

Consultation re Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

From: [REDACTED]
To: Information Integrity <information.integrity@infrastructure.gov.au>
Date: Sun, 20 Aug 2023 18:04:13 +1000

Dear Sir / Madam,

I have several concerns about the proposals in this Bill.

The terms 'misinformation' and 'disinformation' are very difficult, or impossible, to fully define. Beyond very simple, proven matters of fact, anyone seeking to ascertain absolute truth is entering murky and ambiguous territory. It is important to acknowledge that the central issue here is censorship, and in this regard, I find it interesting that the words 'censorship' and 'censor' do not appear once in the legislation wording.

Who is going to be the arbiter of truth? If the ACMA takes on this role, how will it avoid having its definition of 'misinformation' coloured by government-driven agendas? If the ACMA declines to take on this role, then which body will, and how will it be chosen? How can such a body be insulated from financial conflicts by having its funding sources kept at arm's length from economic vested interests with a financial interest in certain messaging? Likewise, how can it be insulated from government and geopolitical agendas?

History shows that science is a debate, rather than a set of truths set in stone. If the more unconventional of two viewpoints in any debate is censored as false, then there is no basis for having a dialogue. Where there are competing paradigms or models, those that lack mainstream support, for whatever reason, are liable to be defined as 'misinformation', and this can occur irrespective of the evidence base underpinning the respective camps. It has been pointed out, for example, that if Einstein had faced million dollar fines for challenging Newton, we may have never discovered general relativity.

On August 10th 2023, the FLCCC Alliance, a group founded by critical care specialists in the USA, published an insightful news article titled *25 Times Medical Consensus Had to be Rethought*. <https://flccc.substack.com/p/25-times-medical-consensus-had-to>

It is important to acknowledge the likely role of money and power in creating the framework for determining 'misinformation.' In many countries, conflicts of interest are widespread, and these may be becoming more prevalent. It is common for experts to be interviewed or appear in the media, without any mention of the hidden financial conflicts that are liable to guide their stated views.

Outside of financial considerations, other factors that may lead groups of experts to stubbornly adhere to or defend a view that may be incorrect include the risk of damage to one's professional reputation, inertia, tradition, adherence to orthodoxy, prejudice, bias, and groupthink. Bias and partisanship are sometimes demonstrated by fact-checkers, and their judgements are less credible in instances where they steer away from the hard data and fall back instead on the opinions of experts.

When it comes to the risk of harm in the medical field, orthodoxy is likely to be the sole arbiter for judging this, and it is likely that 'misinformation' will be defined fairly narrowly according to the degree to which the information in question departs from the mainstream medical paradigm. In the light of this, it is remarkable that in 2020, a study found that around 10% of mainstream medical treatments were backed up by high-quality evidence. Mainstream medicine cannot be held up as a gold standard for evidence-based health care, in order to define 'misinformation'.

A further concern is that a bias towards government-backed medical interventions, framed around the issue of 'harm' is liable to be reflected in a bias against natural therapies that could be used as a basis to censor favourable content. Attitudes towards natural therapies are likely to be coloured by Wikipedia's extremely negatively biased and partisan page on the topic, given that site's influential position in moulding public attitudes.

Sometimes, there is a case of social media companies 'moving the goalposts' in relation to what is considered 'misinformation.' A good example of this relates to speculation and circumstantial evidence relating to the possibility that COVID may have originated as a lab escape from the Wuhan Institute of Virology. After being incorrectly tagged as false at a time when the origin of COVID was unknown, after about 15 months it was considered acceptable speech after US government agencies were found to be taking it very seriously.

In terms of the application of these laws, I have concerns about the exemptions for governments, academia, and the mainstream media. None of these three groups has a 100% record for factual accuracy. The laws will instead be applied to content originating from individuals, groups, and small independent media outlets, creating an uneven playing field in favour of mainstream narratives, and marginalising dissent.

In addition to social media companies, the legislation will also apply to search engines, news aggregators, and podcasting services. A result of these laws will be to strongly encourage such companies to overreach in their censorship, in a precautionary bid not to be hit with crippling fines. This would probably involve a greater use of

automated AI-driven systems, particularly in censoring material that is contentious but far from demonstrably false. AI has a poor record at picking up whether a post or comment is intended humorously or seriously. The result of this censorship overreach would likely be a less vigorous and more sterile online environment. This proposed legislation has prompted a chorus of concern from a diverse range of groups in Australia, most notably the legal sector. I would like to add my own objection to them.



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