



Wilton Park



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Report

#FakeNews: innocuous or intolerable?

Wednesday 15 – Friday 17 February 2017 | WP1542

In association with:





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The term ‘fake news’ has opened up a new front in perennial debates over journalistic practices and ethics, government control, propaganda and censorship, and the role of social media and search in today’s public sphere. But what exactly is ‘fake news’? How does it vary, if at all, from propaganda, disinformation, misinformation? In what ways might it threaten credible journalism and, broader yet, the vitality of public space in democratic societies? Do today’s dilemmas over it differ markedly from information wars past generations have faced? Is ‘fake news’ even a real problem deserving of attention? If it is, what possible solutions might be available to deal with it in ways that do not at the same time undermine fundamental human rights, especially the freedom of expression?

Wilton Park, in association with the United Nations Special Rapporteur on Freedom of Expression, ARTICLE 19, and the University of California, Irvine, School of Law, convened experts from the technology industry, academia, journalism, inter-governmental organisations, human rights organisations, and individuals in civil society to address these questions. The aim was to generate critical conversations and understanding at all levels: scope and meaning of the terms, the context of evolving media environment, challenges to media diversity and pluralism with digital technologies, consequences of the (perceived) public concern over ‘fake news’, approaches to address the issue, standards of ethical journalism in digital context and standards of law and human rights, and much else. The participants sought to generate a common vocabulary for thinking through ‘fake news’ and generate a research and reporting agenda from which participants and others may wish to draw.

Key points

Media organisations should engage in more fact-checking, and if necessary, recruit the help of non-governmental organisations dedicated to news verification to accomplish this. It may also be practical to consider developing a ‘fake news beat’, where ‘fake news’ is covered in-depth by specialists. The media can build credibility by being transparent about organisational structure and ownership, advertising revenues, as well as sources of a story.

Civil society has the ability to set new norms and place social pressure on news disseminators to conform to existing norms, such as the norm of the social compact, norms of shaming bad actors, and norms that people appreciate honesty. Civil society can spread the concept of a publicly-funded public service media (public service communications) service that exists to serve the public, and determine how this model can be adapted to be instituted in other places. Civil society organisations can also provide support and partnership to independent fact-checking organisations, and act as watchdogs to determine

how governments are responding to 'fake news' and engaging in propaganda through regulatory means.

Special 'fake news bans' are not adequate responses to 'fake news'. Given the lack of a uniform definition of 'fake news', it is difficult to address it via legal prohibition that would comply with international standards. Law is a 'blunt instrument' and any regulation of speech is susceptible to manipulation or abuse. Instead, existing laws for example on defamation, privacy, and incitement, can be used to address particular issues. The most effective solutions for 'fake news' lie outside the legal prohibitions. As a result of various speech protection laws already in place, attempts to legislate 'fake news' are more likely to constrain legitimate speech than solve problems.

Technology: The lack of verifiability and context of the source of information used by technology platforms, is one of the key problems driving the acceptance of 'fake news'. There is a lack of transparency around how technology platforms work, for example, how algorithms work to create news feeds. To succeed, the economic incentives of 'fake news' must be eliminated. Online media platforms in cooperation with other stakeholders might institute 'signals of authority' to provide information describing the origin of content. Platforms might use their wide reach to provide training in media literacy. Platforms might also consider providing tools to journalists to aid them in assessing verifiability.

