REVISING PRIORITIES: HOW CAN WE MOST EFFECTIVELY BALANCE DISINFORMATION NARRATIVES AND FREEDOM OF EXPRESSION WITHIN EU MEDIA POLICY?

Keith Peter Kiely, PhD,
„Big Data for Smart Society" GATE Institute, Sofia University

Abstract

The paper offers a perspective on the growing challenge of balancing disinformation narratives and freedom of expression within European Union (EU) media policy. It claims that within current approaches such a balance cannot be achieved and that a serious look at the drivers of media consumption trends and EU media policies on disinformation is required. Within the current frame of reference there is a need to carefully consider what we mean by freedom of expression. This paper argues that one aspect to consider is how current EU media policy, online media consumption and monetisation models create a space where attention-grabbing and emotionally charged content is favoured. This viewpoint might shed light on how these trends may potentially be overshadowing important but less attention-grabbing voices or perspectives. The article contends that one possible approach would be policies which encourage prioritising and investing in not-for-profit and participatory media systems built on community ownership and grassroots input.

Key words: disinformation, freedom of expression, EU, media policy

Introduction

The proliferation of disinformation is a significant threat to democratic institutions and societal cohesion globally. The European Union has attempted to respond to and counteract disinformation through legislative and regulatory measures, including the EU Code of Practice on Disinformation adopted in 2018 and the strengthened Code of Practice in 2022. These efforts have the stated aim of increasing transparency and the accountability of online platforms, supporting media literacy programs, increasing transparency around political advertising, encouraging independent fact-checking, and promoting cooperation between tech companies, researchers, and media outlets. Early evaluations of the original Code of Practice on Disinformation claimed, somewhat understandably, that the Code has failed to satisfy such lofty goals or to significantly mitigate the disinformation phenomenon (Durach et al., 2020).

The current EU approach is one of self-regulation and co-regulation, where there is an effort to encourage private stakeholders to work with public bodies to establish and implement rules and policies. As such, broad objectives and principals have been set by the European authorities, and online platforms and companies are tasked with implementing specific rules and procedures to achieve these broad objectives. This is a middle ground approach between self-regulation and direct regulation in order to address disinformation in the online space. This approach requires careful management and monitoring to ensure accountability and transparency. However, there are various concerns over both the lack of transparency and effective action from online providers on disinformation. There are also concerns over how EU policies and positions might represent a threat to freedom of expression, a point emphasised by the fractured nature of member state policies with some EU countries implementing direct regulatory measures. For example, Germany and France enacted restrictive national laws against election misinformation in 2018 and online hate speech in 2017. These measures heighten concerns around censorship and often serve to legitimize criticisms and distrust of national governments and the EU. There are also legitimate concerns that such regulations could ultimately be used as suppressive measures which could be abused for political purposes (Durach et al., 2020).

What is often missing in such discussions is an appreciation of the limits of our ability to tackle the issue of disinformation without rethinking both our current relationship with media consumption and current media business models built upon the monetisation of information. The dominance of digital media and the internet have fundamentally altered the way that media is produced, distributed and consumed. The abundance of free content available has made it increasingly difficult for traditional media outlets to generate revenue and sustain their business models (Napoli 2019; Andrejevic 2013). The media industry continues to face challenges due to the shift from print to digital advertising. This has resulted in a decrease in advertising revenues, which is a long-standing source of income for media companies. As more ad dollars are diverted to online platforms and social media, traditional media outlets are under financial pressure to find new sources of income and modify their business models. This change is also linked to concern surrounding the reliability and accuracy of news and information due to the monetisation of information. In the struggle to draw attention and clicks, media outlets are incentivized to favour sensationalism and clickbait over precise and informative reporting. The monetisation of information has led to concerns about the reliability and accuracy of news and information. Media outlets are incentivized to prioritize sensationalism and clickbait over informative reporting in order to draw attention and clicks. This demand for page views and advertising revenue has also allowed for false news, disinformation, and propaganda to spread. The current business model makes it difficult for large for-profit media platforms to willingly or enthusiastically jeopardize their revenue streams.

