

COUNTERING MISINFORMATION AND DISINFORMATION

The perceived threat to democracy presented by “fake news” and the manipulation of data has prompted politicians and decision-makers in the United Kingdom to address the situation. In July the Digital, Culture, Media and Sport Committee released a first interim report in its Disinformation and “fake news” inquiry, accompanied by a warning that we all face “a democratic crisis founded on the manipulation of personal data, and targeting of pernicious views to users, particularly during elections and referenda.” This statement referred in part to the findings of *Investigation into the use of data analytics in political campaigns*, a progress report (also published in July) by the Information Commissioner’s Office (ICO) on its investigation into whether personal data had been misused by both sides of the UK referendum on membership of the European Union.

The ICO initiated a process which took in political parties, data analytics companies and major social media platforms. Evidence that Facebook, acting with Cambridge Analytica, harvested the data of an estimated 87 million Facebook users across the world was examined. The investigation concluded that Facebook both failed to safeguard people’s information and be transparent about how the data was harvested by others, and gave notice of the ICO’s intention to fine Facebook a maximum £500,000 for two breaches of the Data Protection Act 1998. A second, partner report released by the ICO entitled *Democracy disrupted? Personal information and political influence* made 10 recommendations, including a call for the government to introduce a statutory code of practice for the use of personal data in political campaigns.

A further contribution to the fake news and manipulation of data debate came from the Cairncross Review, an independent inquiry commissioned by the government earlier this year to consider how to sustain the production of high-quality journalism in a changing market. The review is paying particular attention to the overall state of the news media market, but it has quite a wide remit and is also investigating issues such as the role and impact of digital search engines and media platforms, and how content and data flows are operated and managed. The review’s latest update released on 3 September quoted figures from a YouGov survey which found that 47 per cent of those asked believed that the quality of news reporting had declined in the last five years. In response, the Society of Editors said it could see no evidence of falling standards of journalism, adding that “it is not surprising that the public may consider they are not being best served by the media if they hear so many senior figures using the term ‘fake news’ to undermine any reports they are unhappy with.” However, the Society added: “There is indeed a real problem of fake news where erroneous reports are fabricated for a variety of purposes, but there is no evidence this is being carried out by the established media.”

The DCMS Committee has made a number of recommendations in its interim report, including the rejection

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of the term “fake news”, which it says has taken on a variety of meanings including a description of any statement that is not liked or agreed with by the reader (step forward President Trump). In the committee’s view the government should put forward an agreed definition of the terms “misinformation” and “disinformation”. By establishing a shared definition, backed up with clear guidelines, a consistency of meaning across platforms would be established which could be used as a basis for regulation and enforcement.

The DCMS Committee is clear that it wants the tech companies on whose platforms content is disseminated (eg Facebook, Twitter, YouTube) to be made liable for the use of harmful and misleading material on their sites. To achieve this, it proposes the formulation of a new category of tech company which is not necessarily either a “platform” or a “publisher” but establishes a clear legal liability for such companies to rid their platforms of harmful and illegal content. This middle way was suggested by the then Culture Secretary, Matt Hancock, in a speech in March this year; it falls short of designating tech companies as publishers with the potential to limit freedom of speech by choosing what material to carry, while seeking to amend the current status of company platforms as mere information channels with no control over content. The interim report provides no further details on the new category, but these will apparently be forthcoming in a government white paper to be published later this year.

The Internet Safety Strategy green paper produced in October 2017 gathered information on a range of issues including technological solutions to online harms, adults’ experience of online abuse, and the effect of various online applications on children. Ofcom wants to see social media companies that publish news made subject to independent oversight to address public concern over “fake news” and “clickbait” articles, and will produce further thoughts on this in the near future.

There now appears to be a general consensus that the big tech companies are too powerful and must be made more accountable for their actions through a system of regulation; the debate on how this should be done is under way.

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