FROM THE FAKE NEWS CRISIS TO THE CRISIS OF JOURNALISM: THE EUROPEAN UNION'S APPROACH

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ABSTRACT

This article discusses the relationship between the fake news phenomenon and journalism, which goes beyond the impersonation-based mechanism. It traces the current vulnerabilities of journalism – due to economic and technological changes –, and it argues that they facilitate deceptive journalistic practices, fake news being one of them. The article takes European Union's mobilization against fake news as a point of reference. What particularizes the EU's approach is that the threat of fake news is (i) correlated with the awareness of the weakened state of journalism, and (ii) is expected to benefit news media organizations. Amongst EU's initiatives, a new copyright Directive (2019/790) will grant a special provision to press publishers which will allow them to negotiate license fees from digital platforms.

Keywords*:* *Fake news, disinformation, journalism, copyright directive, European Union.*

INTRODUCTION

Fake news or the wave of digital disinformation has become an important topic in the European public discourse, given that at least 70 percent of Flash Eurobarometer respondents in every member state consider that fake news is a problem in their country (European Commission 2018a). The tipping point of the fake news phenomenon is associated with the 2016 USA presidential campaign (Brennen 2017), and since then the European Union has taken steps to address the issue of digital disinformation. In 2017, a paper was commissioned in order to develop a framework for understanding online disinformation (Wardle and Derakhshan 2017), and by 2018 policy advice was published by an appointed

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group (High Level Expert Group on Fake News and Online Disinformation 2018), as well as an Action plan against disinformation (European Commission 2018b).

The prioritization of this topic is related to the threat that disinformation poses to elections and to democracy. What further contributes to the European Union's mobilization against digital disinformation is a broader interest and a set of converging actions towards the renewal of its ICTs-related policies. This regulatory turn is underpinned, on the one hand, by the purpose of consolidating the EU's gains from the digital economy, and on the other hand, by the recent shortfalls of self-regulation in the case of technology companies, and their fragmented capabilities to deal with cybercrimes, disinformation and propaganda (European Parliament 2019). Consequently, the EU is emerging as a global actor in the regulation of the digital environment, through policies drafted for its citizens, to which non-EU actors must comply if they want to reach consumers established within the European Union.

The stance provided by the High Level Expert Group on Fake News and Online Disinformation (2018) is that of a "multi-dimensional approach", which entails considering the input of various actors in order to "increase societal resilience to disinformation" (5). The report takes into consideration the role of public authorities, online platforms, news media organizations, researchers, fact-checkers, civil society organizations, and educational institutions. As in other EU policy documents on disinformation, it goes beyond proclaiming the importance of journalism for the functioning of democracy, proposing support measures for the news media sector.

The ongoing fake news problem is contingently related to the development of digital technologies (Bârgăoanu 2018), but the issue of disinformation is structurally linked with the institution of journalism and its capacity to supply society with accurate information about current events. A study on fake news consumption in the USA (Guess et al. 2018, 3-4) emphasizes the contingency of the phenomenon by demonstrating that fake news websites declined by approximately 75 percent between the 2016 and 2018 campaigns, and that consumption is not evenly distributed, but "disproportionately concentrated among the 10 percent of Americans with the most conservative news diets". A few other empirical studies on fake news consumption confirm that their audience is limited (see Nelson and Taneja 2018, 3722), while the fake news problem is built on the assumption that disinformation reaches broad audiences, who do not verify fabricated stories by employing other sources. The authors (Nelson and Taneja 2018, 3721) stress the fact that previous studies on news exposure indicate that audiences gravitate towards the same set of media outlets, which tend to be the established, well-known ones, not the niche, emerging websites.

At the same time, the interest in the fake news topic and its ramifications has increased; although this phenomenon has been used to delegitimize journalism, it also offers a strategic context for reinvigorating it, and the EU's actions represent a case in point. This article answers the following question: How does the European Union's measures against disinformation contribute to the strengthening of journalism?

