



Editorial - Regulating Online Disinformation: Comparative Perspectives

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In the middle of a fourth wave of Coronavirus in most countries in Europe, we understand that the pandemic itself is not the only evil to fight. In the first half of 2020 we hoped that vaccines would have been the panacea. Yet, today, where many countries are starting administering a third 'booster' dose, we realise that vaccination is key, but not sufficient if the number of vaccinated people remains low. In all countries many individuals refuse to be vaccinated. The reasons behind this choice vary considerably, but in many cases fake news circulating on social media plays a significant role.¹ People often search for information about the virus online, and it is often hard to distinguish authoritative sources from false information. Official communication from political and institutional actors has not been consistent either. Every country adopts different approaches. A degree of uncertainty is also due to the novel nature of the virus: researchers always advance hypotheses and speculations. Time is needed to validate their assumption. As a final result, a lot of information, both factually accurate and fake, circulates online. People are increasingly scared and defiant vis-à-vis public institutions. Vaccines are seen as potentially dangerous, and vaccination rates remain low in some states, fueling a vicious circle that is leading some countries to reimpose various restrictions.

The pandemic is therefore exposing one of the plagues that is currently affecting the digital information and communication environment: the circulation of fake news. This phenomenon is defined as 'disinformation' when the circulation of inaccurate, false or misleading information is intentional and deliberate; 'misinformation' conversely arises when fake news is spread in good faith, with the assumption of its true nature.² From a legal perspective, it is important to underline that the right to freedom of expression in principle also encompasses information which is not true. As stressed by the European Court of Human Rights, in a democratic society pluralism of ideas is quintessential.³ However, especially in the social media environment, the circulation of fake news might become potentially harmful both at individual and societal level, as the example of no-vax people mentioned

¹ See, e.g., Li H-Y, Bailey A, Huynh D et al. (2020) YouTube as a source of information on Covid-19: A pandemic of misinformation? *BMJ Global Health* 5(5). DOI: 10.1136/bmjgh-2020-002604.

² See Eileen Culloty and Jane Suiter (2021). *Disinformation and Manipulation in Digital Media: Information Pathologies* (1st ed.). Routledge. <https://doi.org/10.4324/9781003054252>; Andrew Chadwick and Cristian Vaccari. "News Sharing on UK Social Media: Misinformation, Disinformation, and Correction". Loughborough University, January 1, 2019. <https://hdl.handle.net/2134/37720>.

³ See, e.g., ECtHR, *Handyside v. UK* (1976) <https://hudoc.echr.coe.int/eng?i=001-57499>.

above clearly shows. Hence, the need to regulate this phenomenon, but first of all to reflect on which regulatory strategy to adopt, which prompted us to organise the conference ‘Regulating Online Disinformation: Comparative Perspectives’ on 1st October 2021.

This special issue collects the papers presented at this conference and aims to contribute to the debate on how to best regulate online disinformation. Dr. Sergi Jorbenadze, in his paper “Freedom of Expression on Social Media in Georgia – Case for the Urgent Need of Online Regulation” explains challenges that stem from the use of social media in Georgia and what are the legal controls that can be put in place to address these challenges. The article analyses lack of mechanisms in place to protect fundamental human rights of Georgian users of social media. Jorbenadze proposes adoption of a potential “Dispute Resolution Body” that would protect rights of users of social media in Georgia. In her paper, “What are the effects of online disinformation and fake news on a digital society in a fragile and unconsolidated democracy like Georgia?”, Nina Shengelia analyses online disinformation data from Georgia, where Facebook is actively used by more than 75% of adult population. Shengelia discusses different types of disinformation fed to digital society in Georgia and how it poses a threat to internet users’ human rights. Shengelia analyzes regulatory framework in place at transnational level to combat disinformation as well as self-regulatory mechanisms adopted by social media platforms on the example of Facebook’s Oversight Board. Dr. Ushangi Bakhtadze in his paper “Disinformation and Crime: Can we Criminalize it?” examines the Georgian context of disinformation and challenges it causes. Within the framework of regulation, Bakhtadze examines the idea of criminalisation. He also highlights critical questions about the importance that Georgians attach to democratic values such as free speech and their willingness to put the fate of those values in the hands of the state.

Dr Eileen Culloty, in her paper titled ‘Regulating Online Disinformation: Reacting to digital problems or building a better Internet?’ explains how the issue of online disinformation has been tackled at EU level, focusing on the recent adoption of the EU Code of Practice on Disinformation. The article investigates the limitations of a co-regulatory approach, analysing also the potential consequences of the adoption of this method in the EU’s Digital Services Act, the new proposed regulation that will impose new rules for online platforms. Culloty argues in favour of the adoption of a more holistic approach, not only focusing on large platforms, but aiming to regulate the whole digital environment as a public infrastructure. Dr Clara Iglesias Keller, in her paper ‘Don’t shoot the message: regulating disinformation beyond content in Brazil’, engages in a comparative analysis of different regulatory strategies to fight online disinformation. Her paper highlights the lawmaker’s paradox of protecting freedom of expression while limiting disinformation. Iglesias Keller too advocates a more comprehensive regulatory approach, which does not only focus on the issue of disinformation but regulates more broadly the digital platforms’ business model. The paper concludes with a series of lessons learned derived from the author’s analysis of the Brazilian experience. Lastly, but certainly not least, Dr Giovanni Zagni, in his paper ‘Disinformation and professional fact-checking: a practitioner’s view’, will present an original analysis of the role of fact-checkers, drawing on his experience in the field. In particular, Zagni will reflect on the aims of fact-checking and investigate the potential of various actors in spreading disinformation, including considerations on foreign actors.

The conference that gave origin to this special issue would not have been possible without the contribution of many academics and administrative members of staff from both Dublin City University and Caucasus International University. In particular, we would like to thank all the contributors, the Senior Advisor at the OSCE Office of the Representative on Freedom of the Media Prof Andrey Rikhter, the team of the DCU Law and Tech Research Cluster, Rector of the CIU Professor Kakhaber Kordzaia, Dr. Sesili Gogiberidze, the head of CIU Scientific Research Department and the PR & Communications team at CIU.