

Fake News and Infodemia at the Time of Covid-19

Fake News e Infodemia em Tempos de Covid-19

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ABSTRACT: The essay has as its object fake news and excess of pieces of information with particular attention to the pandemic emergency we are currently living: Covid-19. After a careful consideration about what fake news actually are, the paper analyzes the pitfalls concerning the communication through virtual technologies, where social networks let the news reach the user only if they pass some requirements, in order to give the user a personalized experience of being informed. As a result, the profiling process traps the user in a cage, which is a paradox, because the internet it's literally supposed to be without borders and barriers. The current crisis caused by the global pandemic has brought to light how dangerous disinformation and fake news are, how important it is to find possible remedies and why they have to be adjusted carefully. Among these, the author identifies a rating system of the main sources of information available online; the system is supposed to be entrusted to an impartial institution, that would have the function of fact-checking.

KEYWORDS: Fake news. disinformation. Covid-19.

RESUMO: O ensaio trata do tema das *fake news* e do excesso de informação, com referência particular à emergência pandêmica gerada pela disseminação da Covid-19. O trabalho, após uma abordagem cuidadosa sobre o que as notícias falsas realmente são contemporaneamente, analisa as armadilhas da comunicação veiculada em “ambientes virtuais” em que as plataformas digitais apenas entregam informações sob medida para o usuário. O resultado deste recorte informacional prende o usuário a bolhas em um ambiente, o da Internet, por definição sem fronteiras e barreiras, sendo este um paradoxo. A crise atual causada pela emergência pandêmica destacou o perigo particular da desinformação científica contra a qual possíveis remédios devem ser cuidadosamente calibrados. Entre estes, o trabalho identifica um mecanismo de avaliação (*rating*) das principais plataformas de divulgação de informação, o qual deve ser confiado a um organismo terceiro e superior às partes, que avalia *ex post* o número de informações veiculadas que possam ser notícias falsas.

PALAVRAS-CHAVE: *Fake news*; desinformação; Covid-19.

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SUMMARY: 1 Fake news: around the defining aspects; 2 Infodemic and Covid-19. Institutional communication in Italy and the fight against disinformation; 3 Scientific communication, post-verification, and health emergency; 4 Possible regulatory remedies; References.

1 FAKE NEWS: AROUND THE DEFINING ASPECTS

The epidemiological emergency resulting from the spread of Covid-19 has exasperated many of the issues that have engaged the public debate in recent years. Among these, communication and information in its various forms (right to information, right to provide information to someone, right to be informed and right to inform yourself) have taken on a very important role.

As it has been pointed out since the beginning of the explosion of the crisis, the incorrect modes of narration are capable of producing damage equal if not greater than the crisis itself. The communication policies, in fact, by conveying certain contents and undermining others have inevitably conditioned “the social and collective response” to the spread of the virus (BALAGUER CALLEJÓN, 2020).

These reflections, however, have as their focus a theme that is partly different even if connected: the fake news and the excess of information (infodemic) that have connoted communication in the current health crisis and the possible remedies to combat them.

First of all, it is necessary to mention the issues of a defining nature and their complexity, but only to perimeter the object of this paper in the awareness that the difficulty of reaching an exhaustive definition of fake news is already a part of the problem. Those who have already tried and made it the object of their investigation (CROCE; PIAZZA, 2019) have represented such difficulty and do not seem to have put in place unambiguous defining approaches able to identify the elements that make a news a fake new or a mere opinion or other. It does not seem, however, that raising the question on the information/truth track (CAVINO, 2020) is entirely a driver because the second element of this binomial poses us a defining problem similar if not more complex than that of fake news, especially in some areas such as politics. Would there be a truth in the political field? And even if one could hypothesize who would be its holder?

The terrain one would encounter is magmatic and insidious, to say the least. Here are concentrated the major fears (summarized in the formula “*Making Google the Censor*”) of those who, among the tools (KELLER, 2017)

that could be imagined to counter fake news, includes a preventive control of content entered by third parties by the owners of digital platforms.

