

How Do We Tackle Disinformation Online?

Assistant Professor Kana Nakano, Kira-Marie Kalenberg and Emily Flude

Abstract: Last year, the Australian Government abandoned the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 (Cth)* as there was no pathway to legislate the proposal through the Senate. The legislation was aimed at combatting misinformation and disinformation online by empowering the Australian Communications and Media Authority to monitor digital platforms. While the Government continues to pursue other proposals to tackle the issue, we are still dealing with the proliferation of misinformation and disinformation on digital platforms... which begs the question, what more can be done?

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Key points

This paper considers the some of key criticisms of the *Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024* from stakeholders and whether there is another option for tackling the proliferation of misinformation and disinformation on digital platforms. Key points include:

- Stakeholders were critical of a variety of details in the proposed legislation such as the lack of clarity around definitions for key terms, the extent of power granted to the ACMA, the exemptions, however, a major concern was the risks of over-censorship.
- EUvsDisinfo is an initiative that exposes cases of disinformation narratives by fact checking and debunking. The initiative does not involve the censorship of content, overcoming one of the criticisms of the proposed legislation in Australia.
- Although EUvsDisinfo does not involve the take down of content, it still attracts criticisms for lack of transparency around the criteria used to determine when content qualifies as disinformation.
- The EUvsDisinfo model might be one that could be adopted in Australia as a good step forward in the fight against misinformation and disinformation online.

About the authors

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The views expressed herein are those of the authors alone.

Background

Last year, the Australian Government introduced the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024¹ (*Mis and Disinformation Bill*) to combat mis- and disinformation online by empowering the Australian Communications and Media Authority to monitor digital platforms. However, the Minister for Communications announced that the Government would not proceed with the Bill in late November 2024, as there was no pathway to legislate the proposal through the Senate.²

The spread of mis- and disinformation online continues to pose threats to the Australian community (deepfakes being one example of harmful content).³ While the Government continues to pursue other proposals to tackle the issue — criminalising the sharing of non-consensual and sexually explicit deepfakes; enforcing truth in political advertising; reforms to the regulation of artificial intelligence — we are still dealing with the proliferation of mis- and disinformation on digital platforms. Education campaigns and initiatives to support the development of digital literacy skills, media literacy skills and better awareness online are important and must continue, but what more could be done to tackle mis- and disinformation on digital platforms?

Here we consider the proposed regulatory framework in the *Mis and Disinformation Bill* and identify the major concerns of key stakeholders. We then turn our attention to a fact-checking and debunking initiative in the European Union (EU). Finally, we consider whether a similar initiative could be adopted in Australia as a small step forward to combatting mis- and disinformation on digital platforms.

The *Mis and Disinformation Bill*

What was being proposed: in a nutshell

The *Mis and Disinformation Bill* was set to empower the Australian media watchdog, the Australian Communications and Media Authority (ACMA), to require digital platforms to implement effective systems and processes for managing the risks of mis- and disinformation. The

¹ See Parliament of Australia, 'Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 [Provisions]' (Web Page, 2024) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/MisandDisinfobill>.

² Michelle Rowland (Former Minister for Communications), 'Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 (Media Release, 24 November 2024) <<https://minister.infrastructure.gov.au/rowland/media-release/communications-legislation-amendment-combating-misinformation-and-disinformation-bill-2024>>.

³ See a blog post by other Internet Law Clinic students addressing the topic of deepfakes: Alexis Hill and Marisa Agius, 'When Seeing Is No Longer Believing: Five Ways to Tackle Deepfakes' (CPLE Blog, 14 April 2025) <<https://bond.edu.au/blog/when-seeing-no-longer-believing-five-ways-to-tackle-deepfakes>>.

hope was that the Bill would not only improve transparency about the measures that digital platforms have in place to combat mis- and disinformation on their services, but also empower end-users to better identify and respond to such content. The *Mis and Disinformation Bill* effectively sought to strengthen the voluntary industry code on mis- and disinformation by establishing a regulatory backstop.⁴ Although the self-regulatory code was seen as an important first step, ACMA reports to Government highlighted shortcomings in the arrangements.⁵

