

Fake News: Potential Regulatory Approaches

SECRET/DRAFT

PRINCIPLES	Veracity, Transparency, Diversity & Equitable Representation, Accountability	THREATS	Fake News, Algorithm Bias, Foreign Interference
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	Existing Toolkit	Policy Gaps in Digital	Possible Solutions	Considerations
ACCOUNTABILITY	<ul style="list-style-type: none"> The Broadcasting Act provides that broadcasters are responsible for the programs they broadcast. The Telecommunications Act provides that all telecom carriers cannot unjustly discriminate or give an undue preference toward any person, control the content or influence the meaning or purpose of telecommunications they carry. The Canada Elections Act (CEA) sets out the manner in which free and fair elections are held in Canada. Defamation laws provide a recourse for parties injured by inaccurate information. 	<ul style="list-style-type: none"> Unlike broadcasters, platforms are seen as intermediaries who are not liable for content. Some of the threats identified would not be caught by the existing framework around political advertising (e.g. social media campaigns; user-generated content etc.). Little incentive for major platforms to engage with industry codes and standards. 	<ul style="list-style-type: none"> A sui generis regime that operationalizes (for digital platforms meeting a certain criteria) the principles that pertain to traditional media actors. <ul style="list-style-type: none"> Enacting legislation to make platforms responsible for the content they carry. Expanding and adapting legislative framework and policies to apply to online activities and actors (may require amendments to Broadcasting Act and CEA). Empowering the CRTC to increase accountability for digital platforms. 	<p>GENERAL CONSIDERATIONS</p> <ul style="list-style-type: none"> Charter implications (freedom of speech) Possible constitutional jurisdictional issues Trade obligations Timing/scope (e.g. tied to elections?) Net neutrality implications (most options pertain to the "content layer" and thus would not affect net neutrality. Neutrality concerns pertain to any options that involve the "infrastructure layer," including ISPs, as in website blocking). Does not address long-term policy objectives (e.g. media literacy and sustainable professional journalism). Approaches that allow input from platforms would likely achieve most functional results.
OBLIGATIONS AND MONITORING	<ul style="list-style-type: none"> CEA and CRTC require that broadcasters allocate time on an equitable basis to all accredited political parties during an election period. CEA ensures transparency/disclosure in terms of paid electoral advertising on traditional platforms and on the internet. 	<ul style="list-style-type: none"> Content distribution channels of platforms (incl. recommenders, news and trending feeds) have no requirement for equitable treatment or measurement/reporting under the current framework. Obligations related to election advertising include paid print, radio, TV and internet spots. They do not include text, email or social media messages posted for free. 	<ul style="list-style-type: none"> PROACTIVE: Introducing policies that adapt obligations to digital platforms (e.g. adapting equitable time allocation into discoverability measures); could also require obligations for domestic content. REACTIVE: Require platforms to de-rank, takedown or block content that constitutes threats (proactively and/or identified through complaint regime). MONITORING: Introducing reporting, disclosure and/or auditing requirements suited to digital platforms (e.g. with respect to user-generated content, and free & paid advertising). 	<p>ACCOUNTABILITY</p> <ul style="list-style-type: none"> Legislative and regulatory framework pertaining to threats crosses multiple mandates and jurisdictions. <p>COMPLIANCE AND MONITORING</p> <ul style="list-style-type: none"> Balance between legitimate private and public interest (proprietary information/transparency, regulatory burden/innovation). Difficulty in identifying rogue operators due to online anonymity. Potential de-ranking/censorship of legitimate content.
ENFORCEMENT	<ul style="list-style-type: none"> The CRTC can suspend or revoke any licence or renew a licence for a short-term. Courts enforce defamation laws and CEA offences. Codes/industry-led bodies may require naming and shaming or amendment/withdrawal of content. 	<ul style="list-style-type: none"> Current framework generally applies to actors and activities taking place within national boundaries. Current enforcement mechanisms are lacking, with industry self-regulation as the most common approach to addressing threats. 	<ul style="list-style-type: none"> Creation of multi-stakeholder council or ombudsperson. Expanding and strengthening enforcement mechanisms (e.g. AMPs, fines, imprisonment) by administrative/regulatory bodies. 	<p>ENFORCEMENT</p> <ul style="list-style-type: none"> Enforcement action against foreign actors may be difficult or impossible. Cost and administrative burden. Balance between timely action and the need for due process (including judicial oversight).

INTERNATIONAL EXAMPLES
<p>Germany – NetzDG law fines social media companies up to €50 million if they fail to take down obviously illegal hate speech, criminal material and fake news from their sites within 24 hours of being notified. Social networks have to publish a report every six months detailing how many complaints they received and how they dealt with them. This is the only such law in effect internationally.</p>
<p>European Union – EU's East Stratcom taskforce seeks to counter Russian attempts to influence votes in former Soviet states (e.g. the Baltic states) through misinformation and propaganda. Facebook, Twitter, YouTube and Microsoft have signed up to a code of conduct to tackle online hate speech. Code aims to have the majority of potentially illegal content assessed and taken down if necessary within 24 hours.</p>
<p>France - Preparing law against "fake news" that would grant judges emergency powers to remove or block certain content deemed to be "fake" during election periods. It would target sponsored content: social media platforms would have to say who is financing them and the amount of money for sponsored content would be capped. Audiovisual regulator would see its powers expanded to combat attempts at "destabilization by foreign-financed media organizations".</p>
<p>United States – The "Honest Ads Act" is a senate bill that would require Facebook, Twitter, Google and other social media companies to disclose who is paying for political ads that appear on their online platforms. In the US, traditional media companies are required to include disclosures of who is sponsoring a political ad when the ad is broadcast or printed, and keep public files with copies of the ads, how much they cost and who paid for them. The bill would require social media platforms to follow the same rules. It was introduced in Oct. 2017.</p>