Perhaps it would be preferable to start with the antithesis of information/disinformation since, however you want to define it, fake news contains a more or less high percentage of disinformation.

Having said this, however, one cannot but indicate, even from a minimal point of view, what is assumed to be a piece of fake news and what profiles one intends to investigate.

Believing fake news to be false news, artfully constructed to deceive the reader to gain undue advantage, while discrediting information of opposite sign and, in this context, reflect on those that, in the health emergency, has disoriented, confused, and eventually, damaged users.

The fake news is not a new phenomenon, it has always existed and some have tracked some of these even in antiquity (DARNTON, 2017)²: Thucydides in the first book of the “Peloponnesian War” recalls the one attributable to the Spartan general Pausanias or various others traceable in other writings (VELLA, 2019), but it was simply news built artfully or simple lies or deceptions that have always accompanied the life of man. Despite the common origins, a careful analysis of the current phenomenon of fake news betrays a radical metamorphosis of the same due not so much and not only to the substance that inspires them (the intent to spread false news) but rather to the ways and times with which the phenomenon proliferates today. Fake news has assumed the scope we know today in contemporary societies for the speed with which they can reach an unpredictable number of subjects who in turn can relaunch them in a hypothetical infinite sequence and without any kind of filter and control in this communication chain. It can be affirmed that the real discrimination between the fake news of the past and the current ones lies in the “kinetics” with which today’s ones propagate to the point of constituting the ontological direct element.

2 INFODEMIC AND COVID-19. INSTITUTIONAL COMMUNICATION IN ITALY AND THE FIGHT AGAINST DISINFORMATION

Communicative entropy and information overload are already in themselves symptoms of information disorder: during the phase of the

2 Who reconstructed the history of disinformation from the 6th century AD, but some studies trace it back to 1250 BC or others to 431 BC in Book I of the Peloponnesian War, where Thucydides points out some examples of what today would be considered buffoons.

highest peak of the pandemic it undoubtedly produced disorientation and panic. The images of supermarkets with empty shelves for some necessities generated all sorts of fears in the collective imagination, which induced unjustified behavior such as the hoarding of certain products although various sources of reassuring information denied this; but disinformation had already produced its effects.

The current health crisis has been characterized by an excess of the information of equal and opposite sign that has generated disorientation and not always correct behavior. For this phenomenon has been created even a neologism “Infodemic”: if on the one hand³ intuitively the plurality of information is thought to enrich the public debate, on the other hand, the excess of information conveyed in “virtual environments” that select only those of a certain type and leave out others even accidentally create invisible cages tailored to the user.

It alludes to the profiling (operating on Google since December 2009) of which a user is an unconscious tool because, while providing itself – to remain in metaphor – the materials with which to build the cage (through its activities and its web searches) the digital platform that profiling makes sure that the user is not aware of his condition of “prisoner” being careful to maintain invisibility. Search engines and social networks are defined as “algorithmic sources” of information in the sense that they use algorithms to select and customize information content by cutting them out in an almost sartorial way based on data collected on users. In this, a crucial role is played by digital platforms that therefore have enormous power by holding the keys to the information gates (gatekeepers).

On an epistemic level, the most immediate consequences are the stiffening of opinions and the comparison only with those similar to ours as a result of the profiling to which we are subjected⁴. So far from that “marketplace of ideas” to which Oliver Wendell Holmes’ metaphor alludes: doesn’t profile⁵ touch at heart that free market of ideas in which the competition should select the best? Assuming that goods and services

3 The infodemia neologism usually indicates the excess of information that is sometimes not accurately assessed, making it difficult to find your way around a certain area. The World Health Organization (WHO) wanted, especially in the days when the fear of the Coronavirus created extreme panic, to emphasize that perhaps the greatest danger of global society in the age of social media is the distortion of reality in the rumble of echoes and comments of the global community on real or often invented facts. On this point see BECCHETTI (2020).