Responses to these issues must go further than the basic need for algorithmic transparency, Fact checking and media literacy programs. If we are genuinely cognizant of the importance of accurate information to societal cohesion and democratic institutions, then maintaining the current status quo and tackling disinformation through the methods listed are at best reactive approaches, analogous

to treating symptoms and not the illness. It is here that the EU can take a leading position by encouraging efforts to democratise the media and to offer alternatives to the centralised power of dominant media outlets and platforms in conjunction with measures like media literacy. One possibility is that this could be achieved by prioritizing and investing in not-for-profit and participatory media systems built on community ownership and grassroots input. The digital age provides opportunities for citizens to become producers and distributors of media content, fostering grassroots journalism, citizen reporting, and community media. What Hardt & Negri (2004) refer to as decentralized horizontal networks can help provide the theoretical framework and principles which can aid in the development of a democratization of media production by coordinating efforts across local, regional and transnational spheres.

1. Defining Disinformation and the Digital Media Space

1.1. Defining Disinformation

A starting point of the discussion is effectively defining the term disinformation. In the popular mind, disinformation has more prominently been associated with the term 'Fake News' a catch all phrase which has simplified the discussion and has been adopted as a rhetorical political weapon (Durach et.al, 2020). For the purposes of this paper, disinformation is defined as any type of information that is false, inaccurate, or misleading and has been created with the intention of causing harm to the public or for financial/political gain (Durach et al., 2020). This paper takes the position that disinformation is a political, social or economic tool, one which is directly derived from society's existing political and economic structures. It is an effective device which can operate at both local and international levels (Boyd 2017). It is important to avoid overly simplistic understandings of disinformation, which are in themselves barriers to the effective creation of countermeasures. As Durach et al., (2020) point out the first of these misunderstandings is a focus on ad hoc standalone disinformation instances, (such as Russia's efforts at disinformation) or contexts which underplay the larger issue of digital media consumption. Secondly, Durach et al., (2020) also note that placing the responsibility on mainstream media outlets to educate the public to identify disinformation is misguided. This aspect is particularly problematic as the core problem is with the way the new digital ecosystem works, and mainstream media outlets are part of that. This ecosystem is generally driven by platforms, algorithms, big data, and artificial intelligence, and relies on emotions and visual discourse to disseminate and amplify disinformation. The current focus on fact-checking and debunking specific content is simply not enough to combat digital disinformation.

1.2. Digital Media Environment

In his book: *Infoglut: How too much information is changing the way we think and know*, Andrejevic (2013) posits that having too much information creates a paradox. Despite having access to a lot of information, our ability to process and evaluate it is often hindered by factors such as information overload, the speed at which information is shared, and the lack of reliable filters to distinguish between trustworthy and untrustworthy sources. The emergence of digital media conveyance methods such as

online platforms and media outlets, have fundamentally altered the way information is accessed, disseminated and consumed. This shift has rendered traditional media less influential in shaping public opinion, with social media platforms taking on a greater role in the spread of disinformation and propaganda (Andrejevic 2013). As such disinformation can be understood as an:

> ...outgrowth of these changes in news production and consumption patterns. It is a direct response to the new informational environment, where old norms, routines, and gatekeeping functions are no longer effective in defining news and information. (Bennett 2012: 26)

As Allcott & Gentzkow (2017: 211-236) note, social media platforms are different from traditional media technologies because content can be shared among users without any third-party filtering, fact-checking, or editorial judgment. This means that anyone can potentially reach as many readers as mainstream media outlets. Tufecki (2018) argues that the structure of social media platforms, which are algorithmically driven and characterised by network effects, can amplify the spread of false information and make it difficult for corrective information to gain traction. Likewise, Boyd (2012:71-76) argues that the structure of social media is characterised by what she refers to as „context collapse", in which social norms and expectations are destabilised by the presence of multiple audiences and contexts. In terms of the impact of social media and disinformation, Bennett (2016) and Andrejevic (2013) both suggest that contemporary disinformation serves to personalise political communication, reinforce ideological polarisation, and undermine critical thinking and open debate, leading to the subversion and dismissal of opposing voices and institutions. This observation is repeated by Flaxman, Goel & Rao (2016) in their quantitative data analysis on the relationship between personalised algorithms, filter bubbles and online news consumption (2016:298-320). These findings also support the conclusion that individuals exposed to such information bubbles are less likely to engage with diverse perspectives than those who got their news from traditional media or television (2016:318).