Facts, fiction, 'fake news' and the news in the digital age

1. Fake news' has entered the global lexicon, but its meaning has been blurred to potential meaninglessness, often being used as a slur hurled at journalists or political opponents. Understanding first the various terminology associated with this topic, and second agreeing on their use, is very important. How terms such as propaganda, disinformation, misleading information and 'fake news' are used and understood can vary from person to person, and can ultimately prohibit consensus. Thought should also be given to what guidance the history of disinformation in the media might provide; how digital technologies have changed the dynamics of the problems; and the impact of 'fake news' on individuals and society at large.
2. Reaching a consensus definition of 'fake news', or even an agreement of whether the term should be used at all, proved elusive considering the numerous other concepts and the breadth and elasticity of the term, it can and is used to describe different content by different actors.
3. Looking at these from a broad perspective, it is possible for the terms propaganda, disinformation, misleading information, and 'fake news', to all be used to describe the same issue, each term provides an alternative form of disseminating what is perceived as 'inaccurate stories'. They may be seen as evidence of how the issue of intentionally inaccurate stories, those presented as factual or true, has been interpreted over time, with the phrase 'fake news' simply being the most contemporary version.
4. There is an argument that the terms 'fake' and 'news' should not be used together at all, given that news is a presentation of facts, and the term 'fake' undermines the concept of 'news'. Moreover, the term 'fake news' has been used as a weapon by recent political actors in response to anything critical the media reports.
5. It is also important to consider the question of slanted or selective reporting, and whether biased news is 'fake news'. It is possible to argue that slanted reporting is a form of disinformation because certain facts are exaggerated, and others are omitted. On the other hand, it may not technically be 'fake' because there is no misinformation. This underscores the importance that consumers have knowledge about the political beliefs of those who provide the news.
6. The terms 'fake news' and 'false news' may be thought of as different. In this line of thought the onset of the 'fake news' controversy has much to do with stylisation of news, stories being structured to appear as though they are true news. With 'fake

news', readers are often deceived because of the look of a story, however in contrast, 'false news' claims most often attack the substance of a news story and the actual inaccuracy of information. Consequently, society may need to approach the 'fake news' phenomenon differently than how society has approached 'false news' claims in the past.

7. Given that technology companies are so heavily involved in the dissemination of media, a common vocabulary of what constitutes 'news' may be necessary for technology developers. If technology developers have a better understanding and grasp of journalism literacy, they will be better enabled to recognise and potentially block 'fake news'. There is strong opposition to this argument however, given that blocking 'fake news' from media platforms is a form of extreme censorship.
8. Even if there is no real consensus of whether the term 'fake news' should indeed be used, or what exactly it refers to, it is necessary to use the term in order to have a meaningful discussion and remain in the broader public discourse surrounding the topic.
9. Distinguishing 'fake news' is a challenge for individuals and society at large. While 'fake news' and 'alternative facts' were at a certain time limited to the tabloids, they have recently spread to the highest levels of politics and, in turn, have created what can be described as a 'crisis in global morality'. In effect, this has changed the reality that media-consumers accept. Changing this pattern will require both building capability of citizens to distinguish information, and having broader societal debates about what kind of media systems that countries want to attain.
10. To attempt to fix the 'fake news' epidemic, both the supply and demand side of the 'fake news' phenomenon should be looked at. . Determining who is providing fake news and why, as well as whether there is a market for 'fake news', will help resolve how the public can be empowered.

'Fake news' from a global perspective

11. 'Fake news' is neither a new invention nor a geographically limited one. In many parts of the world, governments criminalise 'spreading false news' and the sharing of rumours, applying such proscriptions against everyone from ordinary social media users to high profile dissenters and journalists. At the same time, rumours that spread quickly online may have serious offline consequences. Beyond the current debate over 'fake news', there is a lasting and harmful problem of governments criminalising the sharing of 'rumours' and 'false information'.
12. Even when governments have a system of checks and balances, the media is often used as an oppositional actor, making it easier for press freedoms to be eroded. Therefore, while the issue of 'fake news' may be a developing phenomenon in the West, it is important to be aware of the fact that elsewhere it is already widespread and its impact acutely felt by the populations of those countries.
13. In certain countries, 'fake news' is a part of everyday life and political culture, and is so commonplace that it may be easier to pinpoint true news stories than false ones.
14. In some countries, governments are often the source and disseminator of 'fake news'. As a result, rumours are rampant, some of them true, but a large majority of them false. Indeed, any proposal to regulate 'fake news' becomes especially problematic when the individuals propagating 'fake news' are the same individuals responsible for creating regulations and legislation. At the same time, some governments have introduced anti-rumour campaigns, which effectively limit social media use. These anti-rumour campaigns are dangerous in that by affecting social media use, they pose a danger to freedom of expression and limit the free flow of thoughts and ideas.
15. There is also a general risk that if democracies move towards the regulation of 'fake news', certain illegitimate governments will use this as a justification for their own 'fake