4 On the (not free) knowledge of the web see also the reflections of MARTUSCIELLO (2019, p. 17 et seq.).

5 The reference concerns the well-known dissenting opinion on the *Abrams v. United States* case (1919).

can be treated in the same way as ideas or opinions⁶, the information, albeit oceanic, that it conveys on the web undergoes a targeted selection and/or customization isolating the user within those filter bubbles that offer him information only similar to his convictions, frustrating precisely that free “marketplace of ideas” referred to in the metaphor of the American judge.

All issues that are well known and that the citizen <<digital>> does not know to what extent he is aware of. Thus we come to realize the paradox of the <<solitude>> of man interconnected abstractly with an indefinite number of subjects, but concretely <<only>> with those who have opinions, tastes, preferences similar to his own.

One does not want but above all one cannot venture into inaccessible paths such as the one related to the theme of truth, which the Greeks called <<aletheia>> and which following the Greek etymology must be declined in negative as <<non-hiding>> because the philosophical (HEIDEGGER, 1973) studies on the point are numerous and can provide those elements that are necessary to set the reasoning that one wants to follow in this writing. What the etymology of the term in question suggests is the importance of the “implicit negative” (D’AGOSTINI; FERRERA, 2019, p. 32) underlying the concept of Aletheia which implies a recursive relationship with the possibility of falsehood and deception. After all, the need for truth arises mainly when someone introduces doubts and perplexities that call it into question.

The over-democratization of knowledge, access to information, and the excess of information that coexist on the web, but with particular regard to how it is conveyed, can produce manipulations that are extremely harmful to the health of our democracy and beyond⁷. Think of what has happened in some electoral campaigns where it has been possible to see how fake news or false news or aseptic images can be underhand, which, acting on a subliminal level, can interfere in the genuine and free manifestation of the voter’s right to vote. From these few hints, we can realize the vast phenomenology of elements that can generate false convictions and of which it will be necessary to take into account the ways, times, and forms of regulatory regulation that will be discussed below.

6 You can choose the best good or service the more information you collect about it, but when the “product” is the information itself then the metaphor of the “market of ideas” is probably not appropriate. To this is added the fact that the use of profiling makes the competition of ideas not exactly free.

7 Writings investigating the harmful effects of fake news on democracy are now numerous. Here just refer to (PASSAGLIA, 2020); (LEHNER, 2019, p. 93 et seq.); (FUMO, 2018, p. 83 et seq.); (DORATO, 2019).

In today's hyper-communicative societies, which are also the result of new information technologies, the theme of truth in the political sphere and the related profile of the existence or non-existence of a <<right to truth>> in the public sphere has become central. That there is a right to be informed correctly and truthfully and that relevant information is not undermined for the formation of a free belief, in other words not to be deceived, should be placed in a bed of physiology. As is well known, the right to be (correctly) informed is not expressly recognized in the Italian Constitution, but ab implicitly can be considered, as well as the right to chronicle, a subjective public right falling within the conceptual basis of art. 21 Cost⁸. Today, digital evolution has created disintermediation with information professionals that face new problems in the face of which new paradigms need to be rethought. It is part of the minimum grammar of democracy which, being founded on confrontation, debate, contradictory, and the "power" of ideas, must start from factual data that are not misleading. But if it is true that the <<righteousness to the truth>> is not only referable to what has been said above but is also formed <<of a group of different goods and values all referable to the relationship of adequacy (or correspondence) between beliefs and the reality that we express with the predicate 'is true'>>, then democracy cannot prescind from the "believed true" (D'AGOSTINI, 2017, p. 14).