The article is organized as follows: firstly, it circumscribes the phenomenon of fake news and its relation to journalism; secondly, it provides a larger context by discussing the recent crisis of journalism; and, in the last part, it reviews the European Union's actions against disinformation.

THE RELATIONSHIP BETWEEN FAKE NEWS AND JOURNALISM

The most encompassing definition of fake news is provided by Barclay (2018, 30), as "any information that is intentionally created under the pretense that it is credible when, in reality, it is not". The fake news phenomenon has been organized in three main categories (Barclay 2018, 31–33): (i) mercenary fake news, that is, stories fabricated with the sole purpose of gaining money through clicks on websites that host fake news; (ii) fake news with an agenda, referring to websites and online commenters creating propagandistic stories, i.e., stories promoting specific political, organizational and/or commercial interests; (iii) satirical fake news, stories intended to generate humor, social or political commentary, which can be taken out of context and erroneously considered accurate news and opinions. From the point of view of public communication, fake news functions as a two-sided phenomenon (Egelhofer and Lecheler 2019, 1): as a genre, fake news results in the intentional creation of pseudo-journalistic disinformation; as a label, fake news entails the political instrumentalization of the term – used as an epithet – with the purpose of delegitimizing media coverage.

The expression "fake news" encapsulates the impersonation relationship it has with journalism, from imitating the journalistic format to trying to appropriate the credibility of established news media organizations, for example, through website spoofing (Tandoc et al. 2018, 147). At the same time, at policy level, a preference for the term "disinformation" has been stipulated, promoted by a report authored by Wardle and Derakhshan (2017). The authors disfavor the term "fake news" because of its ambiguity and inability to convey the complexity of the phenomenon. Ignatidou (2019, 4) suggests that, given the inevitable association of "fake news" with news media organizations, the term is likely to insinuate that journalists are responsible either for disseminating or for counteracting disinformation.

An advantage associated with the use of "disinformation" is that it can more easily encompass the situations in which established news media organizations are not victims of pseudo-journalistic fake news websites, but producers of misleading information. Although the policy literature makes a clear distinction between fabricated stories and bad-quality reporting, news users tend to connect the expression "fake news" with manifestations of "poor" journalism, such as sensationalist, superficial or biased reporting, rather than to pseudo-journalistic disinformation websites (Nielsen and Graves 2017, 4).

Journalist Claire Wardle (2017) has identified the forms through which story fabrication and "poor" journalism *de facto* intersect: false connections, when headlines and visuals diverge from the content; misleading use of information in order to frame an issue or an individual; false context, when genuine content is associated with false contextual information. The other criteria through which fake news can be identified are: imposter content, when genuine sources are impersonated; fabricated content, when content is completely false; manipulated content, when information or imagery is manipulated to deceive. An article published after the monitoring of the 2017 UK election (Busby et al. 2017) argues that the most effective disinformation was not created by pseudo-journalistic fake news websites, but by "misleading headlines in mainstream newspapers, graphics and statistics from the mainstream press, political parties and hyper-partisan websites".

It is cautious to point out that these findings need to be balanced with some other trends existing at global level – from data journalism to the revival of investigative journalism, and the rise of fact-checking – which converge towards a growing engagement with accurate documentation in news production (Waisbord 2018, 2). Nonetheless, the more subtle forms of disinformation show that the relationship between fake news and journalism is more complex than it appears to be at first sight, and in order to understand it in the current context, we need to take into account journalism's recent crisis, triggered by the alteration of conditions supporting its revenue model.

THE (ECONOMIC) CRISIS OF JOURNALISM

Crafting news that seek to advance the interests of specific political, organizational or commercial actors – that is, propagandistic stories, which are not necessarily "fake", but represent an organized effort to influence audiences under the guise of informing, as such being deceptive – is an issue which has always troubled journalism. The economic crisis of journalism has started with the global financial crisis of 2008–2009, as advertising expenditure decreased, limiting the revenues available to newsrooms (Nielsen and Levy 2010). This has created the context for the increasing pressure of other agendas, which lie beyond the scope of informing in the public interest.