news' regulations, which in many cases might be unjust and unfair.

16. Social media platforms would theoretically allow for self-regulation. Persons posting inaccurate information may lose followers for being unreliable. Users on social media have the ability to sift through information and decide who deserves their trust. This is where media literacy plays a major role in allowing social media users to distinguish reputable and quality news from 'fake news'.

Technology causes? Technology responses?

17. While problems related to propaganda and misinformation were probably born with human communication and civilisation, it seems reasonable to believe that the digital age has exacerbated, quickened, and by contrast even ameliorated problems of 'fake news'. There is a strong need for clarity on the nature of the issue from both company and technological vantage points. To what extent does social media amplify the problem of 'fake news'? What the role do tech giants play is in making 'fake news' visible and findable? Are social media and tech giants best placed to understand and address these problems? What is the role of technology in addressing the issue?
18. Digital technologies, in particular those that underlie 'search' and 'social' media, might be said to have changed the dynamics of intentionally inaccurate stories by changing the model of the media industry. Indeed, digital technologies have allowed for the rapid dissemination of information. Additionally, the modern media's reliance on high levels of viewership for legitimacy and financial success has resulted in the proliferation of 'clickbait', articles that often sacrifice objectivity for increased viewership through attention-grabbing titles designed to induce clicks.
19. Social media has made disseminating 'fake news' easier, but it has also empowered users to more efficiently seek and impart information as well. News organisations frequently use social media to disseminate news and connect with the public. Social media companies are introducing new systems for news media to use in order to reach users, such as Facebook's 'Live' feature, which is popular among local news organisations.
20. Social media platforms play various roles in distribution and findability of the news and sometimes even the role of traditional news media (e.g. Google News or Yahoo News), in exercising editorial functions. Ultimately, social media platforms are where a large majority of the population receives its information. With that has come the loss of traditional news media as the gatekeeper of information the public receives. There is, therefore, a risk that governments may start treating social media platforms as traditional mainstream news media and demand that platforms perform the gatekeeping function. The risk here is that the social media market is dominated by only a few large corporations who will effectively have the responsibility of determining the appropriate narrative. Furthermore, it may be against social media platforms' interests to serve as gatekeepers if their goal is facilitate communication generally. Finally, social media platforms rely heavily on a combination of human and automated decision making, for example algorithms, to generate news feeds, which would likely need to change if the traditional gatekeeping role were assigned to media platforms.
21. For the technology industry, finding solutions to prevent the dissemination of 'fake news' is difficult at best, and could violate human rights at worst. Major search engines and social media platforms may have the capabilities to develop software in order to determine which stories are fake, and essentially censor those stories from appearing in users' searches or newsfeeds. This idea however, has not been well received; indeed allowing any entity to determine truth from falsehood and censor accordingly would pose a serious threat to the right to freedom of expression.
22. Along the same vein, there is serious doubt as to whether technology companies can evaluate rhetorical 'truth' and distinguish 'fake news' from legitimate news, eliminating false information from social media platforms and websites. First, there is ambiguity

around what 'fake news' actually is when it comes to web developers who specifically develop social media software. Second, algorithms can distinguish mathematical truths, but they cannot evaluate rhetorical truths. The dangers of allowing technology companies to censor news include the over-censorship of information by removing posts and information that is not actually 'fake news' and violating freedom of expression. Further, it is dangerous to allow any entity to be the arbiter of truth.

