Appendix to my Submission on the proposed "Misinformation and Disinformation" Bill dated 4/8/2023 – Alistair Crooks.

In my first submission I argued against the imposition of this proposed legislation ("Misinformation and Disinformation" Bill) on the grounds of its attack on the free flow of information in the public domain – one of the very foundational requirements of a liberal democracy. It advantages an unelected "elite" to define what information should be circulated and what should be suppressed, without any safeguards for the general public.

That this is open to abuse was laid bare by the example of the 50 medical "experts" who published a letter in the prestigious medical journal, Lancet, giving the definitive opinion that the Covid-19 virus did not come from the Wu Han Biomedical Research laboratory, but from a neighbouring "wet market." (see The Lancet Letter.
https://en.wikipedia.org/wiki/Lancet_letter_%28COVID-19%29)
That this, and other "expert" opinion of the time, became the basis for the suppression of all opposing opinions, is a matter of record. That these "expert" opinions were knowingly false, even at the time, is also a matter of public record as was revealed only some 18 months later. The damage to careers and reputations of those who simply argued for the truth is also irrefutable. The excuse "working on the best available information at the time" or "in the public interest" is not sufficient in a true liberal democracy.

A recent Australian example of the process may be seen in the attempt by the Prime Minister to suppress the existence of the 26 page Ululu Statement document as "conspiracy theory" – which no doubt would have led to the "cancelling" of all opposing opinion as "disinformation", was unfortunately (for the Prime Minister) only thwarted by the document already being available under Freedom of Information.

This openness to abuse being the case, and given that the threat that this proposed legislation will be passed into law, it strikes me that certain minimum safeguards would be required.

Firstly, in the implementation of this legislation the "onus of proof" should rest with the "elite" experts to provide substantial, "beyond reasonable doubt", evidence that any information is false, misleading or disinformation. Suppression on the basis of an unsubstantiated opinion of some "expert" to a private backroom committee should not be allowed, but should be fully tested in an open court where a jury of reasonable and independent public make the decision on whether the "expert" opinion passes the beyond reasonable doubt test. The test of "harm" should also be open to discussion. The full legal force of the Freedom Of Information process and laws pertaining to "Disclosure" should apply to the whole process of decision-making with respect to the decision of what represents "misinformation" or "disinformation" so that the process is both fair and transparent. This is how a liberal democracy is supposed to work.

Secondly, there should be substantial punitive provisions against all those of the "elite" who abuse their status as "experts" to provide false information or misleading opinion, knowingly or otherwise, which is then used to suppress information which subsequently proves to be correct. The excuse "It was based on the best information we had at the time" should not be allowed on the grounds that even "experts" should be subjected to the full implications of "beyond reasonable doubt" test. All of their misgivings must be aired at the time that suppression of information is being made.

Thirdly, at a minimum, the legislation should include provision for compensation to all people who are affected by this legislation who are subsequently proved to be correct. Punitive damages should be awarded to any person whose income or reputation has been damaged by the labeling of their opinions as "misinformation" or "disinformation".

11/8/2023
Alistair Crooks
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