The institutionalization of journalism around the ideals of objectivity and supporting public interest was made possible by the break from political agendas between the late 19th century and the beginning of the 20th century (Kaplan 2002). News media organizations were able to refuse funding from politicians and parties with the advent of industrialization and mass consumption, becoming profitable by selling advertising placements. News were produced within the "general interest" framework, in order to reach the largest circulation or the widest audiences possible, and, thus, to charge higher rates for advertising placements. The indirect funding of journalism through advertising generated enough revenue to keep owners and investors satisfied, and incentivized their interest in granting journalists their editorial independence, which, in turn, enhanced brand credibility. This model was displaced by the consolidation of digital platforms, which now attract most of advertising spending. The disruption is due to the "datafication" of online environments, which allows micro-targeting consumers. Now advertising budgets are spent in a more fragmented manner, increasingly oriented towards integrated brand promotion, which leaves less resources for "traditional" ads (Matteo and Dal Zotto 2015).

The economic crisis of journalism has produced two intersecting vulnerabilities, one related to work processes, and the other to content production. The former has to do with the fact that the crisis has generated a wave of layoffs, and the journalists who were able to keep their jobs had to take additional responsibilities, required by the transition to the digital environment. Researches indicate that, even before the beginning of the crisis, journalism employment had shrunk, and there was a tendency towards cutting work-costs (Walters et al. 2006). This has manifested through the creation of more multitasking, desk-based jobs (from creating multimedia materials to SEO and comment moderation), which leave less time for engaging with fieldwork, and producing what has been called "churnalism" (Saridou et al. 2017).

At the crossroad between work processes and content production, the digital environment has exacerbated the pressure of speed – posting news and updates as soon as possible –, which increases burnout among journalists, and the risk of introducing mistakes into media coverage. Newsrooms are under pressure to find solutions to attract advertising and generate revenue, further leading to the erosion of the traditional "separating wall" (Shoemaker and Reese 1996) between the editorial team and the business side of journalism. Thus, increasingly, journalists are involved in implementing marketing strategies, in developing content and formats seeking to attract specific audiences, which tend to be those of interest to advertisers (Scott 2005). Also, it has been emphasized that the revenue model has to change from the "general interest" approach to news production to the niche-oriented content, which is able to deliver value to specific news consumers, and determine their willingness to pay for that content (Picard 2006). Accordingly, more news media organizations are diversifying their revenue model by integrating paywalls (Nielsen et al. 2016, 24), that is, charging users for the journalistic content, and setting performance indicators for journalists to boost reader engagement and subscriptions (Willens 2019).

In the meanwhile, these two vulnerabilities – work processes and content production – create conditions for "poor" and deceptive journalistic practices. Firstly, given that journalists are employed in a smaller number, they feel pressured due to fear of losing their jobs and experience more demanding work conditions, and thus it is increasingly unlikely that they will have enough professional autonomy to exert opposition against the practices which deviate from quality news coverage. Secondly, not all news media organizations have the resources to experiment with creating content that balances niche and advertising-friendly approaches with the public interest agenda of journalism. In the course of this transition, news media organizations risk choosing "easy" monetization through clickbait, relying on native advertising (i.e. custom content for advertisers) which misleads news users even when it is disclosed (Amazeen and Muddiman 2017), or having to cherry-pick data from statistics and frame current events in a manner that suits the interests of those parties who invest financially in newsrooms. Another problem is that established news media organizations tend to amplify fabricated stories and the fake news phenomenon: either intentionally, by engaging in a reactive news cycle in order to attract audiences, or unintentionally, since newsrooms rely on internet for content creation, and with the pressure of speed, adequate source verification may be lacking (Wardle and Derakhshan 2017, 25).