23. For many companies the objective is not to eliminate 'fake news' but to empower users to understand content and make informed decisions about what they are reading and how they are perceiving what they are reading. In reaching this objective, many social media providers have made it easier to report potentially false news and have partnered with third-party fact-checking organisations to alert users when an article is disputed. Social media providers have also proposed other ideas for addressing 'fake news'. These include disincentivising spammers by cutting off advertising revenue, ensuring the availability of trusted sources, and empowering fact-checking organisations.
24. Flagging stories as disputed is one of the popular ideas among social media providers, often done so in cooperation with users, for example via a flagging system, in the response to the outcry against 'fake news'. This method would inform users who share a story that the story they are sharing might not be true, based on third-party fact-checkers and other users' reports. Yet, this presents challenges of its own by allowing users to potentially flag true stories as false if they disagree with the story, and allowing users to choose to only receive news from certain ideologies, resulting in even greater 'echo-chambers' of information than are already present.
25. One solution to the echo chamber problem might be to ask users who flag information as potentially false to substantiate their claims. This would encourage users to spend time with articles before making judgments as to the accuracy of the information, as well as help prevent users from erroneously marking information as false simply because they do not agree with the information ideologically.
26. Another method of flagging stories that some technology platforms have suggested is flagging stories based on algorithms. This method would use algorithms to determine how likely it is that a story is true or false, based on factors such as, the source of the story; the date of publication; and how long the person who posted the story actually spent at the website where the story originated. This method would not delete content that was determined to likely be 'fake news', but rather put that content further down in users' search results or newsfeeds.
27. Transparency is key to battling 'fake news' on the technology side of the spectrum. Users should know how much political parties and other interest groups spend on advertising on particular technology platforms. Moreover, there should be more transparency about ownership of websites and platforms where users receive information.
28. Empowering users is also key to battling 'fake news'. One social media website is planning to begin offering online training and tools to promote media literacy. The objective is to train users to be able to identify hoaxes and misinformation themselves, and empower users so that they can understand the information that they are consuming, and will be able to determine where the information originated.
29. Rather than being responsive to 'fake news', technology companies should try to be proactive by helping promote and monetise legitimate news organisations. Partnering with fact-checking sources is one way to promote legitimate news sources, as well as a general collaboration with news publishers to encourage sustainable news and high-quality journalism.

Freedom of expression, 'fake news'; and the risks of regulation

30. There is general agreement that disinformation and propaganda, whatever term is used, pose challenges to the media and to the public's right to information. Yet caution is necessary in responding to the problem, in particular because of the risk that responses to 'fake news' may involve steps that could interfere with individual's right to seek, receive and impart information and ideas of all kinds, which are protected by human rights law. In just the past several months legislators and governments have proposed regulation in Europe. For example, Germany proposed a law requiring social media companies to swiftly remove fake news and hate speech from their platforms or endure monetary penalties. International and regional human rights standards may provide a framework for solutions to problems generated by 'fake news', disinformation and various forms of state propaganda, whether law can regulate these phenomena, and how states can address disinformation and avoid propaganda.
31. The label of 'fake news' is leading some governments to clamp down on the freedoms of expression and the media by proposing methods such as legal restrictions. For example, in China, posting 'fake news' can lead to prison sentences. In Italy, a proposed bill would fine or possibly imprison individuals who spread 'fake news'. Under human rights law, any restriction on freedom of opinion and expression must be necessary and proportional to meet the ends it seeks to serve. A restriction is necessary only if it is more than useful, reasonable, or desirable. 'Fake news' though, poses no 'likely specific harm', as do other forms of speech which are regulated, such as defamation or hate speech. Thus, it is not consistent with human rights law, or constitutional law in democratic countries, to regulate 'fake news'.
32. Governments should avoid content-based regulation of 'fake news' because the risk of infringing on freedom of expression is too great. However, there are actions governments can take to address 'fake news' outside of defining and censoring 'fake news'. For instance, regulations on transparency in ownership of media companies is something that would help address 'fake news' and benefit the public. Additionally, governments can start educational campaigns on 'fake news' to encourage informed debates within societies.
33. Another alternative to new 'fake news' regulations is to strengthen already existing regulations on other issues that are at heart of 'fake news', such as defamation, incitement to hatred, or some privacy torts. However, one aspect that must be considered is that, unlike already existing regulated forms of expression, 'fake news' proliferates in the social sphere. Specifically, an inaccurate story on a single source can spread to many different sources in a short amount of time. As such, it is difficult to target a single source, consequently because there is no single 'wrongdoer', punishing the dissemination of 'false news' using judicial action is very difficult.
34. There may, however, be a role for public authorities in setting institutional standards and norms that we as a society should consider. It is easy to say that governments should not regulate 'fake news', but it is important to consider why this is so. There is for example the viewpoint that media regulation is actually beneficial in fragile states.

