

Mr Teja A. Jaensch

Australia

Friday, 18th August 2023

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

Dear Sir/Madam,

I trust this letter finds you well. I am writing to express my concerns regarding the proposed bill to grant expanded powers to the Australian Communications and Media Authority (ACMA) for combatting online misinformation and disinformation. While the intention to safeguard the public from misleading information is admirable, it is crucial to consider the potential implications of such legislation on freedom of expression, open discourse, and the role of government in regulating online content.

The proposed legislation is founded upon the premise of tackling misinformation and disinformation that can be disseminated through digital platforms. However, we must carefully balance the imperative to address harmful content with the preservation of democratic values, including free speech and the exchange of diverse ideas.

Freedom of Expression and Open Discourse: The cornerstone of any democratic society is the freedom to express opinions, even if they may be unpopular or contentious. Granting the ACMA sweeping powers to regulate online content, even with good intentions, could inadvertently stifle free expression. The potential for overreach or bias in determining what constitutes "misinformation" is a real concern, as it might limit legitimate discussions and dissenting viewpoints.

Risk of Government Censorship: While an effective self-regulatory scheme is preferable, it is essential to acknowledge that expanding government powers can pave the way for undue censorship. As the lines between misinformation and differing perspectives can sometimes blur, placing the authority to decide solely in the hands of the ACMA might undermine the public's trust and confidence in the digital space.

Impact on Innovation and Competition: The proposed legislation might unintentionally create barriers for smaller platforms and start-ups to enter the digital marketplace due to the potential burdens of compliance and penalties. This could hinder innovation and result in an environment dominated by a handful of major players, limiting the diversity of content and viewpoints available to the public.

Unintended Consequences: Overregulation could lead to an environment where online platforms, out of fear of potential penalties or legal action, become overly cautious and limit discussions that are critical for societal progress. The fear of being labelled as misinformation might cause platforms to err on the side of caution, silencing important dialogues.

In light of these concerns, I urge you to consider alternative approaches that prioritize a balanced solution. Encouraging media literacy, critical thinking, and responsible online engagement are paramount in tackling misinformation. Rather than granting extensive powers to the ACMA, we should explore measures that empower individuals to make informed judgments about the content they encounter.

Promoting transparent reporting of how platforms address misinformation and disinformation is commendable, but such efforts should not be contingent upon punitive measures. Instead, a cooperative model involving the government, platforms, civil society, and academia could lead to more effective solutions without sacrificing fundamental principles.

I firmly believe that a thoughtful, balanced approach is required to safeguard freedom of expression while combating harmful content. Let us strive to protect our democratic values and foster open discourse in the digital age without compromising on the essential principles that underpin our society.

As we discuss the crucial matter of combatting online misinformation and disinformation, I would like to put forth a proposal that could serve as a complementary approach to address these issues while upholding the values of transparency, accountability, and trust. This proposal centres on the implementation of mandatory transparency measures for both the government and the private sector.

Background and Rationale:

The proliferation of misinformation and disinformation in the digital age has underscored the need for a multifaceted approach that not only addresses content issues but also fosters an environment of openness and credibility. The public's trust in institutions, both governmental and corporate, is pivotal in combating misinformation. To that end, the proposal I present seeks to enhance trust by mandating transparency in both sectors.

Key Components of the Proposal:

Mandatory Disclosure of Government Actions: To promote openness, trust, and accountability, a new bill could be introduced that mandates government agencies to provide detailed explanations for their actions and decisions. This would entail transparently disclosing the rationale behind policy changes, legislative decisions, and the handling of sensitive issues. A public repository could be established where citizens can access comprehensive explanations, reducing the potential for speculation and conspiracy theories.

Industry Accountability and Reporting: A vital aspect of combating misinformation is holding digital platforms and tech companies accountable for their content moderation and data handling practices. A new legislation could require these companies to regularly publish reports detailing their efforts to combat misinformation and disinformation. These reports could encompass the measures taken, algorithms employed, and the outcomes of their initiatives. Such transparency would empower users to make informed decisions about the platforms they engage with.

Collaborative Oversight and Verification: The proposed bill could establish an independent body comprising experts from diverse fields, including journalism, technology, and ethics. This body would be responsible for overseeing the transparency measures, verifying the accuracy of disclosed information, and reporting potential gaps or inconsistencies. Collaborative oversight ensures a comprehensive approach that is not solely reliant on self-reporting.

Benefits of the Proposed Approach:

Building Trust: Mandating transparency demonstrates a commitment to openness and accountability, helping to rebuild and strengthen the public's trust in both government actions and corporate practices.

Empowering Citizens: Access to comprehensive information enables citizens to form well-informed opinions, fostering a culture of critical thinking and reducing the susceptibility to misinformation.

Curbing Conspiracy Theories: By providing clear and accurate explanations for actions and decisions, the government can mitigate the spread of baseless conspiracy theories that often arise from lack of information.