In the political debate, the Alethic rights (D'AGOSTINI; FERRERA, 2019) must be able to offer the elements so that everyone can freely form a true opinion. Therefore, not the achievement of the "truth", but the right to know the real facts and on this basis to form an undistorted opinion precisely because it is based on objective factual data. Everyone will then interpret the facts and form his or her conviction based on "Aletheia" (i.e. "not hiding") in the sense that truth is not a given element, but the outcome of a process that everyone can carry out starting from what is not hidden from us. From this point of view, not even politics – the terrain is said to be – made up only of partisan opinions can escape the respect of Aletheian rights: in fact, if the factual data on which the evaluations are based is "analethical", it will not be possible to form a true opinion. Even politics, therefore, where lies are part of the game, needs the <<truth of fact>> of which H. Arendt speaks to us (1995, p. 29 et seq.).

8 On the general interest of the community as a whole in the provision of information, see Court of Justice, Sen. No 105 of 15 June 1972; No 235 of 10 July 1974 and No 94 of 30 May 1977.

We have already mentioned the crucial importance that communication and information have played and are playing in the current Covid-19 emergency: infodemic and disorder information, which in themselves constitute alterations in the ecology of a healthy public debate, has made the management of the crisis more complex, which on the other hand requires an information circuit that allows the transmission of clear and unambiguous messages to citizens also to ensure the assumption of those behaviors that respect the prudential rules recommended by the emergency regulations. Never before has it been perceived how closely the individual dimension of the right to health was linked to the collective dimension of the right to health and how failure to comply with the measures imposed by the government did not remain in the individual sphere but was bound to inevitably affect others.

The source from which the communication comes and the means used to disseminate it are not external factors or irrelevant to the message conveyed. Alongside institutional communication (by the Government, the Ministry of Health, the Higher Institute of Health, the Guarantor Authority of Communications, the Civil Protection, to name but a few) there is also communication by professionals in the sector (journalists), by experts from the scientific world and then by all those subjects who, although not in the sector, enter the communication circuit by sending photos, videos, messages that propagate, also thanks to the push to share, generating the idea that the news is not controversial. Faced with this bombardment of news, the average citizen is not always able to orient himself and discern between the reliable and the misleading ones.

The consultation of institutional sites in Italy during the pandemic peak offered a very detailed and analytical information framework accompanied also by an explanatory infographic.

In all institutional sites, special sections are dedicated to the Covid-19 emergency. By way of example, the Ministry of Health offers capillary information concerning not only updated data on the epidemiological situation in Italy and the rest of the world but also fake news reports, guidelines on the rules to follow, and updates on emergency regulations. The Higher Institute of Health (from now on ISS) has developed an integrated surveillance system which, based on data transmitted by the various regions, processes an infographic every day (whose data is then acquired and validated by ISTAT – Istituto Nazionale di Statistica) which gives a picture of the spread of the virus over time and space and the characteristics of the infected subjects. Different working groups, depending on the focus, have

drawn up reports (from the beginning of the pandemic to today there are more than 50) dedicated to the most problematic profiles related to crisis management. Also on the ISS website, a special section is dedicated to the contrast between buffaloes and the most widespread ones and their denials.

Within the Agcom (Autorità Garante delle comunicazioni) Permanent Table “Big Data Digital Platforms” the Guarantor Authority has included a pilot project⁹ aimed at combating disinformation during the pandemic. The idea proposed by Facebook is to use a fact-checking service using WhatsApp: in essence, whoever receives news about Covid-19 and wants to verify its reliability sends it to the dedicated WhatsApp number where the fact-checker (appointed by Facebook) will test it and publish it on the website in case of false news. The Communications Observatory set up by Agcom provides timely and analytical information on the crucial role it plays in crisis management¹⁰.

The reliability of the sources (including the institutional ones) must be based on their verifiability and the possibility of a political-democratic control. In this direction goes the very recent ruling of the Lazio Regional Administrative Court¹¹ that upheld the Luigi Einaudi Foundation claim against the Government note Covid-25842 of May 4, 2020, denying access to the minutes of the Technical Scientific Committee (hereinafter CTS as per Law Decree 8/4/2020) that constituted the technical support to the emergency regulations. The Government denied¹² the ostensibility based on purely “formal” reasons concerning the legal qualification of the minutes as “general administrative acts”, but did not give substantial reasons relating to the need for secrecy or confidentiality to protect different and prevailing public or private interests such as to be able to consider the interest in transparency as recessive concerning confidentiality.