Media outlets and professional journalism

35. Does the mainstream media play a role in amplifying 'fake news', state propaganda and disinformation? Are they part of the solution or the problem? How does the existing digital media economy and revenue model help to drive 'fake news'? What steps is the media taking to address the problem?
36. Mainstream media might be thought to amplify 'fake news' because these news organisations are generally well resourced and are thus able to navigate and utilise the expensive social media ecosystems for advertising purposes. It is possible to argue that this has created an 'alliance of interest' between 'big media' and 'big tech', while smaller news organisations suffer. This impact creates financial pressures upon smaller

news organisations, which in turn shift their focus to publishing stories that gather the most 'clicks' and thus, revenue. Because 'fake news' gathers a substantial amount of 'clicks', it might be said that mainstream media amplifies 'fake news'. For this reason, it might be beneficial to change the financial model of the media from a 'click model' to a 'subscription model.' A subscription model might allow for more thoughtful journalism because of brand promotion and loyalty, and a reduction in financial pressure. On the other hand, many mainstream media organisations counter 'fake news' by engaging in real investigative reporting and disseminating factually-supported stories.

37. Mainstream media are entwined in both the problem of and the solutions to 'fake news'. Technology has changed the way that the public consumes information, and the transformation of journalism to fit the online model. The 24-hour news model has inevitably led much of the mainstream media to be more concerned with 'clicks' than with thoughtful journalism. 'Fake news' headlines are generally extreme and attention-grabbing, and thus generate high amounts of 'clicks'. In order to compete with these headlines, mainstream media organisations have been encouraged to use similar types of headlines and report on stories that will generate 'clicks'. This results in a lack of diversity and a blurred line between what is 'fake' and what is 'real'.
38. The convergence of technology and media has shifted the power and control in public consumption of news and nature of journalism. This has happened very quickly. One argument is that this shift is threatening independent journalism, as it is nearly impossible for independent journalism sources to survive outside the ecosystem of social media platforms. On the other side, is the argument that this shift has benefitted independent journalists and freelance journalists as they are able to share their work with more ease. There needs to be public discourse about the type of media ecosystem that is emerging and whether this is the type of media ecosystem society wants.
39. A solution that would be familiar to those with a traditional mainstream media background is to increase the quality of journalism. Unfortunately, this is increasingly difficult with a cycle of less public attention, leading to less revenue, resulting in less investment in good journalism, less quality in journalism, and finally, less credibility.
40. Another possible strategy for the media industry, in conjunction with the technology industry, to address the issue of 'fake news', is to create a 'white list' for certain reputable, mainstream news sources. However, this poses some problems. This 'white list' would likely have to be created by a government, and allowing a government to place 'stamps of approval' on certain news sources is problematic. This problem is furthered if the fact that many news organisations possess political ideologies that might differ from that of the government is considered. A 'white list' would make it easy for these organisations to be targeted. Furthermore, in many instances, mainstream news sources are not reporting every event. Smaller news organisations often receive, verify, and react to important news stories that mainstream media might ignore. Creating a 'white list' would effectively cut these smaller news organisations out.

