

6 August 2023

Director, Governance Section
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

Re: Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

I am Dr Wilson Sy. I have worked in Government regulation. I worked for three years at ASIC and six years at APRA as Principal Researcher. I was seconded for one year as a senior adviser to the *Super System Review* (Cooper Review) until 2010. My individual submission is independent of any affiliation, political or otherwise.

My submission argues that the proposed amendment is inappropriate to the role of ACMA as an infrastructure regulator. The proposed new powers for combatting misinformation and disinformation are inconsistent with a democracy which must allow dissenting views to be expressed freely.

Role of ACMA

The legislation abuses the rule-making powers of ACMA, which relates to licensing standards and registrations to ensure communication infrastructure runs smoothly.

ACMA makes rules so that digital platforms do not operate technically in conflict with each other. ACMA has no role in deciding what is misinformation or disinformation on digital platforms.

A digital platform is merely a modern version of the public forum in the town square. It would be laughable to the ancients, to think the town square was responsible for what people said there.

ACMA, like the ancient town squares, may have a role to ensure that digital platforms are not vehicles or sites for unruly incitement of hatred and violence. Maintenance of peaceful order has already been achieved adequately by the digital platforms.

Beyond that, the proposed new ACMA powers are inappropriate, because ACMA has no role to combat misinformation and disinformation, using the "iron fist" of the law, to use "*proposed laws to hold digital platform services to account*".

No one, including ACMA, has the right or the knowledge to decide what is information, misinformation or disinformation.

Misinformation and Disinformation

Misinformation and disinformation should be combatted by correct information, supported by evidence, data and reason.

The Government has abundant resources to correct, if necessary, misinformation with information, by producing evidence, data and reason. By discrediting the spreaders of misinformation in the proper way, the Government can inflict reputational damage to nullify their impact.

Instead, it appears lately that the Government has been telling "noble lies" for "the greater good" and the citizens have been combatting Government misinformation with evidence, data and reason.

The new ACMA powers could prevent the correction of Government misinformation and disinformation, such as "vaccines are safe and effective", which has been challenged as "false, misleading, or deceptive" on digital platforms.

Legislating New ACMA Powers

New ACMA powers represent dangerous legislation, which opens the door to totalitarianism. The Government can coerce "independent" ACMA and digital platforms to censor political opposition, whistleblower, journalists exposing Government incompetence and corruption, as misinformation and disinformation.

The legislation is a backward step towards the Dark Ages, when the rulers decided, for example, the earth was flat, or the earth was the centre of the universe, or the universe is finite. Any contrary opinion was heresy: which was misinformation and disinformation punishable by death.

The proposed legislation deserves ridicule and forceful opposition.

Specific Undesirable Powers

Specific new powers which were previously illegal and considered undesirable, are now being enabled. Some examples of what ACMA should not do (*quotes in italics*) include:

ACMA should not "*gather information from, or require digital platform providers to keep certain records about matters regarding misinformation and disinformation*", because the records could be used illegally by the Government to prosecute and intimidate individuals for their opinions.

ACMA should not "*request industry develop a code of practice covering measures to combat misinformation and disinformation on digital platforms, which the ACMA could register and enforce*", because industry has no right or knowledge to decide what is information. What is acceptable information collected at one time, could be considered misinformation later, which the Government could use to persecute or prosecute individuals for their opinions.

ACMA should not "*create and enforce an industry standard (a stronger form of regulation), should a code of practice be deemed ineffective in combatting misinformation and disinformation on digital platforms*". There is never any justification for "combatting misinformation and disinformation" using the "iron fist" of the law.

Conclusion

ACMA is tasked with regulation of infrastructure, not information, over which it should have no power. It is inappropriate and unnecessary for ACMA to have new powers which represents a move towards the Orwellian nightmare where truth is determined by a totalitarian state.

The proposed legislation should be withdrawn without further amendment, as a fundamental misunderstanding of important issues.

Yours sincerely,

Dr Wilson Sy