Most critically, in order to safeguard freedom of expression that many Australians value — though only the implied freedom of political speech is protected under the Constitution — the Bill set a high threshold for what would have constituted ‘misinformation’ and ‘disinformation’. It did so by requiring that content must be reasonably verifiable as false, misleading or deceptive and reasonably likely to cause or contribute to serious harm to meet the definitions. ‘Disinformation’ requires a further intentionality requirement or ‘inauthentic behaviour’. Furthermore, for harm to be considered ‘serious harm’ it must have significant and far-reaching consequences for the Australian community or an individual in Australia that is one of the following types of harm:

- harm to the operation or integrity of an electoral or referendum process
- harm to public health, including the efficacy of preventative health measures
- vilification of a group on grounds of race, religion, sex, sexual orientation, gender, identity, intersex status, disability, national or ethnic origin, or an individual because of a belief that the individual is a member of such a group
- intentionally inflicted physical injury to an individual
- imminent damage to critical infrastructure or disruption of emergency services
- imminent harm to the economy.

What was the pushback?

The public consultation by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts in 2023, which included an exposure draft of the Bill, caused significant discourse and resulted in over 2,400 public submissions.⁶ Many of the submissions

⁴ See Digital Industry Group Inc (DIGI), ‘Disinformation Code’ (Web Page)

<<https://digi.org.au/disinformation-code/>>.

⁵ Australian Communications and Media Authority (ACMA), *Digital Platforms’ Efforts under the Australian Code of Practice on Disinformation and Misinformation: Second Report to Government* (Report, July 2023) <<https://www.acma.gov.au/sites/default/files/2023-07/Digital%20platforms%20efforts%20under%20Code%20of%20Practice%20on%20Disinformation%20and%20Misinformation.pdf>>; ACMA, *Digital Platforms’ Efforts under the Voluntary Arrangements to Combat Misinformation and Disinformation: Third Report to Government* (Report, September 2024) <https://www.acma.gov.au/sites/default/files/2024-09/ACMA%20third%20report%20to%20government%20on%20digital%20platforms%20efforts%20under%20voluntary%20arrangements_0.pdf>.

⁶ Department of Infrastructure, Transport, Regional Development, Communication, Sports and the Arts, ‘New ACMA Powers to Combat Misinformation and Disinformation’ (Consultation, 2023)

were vehemently opposed to any form of government censorship, whereas tech companies, digital platforms and news networks tended to be broadly supportive of efforts to combat mis- and disinformation although raised various issues with the exposure draft.

A further 105 submissions were received by the Senate Environment and Communications Legislation Committee and while there was broad support, the Bill still attracted criticism.⁷ Submissions from Google, Digital Industry Group Inc (**DIGI**),⁸ RMIT FactLab and the Australian Human Rights Commission (**AHRC**) pointed to issues with the definition “misinformation” and “disinformation”, and warned that the lack of clarity could lead to regulatory overreach by the ACMA and over-censorship by digital platforms. The Australian National University Law and Reform and Social Justice Research Hub (**ANU LRSJ Research Hub**), RMIT FactLab, AHRC and DIGI also raised concerns over the meaning and scope of “serious harm”. For example, the ANU LRSJ Research Hub noted that certain categories of “serious harm” were too indeterminate and would risk capturing genuine political discourse.

Stakeholders such as Google, TikTok, DIGI, and Snap Inc. additionally raised concerns about the powers the ACMA would be given under the Bill, and called for the imposition of appropriate restrictions. Specifically, Google stated that there were no clear guardrails around oversight and enforcement powers and noted that there were a number of details that could be defined by the ACMA under future digital platform rules which creates uncertainty for long-term compliance.

Major news media organisations such as the Press Council of Australia, Australian Broadcasting Corporation (**ABC**) and Special Broadcasting Service (**SBS**) expressed the need to clarify and broaden the scope of the professional news media exemption. However, bodies such as the RMIT FactLab and AHRC were opposed to exemption as professional news media could also be the spreaders of misinformation. DIGI also raised that the exemption for professional news content as problematic for similar reasons. Interestingly, the Community Broadcasting Association of Australia (**CBA**A) raised an industry-specific concern that community broadcasting was not expressly captured under the exemptions, despite being Australia’s largest independent media sector. CBA A submitted that this ambiguity meant there would be a risk that digital platforms censor valuable broadcasts for underrepresented and underserved communities.

<<https://www.infrastructure.gov.au/have-your-say/new-acma-powers-combat-misinformation-and-disinformation>>.

