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From: **Oliver Goodman** <[REDACTED]>

Date: Sun, Jul 9, 2023 at 6:52 PM

Subject: Communications Legislation Amendment Bill 2023

To: <information.integrity@infrastructure.gov.au>

I am writing to express my opposition to the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

Deliberate misinformation is of course a problem and, at its most extreme, can do real damage. Unfortunately, no single body or institution can ever be immune to bias or ideological capture. That is why no single body or institution should ever be charged exclusively with the job of determining what is false or harmful.

Free speech, even at the cost of allowing malicious lies to be told, is essential to the function of democracy. In a democracy the citizens are trusted with the decision of who will rule the country and thus, indirectly, how it is to be ruled. In order to make those decisions, citizens must have access to a free flow of information. For all its flaws, social media is now a key part of that flow.

In the event that the flow of information is able to be impeded by the body charged with protecting us from misinformation, their own institutional biases, or, in the event of ideological capture, their ideological precepts, will lead them to suppress information which they consider to be untrue and dangerous -- or maybe true but considered harmful. At that point we no longer have a properly informed citizenry. We have a situation where only part of the story is able to be told. It should be obvious, as soon as we think of authoritarian and totalitarian regimes, that the information that will be filtered will be anything which criticises the government and its decisions.

It would be too complacent to say that our intentions are good, that only genuinely false and malicious information would be suppressed, and that a totalitarian take-over could not happen here. The reason we think it could not happen here is because we have inherited the western traditions of respect for free expression, the separation of powers, parliamentary democracy and so on. As soon as those start to be eroded, it can happen, here or anywhere. The rise of information technology, online banking and the vast amount of personal data now collected by governments and corporations puts powerful tools in the hands of any government to control its population.

It is disingenuous to claim that the powers sought here are not preventing anyone from speaking because ACMA is not policing the social media companies at the level of individual posts. In a sense, by letting the social media companies know that there will be consequences for allowing certain kinds of speech, you would be forcing them to err on the side of caution. The government, through ACMA, will let the social media companies know what messages they consider to be misinformation, and, if the measure has teeth, those companies will use the considerable array of tools they have developed, to prevent any of those messages from getting out.

One reason why this legislation seems particularly unwise at present is because of a certain ideology which has grown on the left

side of politics, which conflates speech with violence. It is revolutionary in the sense that, in the name of justice, it is prepared to excuse actual violence and property damage, while claiming that the opinions of ordinary people and honest debate are dangerous to certain segments of the population. In doing so, by any reasonable standard, the ideology exaggerates the harm that can be caused by speech and debate. This lowers the bar for what is considered harmful to the point where the charge of harm can be upheld the moment anyone, claiming to speak on behalf of an oppressed minority, is offended. If there is anything that ACMA or the government wish to suppress, all they would need to do is invoke some group which might be offended ("harmed") by the message, and they then have the justification for suppressing it.

What about the idea of truth? In the context of public discourse, nobody is trusted to authoritatively determine what is true. There are many reasons for that, but the rise of the internet and social media is clearly important. People are exposed to opinions from all sorts of sources ranging from well researched information coming from people with credentials and integrity, to conspiracy theorists, self-promoting influencers, trolls, the ideologically captured, government and corporate representatives seeking to justify what they want to do or have already done, revolutionaries, mystics, psychotics and so on.

Postmodernism has also inserted itself into the culture telling us that there is no truth, only power: the power to tell people what to believe. Sadly, once enough people buy into that idea it has a kind of self-fulfilling practical truth. Outside of the hard sciences, this has created a corrosive cynicism towards truth claims. Worse still, some of the adherents of extreme social justice ideology are trying to undermine any faith we had in rationality and the scientific method. Naive observers might see that scientific ventures like medical science or psychology can be undermined by corruption; they might see that what is thought to be true changes, and not understanding the provisional nature of all scientific theories, be persuaded to abandon all scientific knowledge in favour of demagoguery or mysticism.

There are places where truth is still cared for and valued: in science and academia, when researchers have integrity; in law, when lawyers are not corrupt and juries are not bamboozled; in everyday life, away from the wild claims and distortions of social media.

ACMA and the government are not those places. They cannot ever become those places. The places where truth thrives are too big to tap (academia and everyday life) and truth itself, too besieged (yesterday's platitude is today's taboo) for any one organisation to properly apprehend and defend it. If the process is transparent it will rapidly lose credibility. If it is not, if it hides information for the presumed greater good, we have just taken a step towards the kind of government censorship that characterises totalitarian regimes.

The public square of social media is not and never can be expected to provide the truth. Truth does not live there except fleetingly and conditionally. Measures like Twitter's community notes, and YouTube's warnings, much as they might irritate people, are at least benign. They attempt to provide context when someone somewhere thinks that would be wise. The reason that is fine is because it doesn't really matter if they are wrong.

Why do we have this thing called parliamentary privilege? In order to tell the truth, you have to be able to say things that nobody wants to hear. To avoid a dark path, you have to be able to talk about it. For a theocracy to be transformed into a modern pluralistic liberal democracy, someone needs to be able to say things which are heretical. In our society the risk is more that relations between government and powerful corporate interests grow a little too cosy. Social media companies are already apt to remove messages that displease their corporate advertising revenue-base. (I think quality could be improved considerably if these things all became subscription services, but people are finding it hard to get away from the illusion of "free stuff".) The point is that we all need this privilege, if we are not to be controlled by the rich and powerful.

We the people need to be able to point to corruption and abuses of power, protected by a robust tradition of free speech. The public square of social media, for all its chaos and conflict, is the place where people need to be allowed to say anything that is permitted by law. The best remedy for bad ideas is for them to be aired and publicly rebutted.

This bill heads in exactly the wrong direction.

Finally, the exception for legacy media is very telling. The authors of this legislation appear to realise that their own criteria are too broad to be allowed into the hands of those who would use them against institutions which (for whatever reason) they value and wish to be free to continue in their mission. This plays into the widespread perception that the legacy media have become the captured mouthpieces of government and corporations. Free speech for us but not for you. If this legislation is passed in any form at all, it must surely be applied fairly and universally.

Sincerely,
Dr Oliver Goodman

PS.

There is something you could do if you are keen on making social media companies into a force for good. Do some research on what the structural qualities of a social media platform are that encourage thoughtful debate and consensus forming, rather than flame wars and polarising click-bait.

Here is the kind of thing I'm thinking of: Twitter allows you to like a post but not to publicly react in any other, possibly negative way. If you want to express your disapproval of what someone has said you have to write a response. By doing so, you open yourself to further debate, perhaps generating a rage filled exchange in which others will join. Of course social media thrives on this so-called engagement, but if you want thoughtful people to take part, it's not so helpful. If we could even just dislike a post on Twitter, obvious troll posts would be heavily down-voted and perhaps nobody would feel the need to respond to them.