to come before the Federal Parliament after submissions have been received from the public, here are some thoughts.

From the announcements about this bill, we read about heavy fines for digital platforms that allow “harmful misinformation and disinformation” to be posted online. We are not told what is meant by “harmful” content. We are not told the supposedly “solid” criteria to decide what content might be deemed to be “misinformation” or “disinformation”. Someone has to make judgments on the contents of published online content that is suspected of breaching the rules against “misinformation and disinformation” or “harmful content.” How can we be sure that these unelected assessors are truly fair and impartial or whether they even have sufficient knowledge of the subject matter that is deemed to need checking for alleged breaches? Will these assessors be held publicly accountable for their decisions made behind the scenes? It is very unlikely that the persons who make these decisions will ever be hauled before a tribunal to explain their decisions, even if they were supposedly made in “good faith.”

We already have people making posts on social media, such as Facebook, only to have them taken down and even excluded for making unacceptable remarks. Persons who are repeat offenders in this regard may be excluded for good from Facebook. The biases of the assessors will not be questioned, let alone any agendas they may wish to push. Who will decide what the truth(?) is. It will not be the ordinary mortal in the street. No, it is likely to be someone in a position of authority but to whom is such a person accountable to for the proper exercise of such authority? The passing of the buck must stop somewhere but where? So we do not expect to have a practical recourse.

Of course, we are assured that such powers will be exercised properly and regarding ‘social justice’ but how can we be sure of that? The potential for incorrect use or even misuse of such powers cannot be ignored. We note below that there are many historical examples where power has been seriously abused.

We learn that the Australian Communications and Media Authority (ACMA) would enforce the provisions of the proposed laws thereby enacted. In practice, big companies like Google, Facebook, Twitter and YouTube would probably enforce the proposed rules without waiting for ACMA to tell them what to do.

A real danger is that governments will try to censor viewpoints that they do not want to hear. This has to be common knowledge from past experience. Many governments have done so in the past. This happened in numerous dictatorships and highly authoritarian regimes. The former Soviet Union tried to tell its people what to believe. Many people were thrown into gulags for stepping out of line. Many people were killed outright. This also happens in China where dissent is ruthlessly silenced, heavily reinforced by a much-reduced social credit score. Dissidents were thrown into labour camps or suffered even worse fates, such as death. There were the book burnings in Nazi Germany as well. We recall from George Orwell’s *Nineteen Eighty-Four* that the so-called Ministry of Truth was the so-called arbiter of truth. Winston was even forced to agree that $2 + 2 = 5$. (Of course, $2 + 2 = 4$ as we learned in school.). Of course, Winston was forced to assent to a plain lie.

Australia should take notice of these lessons from this not so ancient history and not repeat these mistakes. It is a very bad idea to let administrative tribunals arbitrate on the soundness or otherwise of statements made by members of the public on matters that might possibly be controversial. There is little recourse to be had for decisions made in this fashion. Worse still, any possible recourse is expected to be extremely time-consuming and extremely expensive for the affected person(s). In some cases, such as the actions taken against one certain Bernard Gaynor by a well-known activist, the very process is itself the real penalty. The only 'harm' suffered by complainants is a bruised ego as there is no threat to public safety. Erroneous statements can be rebutted if necessary but further action from the government does not seem to be warranted.

As for so-called misinformation or disinformation, the onus is on all of us to check the veracity of what is claimed to be true, but empowering a government authority to do this work and enforce its decisions is not the way. It is too easy to overstep the mark and do what is manifestly wrong in the zeal to pursue the purveyors of wrong information. History warns us of the bad consequences. We should not allow activists to tell us what we can or cannot say. Already, we have activists who are ready to tell us to toe the line or else! There are numerous examples relating to current issues that hit the headlines, whether or not we agree with the statements made in those contexts.

We see in the well-known website www.theconversation.com some cases of selective bias. For the case of same-sex marriage (SSM), the estimated number of articles critical of SSM was four while there were well over a hundred articles supportive of SSM. Reader's comments were often removed if they were critical of SSM while supportive comments were allowed to remain even if they were abusive towards the critics of SSM. This was supposed to be an attempt to 'strike a balance' in what should be allowed or not allowed to be said in a public forum. That attempt to 'strike a balance' on a controversial topic as the website actually promises the reader, is most unconvincing to say the least.

We could reasonably anticipate a similar failure to 'strike a balance' in the case of the proposed ACMA law. In truth, it is virtually impossible to 'strike a balance'. Personal biases and personal agendas see to that.

In brief, the proposed legislation should be withdrawn. It may have been meant to ensure that people give correct information. However, who will decide that question and how? In reality, the frailties of human nature get in the way. People will sometimes make mistakes and sometimes, people will abuse the authority assigned to them despite one's best intentions. Thus, we should not take chances on the present ACMA bill as being a good idea; it is not!

Yours sincerely

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