⁷ Submissions to the Senate Standing Committees on Environment and Communications’ Inquiry into the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 [Provisions] can be found at the Parliament of Australia website here:

<https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/MisandDisinfobill/Submissions>.

⁸ See DIGI, ‘About Us’ (Web Page) <<https://digi.org.au/about/>>.

Another key concern raised by major stakeholders regarded the incompatible overlap between the scope of the proposed Bill and existing laws. For example, DIGI highlighted that the proposed exceptions to ‘misinformation’ and ‘disinformation’ were too narrow when compared with other existing legislation that restricts Australian speech.

Concerns were also made in relation to the regulatory burden and barriers to entry that record-keeping obligations would impose on smaller players.

EUvsDisinfo

Launched in 2015, EUvsDisInfo is an initiative to counter disinformation and was designed to address the growing influence of pro-Kremlin disinformation following the annexation of Ukraine’s Crimean Peninsula in 2014.⁹ The initiative’s primary objective is to combat the use of disinformation as a geopolitical weapon. However, EUvsDisinfo also aims to promote media literacy and strengthen democratic resilience through monitoring, analysis and public reporting.

Since 2018, the initiative has been funded from the EU budget and works together with EU institutions, EU delegations and member states.¹⁰ More specifically, the initiative is run by the East Stratcom Task Force, which forms part of the European External Action Service (EEAS) — the EU’s diplomatic service responsible for carrying out the EU’s Common Foreign and Security Policy.¹¹

What exactly is it and how does it work?

EUvsDisinfo identifies disinformation using data analysis and media monitoring then exposes cases of disinformation by fact checking and debunking. It relies on a network of members from a variety of professional backgrounds, including communications, journalism and social science.¹²

To determine what constitutes disinformation, EUvsDisinfo adheres to the definition outlined in the EU’s Action Plan against Disinformation. Accordingly, disinformation is ‘verifiably false or

⁹ See EUvsDisinfo website here: <<https://euvsdisinfo.eu/>>. See also, EUvsDisinfo, “‘To Challenge Russia’s Ongoing Disinformation Campaigns’: Eight Years of EUvsDisinfo” (online article, 5 July 2023) <<https://euvsdisinfo.eu/to-challenge-russias-ongoing-disinformation-campaigns-eight-years-of-euvsdisinfo/>> (‘Eight Years of EUvsDisinfo’).

¹⁰ European Union External Action, ‘Questions and Answers About the East StratCom Task Force’ (Web Page) <https://www.eeas.europa.eu/eeas/questions-and-answers-about-east-stratcom-task-force_en#11248> (‘Q&A’).

¹¹ For more information, see European External Action, ‘About the European External Action Service’ (Web Page) <https://www.eeas.europa.eu/eeas/about-european-external-action-service_en>.

¹² See European Union External Action Service (n 10).

misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm’.¹³

EUvsDisinfo presents disinformation cases through its central tool – a searchable and open-source database containing over 18,000 examples of pro-Kremlin disinformation.¹⁴ However, the database cannot be used as an indicator of the quantity of disinformation; it can only be used to identify trends and topics that are being spread by the Kremlin. Entries in the database generally include a description of the false or misleading claim, a factual correction and the source in which the content appeared.¹⁵

In addition to the database, EUvsDisinfo provides a weekly summary of the latest disinformation through its newsletter, and promotes media literacy through a learning section on its website that provides users with the key tools needed to understand and respond to disinformation.¹⁶ Nearly 4,000 pieces of content are available in 14 different languages, including articles, interviews and essays. Furthermore, adopting a whole-of-society approach, the website features guest content,¹⁷ studies and reports relating to pro-Kremlin disinformation.

Moreover, EUvsDisinfo has documented China’s emergence as a significant actor in information manipulation, employing methods that differ from Russia’s but often converge in narratives. In recognition of this growing convergence between Chinese and Russian disinformation efforts, EUvsDisinfo has created a dedicated section on its website to track and analyse this phenomenon.¹⁸ Therefore, the initiative’s focus has expanded to include disinformation campaigns originating from both China and Russia, primarily relating to COVID-19.

What are some of the limitations?

Despite its ambitions, EUvsDisinfo has faced criticisms concerning its methodology, transparency and editorial standards. A key concern is that the initiative does not clearly explain how it identifies and addresses cases of disinformation.¹⁹ Additionally, disinformation entries are frequently presented as brief summaries without quoting the original content in full or providing

¹³ See European Commission, High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: Action Plan against Disinformation* (JOIN(2018) 36), 5 December 2018, 1.