Given that news *in se* and *per se* has never been profitable, most of the literature on the crisis of journalism operates with the assumption that the field's survival is dependent on advertising and on economically-motivated owners, whose business interests will keep them at bay from (becoming) politically-motivated actors. The evolution of digital technologies, which allow reduced entry costs in the production and dissemination of content (Scott 2005), has made questioning the for-profit developmental model of journalism possible. Particularly, the argument that, while the economic viability of journalism is essential, the focus should be on finding strategies for its sustainable functioning, without the pressure of profit (McChesney and Nichols 2010).

Pickard, Stearns and Aaron (2009) suggest that there are three directions for journalism development: (i) business as usual that is, advertising-supported news organizations, (ii) non-profit and low-profit journalism, which supports the work of autonomous individuals and teams; (iii) policy intervention, including funding through state-based actors. In the next section, I will discuss the EU's recent interest in supporting journalism and show how it relates to these three directions.

THE EUROPEAN UNION'S APPROACH

The EU's response to disinformation is examined in this article since it demonstrates recognition of the structural role journalism has in downplaying fake news. EU's propensity towards tech regulation might encourage a similar decision in the USA (e.g. Govtrack 2019), but it is unlikely for the USA to consider measures targeting journalism since the First Amendment has come to signify that the government cannot interfere in press related matters. While there are other countries which have taken actions against disinformation (see Ignatidou 2019, 13–30), what differentiates the European Union is the breadth of the impact – it concerns all member states, and it sets precedents as a global actor.

Many of the EU's policy documents on disinformation (e.g. European Commission 2018b, European Commission 2018c) not only envision journalism as the key solution to the fake news problem, but they also contribute to shifting the discourse on how the crisis of journalism should be tackled. It is acknowledged that "market failures" hamper the "sustainability of quality journalism", and that there is "a need to rebalance the relation" between the media sector and online platforms (European Commission 2018c). The core discourse is that policy intervention is required, along financial support, through the EU's funding schemes or through individual state aid, provided they are compatible with EU state aid rules.

There are two fundamental issues brought by the EU's approach. Firstly, it encourages economic interventionism in the media sector: since the diffusion of the advertising-based revenue model, there has been a taboo against state interference in journalism (starting with regulations), which historically has been linked with the risk of imposing pro-governmental or partisan agendas, and with affecting media freedom and pluralism. Secondly, it mitigates (indirectly) the pressure of commercialization strategies; especially, the wide-spreading tendency to gain revenue through (i) native advertising, which blurs the commonly accepted boundary between public interest information and commercial messages, and (ii) the quest for monetizing online content. Making consumers pay for online news and information through digital subscriptions and paywalls tends to be regarded as desirable in the industry, and it has been successfully adopted by legacy media organizations which enjoy enough economic and symbolic capital to invest in creating and extracting value from digital content, such as *The Wall Street Journal* (Johnson and Gutierrez 2010) and *The New York Time*s (Ellick et al. 2014). Yet this strategy can lead to a polarizing situation, where those who are willing to pay are granted access to high-quality news, while the rest of the public is increasingly exposed to poorer sources of information, to partisan media outlets or to pseudo-journalistic websites.

The broadest initiative taken by the EU in support of journalism is a special provision for press publications, included in the new copyright Directive (2019/790), which sets the context for publishers to bargain with digital service platforms (search technologies providers, social media platforms, content aggregators) in order to obtain revenues for the use of their content. Particularly, it grants publishers an ancillary right, which is used to protect services and investments, and in the case of news media organizations it is supposed to "reward their economic and creative contribution in assembling, editing and investing in content" (Madiega 2019, 5). Publishers' ability to successfully claim license fees from digital platforms for being listed, linked and aggregated will also depend on how each member state will implement the copyright directive. While the special provision granted to press publishers will take some time to materialize, at the discursive level, it legitimates the idea that press publishers are entitled to receive compensation from digital platforms which (indirectly) gain revenue from disseminating news content, by attracting internet users and, consequently, advertisers. The opposite discourse is that platforms make heavy investments in developing the web infrastructure, significantly contributing to the wide availability of news content, and thus they should not be charged, since they provide a free service to the media sector. However, the prevailing idea in drafting the copyright directive of 2019 is that journalism is an industry which needs to be granted protection for the sake of public interest.