Enhancing Corporate Responsibility: Requiring tech companies to transparently report their efforts to address misinformation not only encourages responsible behaviour but also facilitates healthy competition within the industry.

The proposal I present advocates for the implementation of mandatory transparency measures, drawing inspiration from history and scientific dissidents who challenged prevailing norms.

Learnings from History:

In 1846, Ignaz Semmelweis challenged conventional wisdom by advocating for the simple act of washing hands between patients. His tenacity in the face of resistance from the medical community eventually led to a significant reduction in deaths due to puerperal fever. Semmelweis's story teaches us the critical role that scientific dissidents play in challenging established norms and uncovering vital truths that benefit society as a whole. It also highlights how entrenched scientific frameworks can hinder progress, and how difficult it is to overcome these barriers.

Mandatory Transparency Measures:

Taking cues from the lessons of history and recognizing the need for transparency, I propose that we implement mandatory transparency measures within both the government and industry. This approach aligns with the core values of open discourse, accountability, and the pursuit of truth.

Mandatory Disclosure of Government Actions: Just as Semmelweis sought to unveil the truth behind the higher mortality rate in one clinic, it is essential that government actions are subject to thorough scrutiny. A new bill could mandate government agencies to provide transparent explanations for policy changes, legislative decisions, and actions that impact the public. This would reduce the potential for conspiracy theories and foster trust in governmental processes.

Enhanced Industry Accountability: Like the role of scientific dissidents, mandatory transparency measures can hold digital platforms and companies accountable for their practices. A requirement for these entities to publish comprehensive reports detailing their efforts to combat misinformation and disinformation would empower users with factual information. This transparency would also facilitate healthy competition, innovation, and informed choices.

Collaborative Oversight and Verification: Similar to the need for independent oversight in scientific progress, the proposed transparency measures could involve an independent body of experts. This body would ensure that the disclosed information is accurate and unbiased, preventing artificial consensus formation. Collaborative oversight safeguards the integrity of the transparency process.

Benefits of Mandatory Transparency:

Building Trust and Accountability: The proposed measures promote trust by creating an environment where the actions of both government and industry are open to public scrutiny. Transparency fosters accountability and ensures that decisions are made with the best interests of the public in mind.

Empowering Citizens: Just as Semmelweis empowered individuals by reducing the risk of puerperal fever, mandatory transparency empowers citizens to make informed judgments. Access to accurate information reduces susceptibility to misinformation and enables responsible decision-making.

Mitigating Artificial Consensus: Similar to how scientific dissidents challenge consensus formation, mandatory transparency measures prevent artificial consensus from shaping public perception. This ensures that decisions are made based on evidence and reason rather than external influences.

As we navigate the complexities of combating misinformation and disinformation, let us reflect on the profound wisdom encapsulated in the adage that "as our island of knowledge grows, so does the shoreline of our ignorance." This perspective serves as a reminder that our understanding is ever-evolving, and we must remain humble in our pursuit of truth.

Innovation, as history has shown, often emerges from the fringes rather than the centre. It is on the edges of established knowledge that ground-breaking ideas germinate and flourish, challenging prevailing norms and enriching our collective understanding. We must appreciate that good ideas are not isolated from bad ones; rather, they are forged in the crucible of debate and tested against the fiercest opposition.

The notion of consensus should be examined critically. We must recognize that consensus can sometimes be artificial, manufactured, and influenced by factors beyond the pursuit of truth. It is the duty of scientific dissidents to question consensus and shed light on alternative perspectives that may have been sidelined due to their departure from established norms.

Consider the case of John Snow and his pioneering work on the spread of cholera. In his time, prevailing consensus held that miasma, or "bad air," was responsible for the disease's transmission. Yet, Snow's relentless pursuit of truth led him to challenge this consensus and propose that contaminated water was the actual culprit. His ideas, which would have been deemed misinformation in the context of prevailing beliefs, eventually revolutionized our understanding of disease transmission.

In our endeavour to combat misinformation, we must remember that knowledge flourishes when diverse viewpoints are nurtured and explored. The history of scientific progress is replete with stories of individuals who dared to question the status quo and confront the unknown. Let us approach our current challenges with an open mind and a commitment to transparency, knowing that the shoreline of our ignorance will forever be a frontier for exploration.

I firmly believe that a thoughtful, balanced approach is required to safeguard freedom of expression while combating harmful content. Let us strive to protect our democratic values and foster open discourse in the digital age without compromising on the essential principles that underpin our society.

I also firmly believe that the proposed bill for mandatory transparency can work in tandem with efforts to combat misinformation and disinformation. By fostering a culture of openness and accountability, we can reduce the fertile ground for falsehoods to take root. I encourage you to consider the potential of this approach as we collectively work towards a more informed and resilient society.

Thank you for your time and consideration. I am eager to contribute to the ongoing dialogue on this critical issue.

Kind regards,

Teja