¹⁴ See EUvsDisinfo Database here: <<https://euvsdisinfo.eu/disinformation-cases/>>.

¹⁵ EUvsDisinfo, ‘Eight Years of EUvsDisinfo’ (n 9).

¹⁶ See EUvsDisinfo’s newsletter, ‘Disinfo Review’ here: <<https://euvsdisinfo.eu/articles/>>. EUvsDisinfo’s Learn section can be found here: <<https://euvsdisinfo.eu/learn/>>.

¹⁷ See EUvsDisinfo, ‘Guest Content’ (Web Page) <<https://euvsdisinfo.eu/guest-content/>>.

¹⁸ The section for Chinese disinformation cases can be found here: <<https://euvsdisinfo.eu/china/>>.

¹⁹ See Mira Sairanen, ‘“The Truth About the EU”: An Analysis of EUvsDisinfo as a Response to Russian Disinformation’ (Masters Thesis, University of Helsinki, 2020).

source links. This lack of detail makes it difficult for readers to independently evaluate the claims or understand why they have been included.²⁰

These criticisms were similarly reiterated in a report by the European Parliament's Committee on Foreign Affairs on EU strategic communication efforts.²¹ While acknowledging the importance of countering foreign propaganda, the report called for improvements in efficiency and transparency. In particular, the report recommended the East StratCom Task Force to revisit the criteria used to determine when content qualifies as disinformation and to align it with the International Federation of Journalists' Declaration of Principles on the Conduct of Journalists. The Declaration sets out a code of conduct for journalists involved in the gathering, transmission, dissemination and commentary on information.²² It defines core principles including truthfulness, respect for sources and responsibility toward the public. In addition, the report recommended that content should be written in an appropriate tone and be free from offensive language or subjective value judgements.

Where to from here...

Is AUSvsDisinfo an option?

The EUvsDisinfo model does overcome one of the key reasons for pushback against the *Misinfo and Disinfo Bill*, because it does not involve the take-down of content or even user bans. Although the potential power for taking down content by the ACMA would have been limited to disinformation only, a major concern of many stakeholders was that digital platforms would over-censor due to the broad definition of "misinformation", "disinformation" and "serious harm".

Notably, a distinction between the EUvsDisinfo initiative and the *Misinfo and Disinfo Bill* is its focus. The former targets Russian and Chinese disinformation narratives whereas the latter would have related to mis- and disinformation more broadly. AUSvsDisinfo model could perhaps have specific topic areas for focus such as health and medicine, the electoral process, international conflicts etc, and could target disinformation campaigns rather than the more complex task of identifying 'misinformation'.

It is interesting that EUvsDisinfo attracts criticisms in relation to the transparency of debunking and definitions used for what content qualifies as disinformation. There would need to be clarity and transparency around the exact standards and definitions applied by an AUSvsDisinfo initiative to debunk disinformation narratives. Additional challenges to overcome with an AUSvsDisinfo

²⁰ Laura Giorio, 'War on Propaganda or Propaganda War? A Case Study of Fact-checking and (Counter)propaganda in the EEAS Project EUvsDisinfo' (Masters Thesis, Uppsala University, 2018).

²¹ See Anna Elżbieta Fotyga, *Report on EU Strategic Communication to Counteract Propaganda Against It by Third Parties* (2016/2030(INI)), 14 October 2016.

²² See the International Federation of Journalists' Declaration of Principles on the Conduct of Journalists here: <<https://www.ifj.org/who/rules-and-policy/global-charter-of-ethics-for-journalists>>.

initiative may be general public awareness of its availability and whether it is one overseen by government or undertaken by an independent body. Despite some of the hurdles to overcome, an AUSvsDisinfo initiative would certainly be a good step forward for the fight against mis- and disinformation online and should be given further thought.

About the Centre for Space, Cyberspace & Data Law

The Centre for Space, Cyberspace & Data Law is established at the Faculty of Law, Bond University (Australia). The Centre brings together researchers and experts in all aspects of space, cyberspace, and data-flows law to engage in research aimed at creating a better understanding of, and a better direction for, the relationship between space, Cyberspace, and data.

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