Another important contribution of the special provision is that it creates the circumstances for avoiding to charge individual news consumption. Instead, it shifts the charge – in the form of license fee – on digital platforms, which, in fact, continues to be subsidized through advertising, (since digital platforms base their revenue on advertising). Thus, the ancillary right will disincentivize established news media organizations from implementing paywalls, which would prevent the distribution of their content on digital platforms and, thus, the right to claim a license fee.

The other initiatives in support of journalism are implemented in order to “uncover, counterbalance, and dilute disinformation” (European Commission 2018c, 14). The biggest investments are made in the R&D of technologies and tools aimed at detecting online disinformation, developed in order to assist news media organizations and non-governmental organizations (European Commission 2018b, 7). Programs such as “Creative Europe” and “Horizon 2020” will have special budgets for journalism: the former co-funding networks and cooperative projects focusing on promoting quality journalism and a pluralistic media environment, the latter for launching innovative services and products, aimed at modernizing newsrooms (European Commission 2018b, 11). Also, there has been a call for funding the activity of a cross-national editorial team, who will produce content on European topics by using data-driven techniques. The report of the High Level Expert Group on Fake News and Online Disinformation (2018, 36) proposes increasing the financial support for quality journalism, and suggests instituting State aid for the media sector through VAT exemptions or other tax breaks, after establishing transparent and objective conditions that would make news media organizations eligible for aid schemes (for example, investing in newsroom innovations, training journalists etc.).

Returning to the framework of Pickard, Stearns and Aaron (2009), the main measure taken by the EU – the ancillary right stipulated by the copyright directive – will strengthen established, profit-oriented news media organizations, benefitting especially those which have enough resources to pursue more advantageous agreements with digital platforms. Research and funding of technology-led detection of fake news is important, but, to date, there is no specification on how the innovation transfer will function, and under which conditions news media organizations in the European Union will access these tools. The other initiatives will encourage non-profit journalistic projects to some degree, but their sustainability is precarious, as it is lead to depend on funding cycles. In the future, the EU's funding opportunities for journalism should be not only expanded, but complemented by policy interventions promoting the consolidation of non-profit and low-profit news-media organizations. Beyond specific measures, which need further development, the EU's biggest contribution is to shift the discourse on how the journalistic field is to be approached, that is, as a public interest matter, not as a business which has to enter in competition with digital platforms for advertising and attention.

CONCLUDING REMARKS

This paper has argued that, in the European context, the rise of digital disinformation has managed to provide some favorable circumstances to journalism. The buzzword "fake news" is creating awareness on an issue which was losing its standing in an informationally oversaturated digital environment: the value of having access to a variety of authoritative news sources, where facts and rumors on current events can be cross-checked. The consolidation of digital platforms has dissolved the monopolistic role of journalism as an industry, in selecting and disseminating newsworthy information, and the function of gatekeeping is increasingly exercised collectively, by social media users, who, according to their interests and ideologies, can determine which subjects become part of the public agenda and which remain unnoticed (Shoemaker and Vos 2009). This is where the importance of accountable gatekeeping emerges, which, for the time being, can be provided by news media organizations, but it requires adequate financing. Future research should assess comparatively the implementation of the new copyright directive across member states and examine the strategies and the difficulties that news media organizations encounter in licensing their content to digital platforms. Also, research should be expanded to devise a set of policy measures supporting the development of sustainable journalism, especially given that there is no pan-European regulatory framework for cooperatives and non-profit organizations.

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