1.3. Monetisation and the Media Industry

Andrejevic (2013) also explores the important aspect of commodification of personal information through the digital economy. The digital monetisation of information is closely connected to the challenges that the media industry has faced over the last few decades. The abundance of free content available on the Internet has made it increasingly difficult for traditional media outlets to generate revenue and sustain existing business models. A key challenge for the media industry in the digital age has been the shift from print to digital advertising. Advertising revenues, which have traditionally been a significant source of income for media companies, have declined as digital advertising has grown in popularity, with more and more ad dollars flowing to online platforms and social media (Andrejevic 2013). This has put pressure on traditional media outlets to adapt their business models. The easiest way to do so is to adopt paid premium services or to attempt to influence how people digest media content and information.

The desire to make money from online platforms is directly linked to the spread of disinformation, as people create and promote misleading content to increase web

traffic and advertising revenue (Allcott & Gentkow 2017). Click-driven models that generate revenue based on the number of clicks an article or content receives, for example, incentivize sensationalism, clickbait, and provocative or controversial content. This can lead to a focus on generating clicks at the expense of quality and accuracy of information presented (Zannettou et al., 2019). Additionally, online advertising platforms use advanced targeting techniques based on user preferences and behaviour. As discussed earlier, this can result in filter bubbles and echo chambers, where users are exposed to content that aligns with their existing beliefs, reinforcing biases and limiting exposure to diverse perspectives (Pariser 2011). The creation of native advertising and sponsored content practices further muddy the waters by blending with regular content, making it hard for users to differentiate between them. This can lead to biased or misleading information being disseminated, blurring the line between objective journalism and commercial interests (McAlpine 2019).

The emergence of the digital environment and the challenges and pressures this has placed on media outlets has aided in the creation of a specific type of contemporary media consumption culture. It is a symbiotic relationship in which both elements have evolved in tandem, each having a significant impact on the other over the years. Online content is created to capture attention and generate revenue through click-driven revenue or targeted advertising. This has led to the proliferation of clickbait and sensational content. User preferences for personalised experiences have also driven the development of monetisation strategies, shaping the way we consume media online. This reciprocal relationship has created a culture of media consumption that is highly dependent on attention and revenue. Such a media culture has significant implications for genuine freedom of expression. Monetisation models that prioritize click-driven revenue or user engagement may lead to the promotion of sensationalist or controversial content over more substantive or nuanced information (Tufekci 2014). This can create an environment where attention-grabbing and emotionally charged content is favoured, potentially overshadowing important but less visible voices or perspectives.

2. European Union Media Policies
and Strategies to tackle disinformation

2.1. General Approach to Disinformation

The European Union (EU) has taken a multi-faceted approach to combat disinformation online. This includes the EU Code of Practice on Disinformation and the European Democracy Action Plan, both of which aim to improve the detection and analysis of disinformation, coordinate and strengthen EU-wide responses, and mobilize a private sector approach. Furthermore, the EU has reiterated its commitment to promoting transparency, enhancing media literacy, and supporting independent quality journalism in order to ensure that freedom of expression and media pluralism are protected. To this end, the EU has attempted to engage stakeholders from various sectors, such as policymakers, civil society, media, and online platforms, to help tackle the problem on multiple fronts. These initiatives involved the development of a Rapid Alert System, The Code of Practice for online platforms, and various levels of support for media freedom and independent journalism. All excellent aims, however,

unlikely to have a significant impact so long as media consumption culture continues to be dependent on sensationalism, attention and monetisation.

In addition, assessments of the EU's performance in regulating the digital space and effectiveness of its regulatory efforts note that there remain significant challenges, not least of which are the rapid pace of technological change, the dominance of a small number of large, multinational companies, the fragmentation of national regulatory approaches, and the potential trade-offs between regulating the digital space and protecting individual rights and freedoms (Satariano 2019). Despite these challenges, it should be noted that the EU has taken significant steps to regulate the digital space including the General Data Protection Regulation (GDPR) and the recently adopted Digital Services Act. The DSA aims to modernise the EU's regulatory framework for digital services and promote transparency, accountability, and user trust. The EU's approach to regulating the digital space favours a principle-based, rather than prescriptive, approach, which it claims leaves room for innovation and flexibility while maintaining accountability and protecting consumer rights. However, more work needs to be done to address concerns around market concentration, platform responsibility, and content moderation. As such the EU's regulatory framework for the digital space remains very much a work in progress.

