

Submission regarding the draft Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023.

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This proposed legislation is aimed at protecting Australians from misinformation and disinformation that is likely to cause “serious harm” – “harm that affects a significant portion of the Australian population, economy or environment, or undermines the integrity of an Australian democratic process” where **misinformation** is “online content that is false, misleading or deceptive, that is shared or created without an intent to deceive”, and **disinformation** is misinformation that is “intentionally disseminated with the intent to deceive or cause serious harm”. It empowers the Australian Communications and Media Authority to require digital platforms to implement systems that identify and suppress any offending information. It applies to “social media search engines, instant messaging services, news aggregators and podcasting services” no matter how large or small.

Upon reading of this Amendment Bill I am not confident that it will improve the lives or safety of Australian citizens.

I am, however, confident that it will curb free speech. Freedom of speech is a basic freedom, which goes all the way back to 1215 in the Magna Carta. I thought Australia is a democracy where freedom of speech is encouraged. We have the right to speak our minds and also the right to be wrong and to change our minds.

It won't matter whether what is shared is fact or opinion, large tech companies and social media platforms will surely censor both, in order to avoid the large penalties, even if this results in censorship of harmless speech that does not technically fall within the proposed legislation.

In recent years government and big tech decisions on what is truth and disinformation and misinformation were very subjective. During the Covid-19 pandemic many so-called conspiracy theories turned out later to be truth. Many experts in their field had their posts on social media censored. Many politicians and bureaucrats publicly denounced many facts which were later proven to be fact. I have not seen any public apologies from government for this, or for the physical and mental harm that lockdowns caused even though they have since been shown to be unwarranted. And the mainstream media, rather than asking tough questions of politicians, seems more keen on sharing government propaganda.

It is the social media companies who are being told to censor, but it will be ACMA who decides what constitutes misinformation and disinformation, because ACMA will audit whether the systems that regulated entities have implemented adequately curb misinformation or disinformation. ACMA will have to assess the truth or falsity of the content these entities have posted.

This draft Bill will grant ACMA powers to fine social media giants millions of dollars for misinformation and content it deems “harmful”. I agree with the Australian Human Rights

Commission that “efforts to combat online misinformation and disinformation could be used to legitimise attempts to restrict public debate, censor unpopular opinions and enforce ideological conformity in Australia”, because by fining social media companies for “misinformation and disinformation”, both of which are difficult to prove, it’s more than reasonably foreseeable that a lot of public discussions on social media will be shut down for fear of fines being imposed.

I believe that entrenching controls on social media restricting free speech online does nothing for healthy discussion about whether our country is on the right path, it just entrenches government power and overreach. I believe that people will be forced to stop speaking out on social media against any ideology presented by the government of the day.

We don’t all have to agree with one another on everything, but without being able to discuss our thoughts and opinions as a society how can people continue to find a balance in our society. There will always be fringe dwellers on either side of every argument (and yes some who are dangerous to life and limb do need to be dealt with under the law), but generally speaking it is the fringe dwellers who help us to find a balance in society, for the same reason that we have a left and a right in politics.

Social media companies and tech companies are already heavy handed in relation to censorship, surely the government does not need to extend such powers.

I have read that the Australian Human Rights Commission itself has raised concerns about these proposed misinformation laws. It told a Senate committee in a submission that there are “inherent dangers” in any body (be it government, a government taskforce or a social media platform) becoming the sole arbiter of truth.

I oppose this Bill.

Yours sincerely,

Nea Makowski