Civic engagement, #FakeNews and propaganda

41. Allegations of 'fake news' can create backlash against civil society and be used to silence human rights defenders. For example, in some Middle Eastern countries, where religion and government are closely knit, a government might label information from civil society groups as 'fake news', and those group members may be thought of by members of the community as spewing blasphemies, a serious religious crime.
42. Civil society, meaning non-governmental organisations and institutions, think tanks, and academia, also has a role to play in countering 'fake news'. Social pressure on governments and companies to comply with human rights norms, along with partnerships with media groups and governments, acting as watchdogs regarding how states are responding to 'fake news', and encouraging media literacy in society, are all ways that civil society should work to counter 'fake news' issues.

43. Fact-checking organisations are important civil society groups. Fact-checkers are independent organisations that identify and debunk 'fake news' stories. They might be considered a solution because they ultimately reduce the impact of 'fake news'. However, fact-checking organisations determine truth of information by its ability to be verified. Thus, information that may be true but cannot be verified, such as investigatory pieces, may not pass as true on a fact-checking site. Moreover, there is the argument that fact-checking is a temporary safeguard because it does not address the root of the problem. Therefore, one might argue that the focus should instead be on promoting high-quality journalism.
44. Civil society groups, especially human rights organisations, might also try and appeal to aggrieved groups of society which are most prone to believing 'fake news' by acknowledging these groups' feelings and offering facts and context to issues and problems in society.
45. Restating the 'fake news' narrative might be contributing to the problem rather than combating it. Instead of keeping this narrative, perhaps responses to issues surrounding 'fake news' could be framed more about how society is encouraging journalism and what society is doing or should be doing to arrive at commonly understood truths.

Conclusion

From the perspective of the media-industry, there are a few possible strategies that might be effective in combating 'fake news'. First, media organisations might create a 'fake news' beat, where 'fake news' is covered in-depth by specialists. However, this strategy should be approached cautiously, as there is a possibility of a 'backfire effect', where those with a propensity to believe fake news will retreat further into their beliefs. Second, there should be more fact-checking. Finally, media organisations should build credibility by being transparent about organisational structure and ownership, as well as sources of a story.

From a civic engagement perspective, the solution should be norm-setting. Specifically, civil society must create and conform to certain norms, such as the norm of the social compact, norms of shaming bad actors, and norms that people appreciate honesty. One approach for accomplishing this would be to spread the concept of a publicly-subsidised service that exists to serve the public, such as BBC. The goal is to determine how this model can be adapted to be instituted in other places.

It should be recognised that specific legislation banning 'fake news' is not a good 'lever' for constraining or responding to 'fake news'. 'Fake news' is a symptom of a larger, more systematic challenge. Law is a 'blunt instrument' and any regulation of speech is susceptible to manipulation or abuse. Therefore, the most effective solutions for 'fake news' lie outside of legislation. As a result of various speech protection laws already in place, attempts to legislate 'fake news' are more likely to constrain legitimate speech than solve problems.

From a technology perspective, it should be recognised that the lack of verifiability and context of the source of information of tech platforms is one of the key problems driving the acceptance of 'fake news'. Also contributing to the issue is the lack of transparency around how tech platforms work, for example, how algorithms work to create news feeds. To succeed, the economic incentives of 'fake news' must be eliminated. Additionally, online media platforms might modify their 'signals of authority' so that algorithms prioritise quality journalistic content in rankings on social media and search engines. This would effectively eliminate the need to rely on state or corporate actors to create 'white lists' or 'black lists' of content. Furthermore, platforms might use their wide reach to provide training in media literacy. Other solutions may include providing tools to journalists to aid them in assessing verifiability.

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