2.2. The Code of Practice

The Strengthened Code of Practice on Disinformation 2022 is a set of measures aimed at combating disinformation online. Like its original 2018 variant it is a voluntary framework which follows a co-regulatory approach and encourages online platforms, social media firms, advertisers etc., to adopt self-regulatory measures to tackle disinformation. The Code seeks to increase transparency in political advertising and fact-checking, defund the dissemination of disinformation, and empower users to identify and flag false information. The Code also outlines commitments for digital advertising industry players, online platforms, and fact-checkers to prevent and combat the dissemination of harmful disinformation. Fact checking is a key activity advocated by the code, along with the development of quality indicators for online content which can improve the accuracy and reliability of information and reduce the spread of disinformation motivated by monetisation. The European Commission regularly evaluates and monitors compliance with the Code and encourages reporting and data sharing. This is important for identifying areas that need improvement and adapting the Code to address new challenges.

An important aspect of the discussion is a recognition of the limitations of the Code. L. Gordon Crovitz (2022) writing for *Politico* has referred to the strengthened Code of Practice on disinformation as a 'fail' and missed opportunity, and claims that it is no less than a direct capitulation to online media platforms, claiming that it essentially:

> Inoculate(s) platforms from the known harms they cause, as each one has now been allowed to pick and choose which sections of the code it will be bound by. The result is that the large platforms – except for Microsoft – have all declined to follow key „user empowerment" steps that would sharply limit the spread of disinformation (Crovitz 2022).

Mr. Crovitz, who is the CEO of NewsGuard, an organization that rates news and information sources on how they adhere to basic apolitical criteria of journalistic practice, claims that they agreed to become a signatory in the hope that platforms would incorporate tools like theirs available to their users. He claims however that „platform representatives watered down user-empowerment commitments paragraph by paragraph, word by word. And in the end – besides Microsoft – they refused to sign anyway" (Crovitz 2022). This user empowerment provision is absolutely essential in order to go beyond the steps which have proven ineffective by themselves which platforms have already implemented. Fact-checking, for example, does not prevent disinformation since fact-checking can only take place after the false information has already been spread. It is by its very nature reactive to the issue. Moreover, the products that high profile media platforms have designed prioritize maximizing engagement and expanding advertising revenue rather than ensuring the accuracy of the information they are sharing (Crovitz 2022). It is further claimed that if these products were made by another industry, they would be held accountable to basic liability laws and required to take reasonable steps to prevent known harms. While platforms have agreed to abide by the EU's revised code, they have neglected to include the critical provisions that are necessary for successful implementation. If these requirements are not adopted, it is likely that platforms will continue to operate in the same manner, failing to alert their users of false sources and become unwitting accomplices of disinformation campaigns.

Conclusion

In conclusion, the issue of disinformation in the context of European Union media policies provides a clear picture of the varied array of challenges faced by policymakers in addressing this phenomenon. The present approach of co-regulation, which encourages public and private stakeholders to collaborate and establish policies against disinformation, seems to be a compromise that intends to balance freedom of expression and effective regulation. However, as the current co-regulatory approach continues to be rolled out and implemented, it has struggled to achieve its objectives. It therefore behoves the EU to consider alternative approaches. This paper posits that addressing the monetisation of information should be considered as a crucial aspect of effectively tackling disinformation. The shift from print to digital advertising has put traditional media outlets under enormous financial pressure, incentivizing media outlets to prioritize clickbait over informative, accurate reporting. A successful response requires a significant rethink of our current media consumption relationship and business models built upon monetisation. One proposal is to prioritize and invest in not-for-profit and participatory media systems, democratizing media production and fostering grassroots journalism, citizen reporting, and community media. The EU has the opportunity to take a leading position in this regard by encouraging such efforts to develop and coordinate across local, regional, and transnational spheres in line with the principles of decentralized horizontal networks.

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