9 Agcom press release of 2 April 2020: CORONAVIRUS, WHATSAPP START FACT CHECKING INFORMATION TO THE AUTHOREGULATION TABLE ON “DIGITAL PLATFORMS AND BIG DATE”.

10 See the Annex to the Annual Report 2020 entitled <<The impact of Coronavirus in regulated areas>>, June 2020, available on the Agcom website.

11 Tar Lazio, Sezione Prima Quarter, 22 July 2020, n. 8615.

12 From the regulatory point of view, access would have been denied on the basis of the combined provisions of Article 5 bis, paragraph 3 of Legislative Decree 33/2013 with Article 24, paragraph 1, Law 241/1990 and Article 1, paragraph 1, letter b) of Prime Ministerial Decree no. 143/2011 implemented on the basis of the aforementioned Article 24. By virtue of this, the acts of the Presidency of the Council of Ministers, including “documents and administrative acts, other than those officially published, concerning the work of commissions, collegiate bodies, study and working groups, when aimed at the adoption of legislative acts, general administrative acts and planning and programming acts” (art. 1, paragraph 1 letter b) of Prime Ministerial Decree 143/2020.

In accepting the claim, the Court emphasizes that the minutes of the CTS are among the prodromal and procedural acts of the emergency regulations, regulations that are binding from containing the fundamental freedoms of the individual (personal freedom, freedom of movement, freedom of assembly, religious freedom, business freedom, etc.) and also, for this reason, cannot be subject to democratic control through generalized civic access (art. 5 of Legislative Decree 33/2013). In fact, in this case, the purposes of inspiring art. 5 of Legislative Decree 33/2013 seem particularly worthy of protection (control over the pursuit of institutional functions, use of public resources, participation in public debate). The Government, as is well known, has appealed against the ruling of the Lazio Regional Administrative Court, obtaining in the meantime the precautionary suspension by the Council of State until September 10 by a monocratic decree¹³.

3 SCIENTIFIC COMMUNICATION, POST-VERIFICATION, AND HEALTH EMERGENCY

For some time now, scientific communication has also been addressed to non-specialists, leaving the strictly specialized fields of communication and introducing issues related to research and its results into the public debate. If on the one hand, making the general public aware of the scientific results has undoubtedly positive repercussions, on the other hand, it can lead to a trivialization if not even to the discredit of science and scientists (one example for all the issue of vaccines). As long as the communication circulates within the scientific community, this has rules and methods for the verifiability and comparison of the relevant theses and scientific findings (from peer-review procedures for publications in accredited scientific journals to the scientific method accompanied by the consequent reproducibility, the practice of retraction), but when the results of the research are placed in the arena of public debate have not lacked the relevant instrumentalizations.

The scientific fake news has an even greater danger because even the average citizen does not have the necessary expertise and tools to develop his own opinion, especially when the scientific results appear to be of a different sign. In a scientific community depending on the disciplines,

13 In the monocratic decree prepared by the President of the Third Section of the Council of State Franco Frattini it is stated that the minutes: <<they have constituted the presupposition for the adoption of measures aimed at strongly compressing the individual rights of the constitutionally protected citizens but they do not contain elements or data that the same appellant has justifiably indicated as secret>> and <<that the technical-scientific evaluations refer to temporal periods almost completely outdated>> and that <<the Administration itself, reserving a voluntary ostentation makes it clear that it does not consider in them elements of special secrecy to be opposed to the same citizens>>.

the comparison between experts takes place based on the results of their research, on the public accessibility of the results in journals, conferences, specialized texts. But what happens when the scientific divergence between experts is artfully misrepresented or even exploited for political purposes? The scientific “hoax” can have extremely insidious effects on public health as well as on individual health: the statement <<certi vaccines produce autism>> decontextualized without other indications is malicious information that the average citizen does not have the tools to refute. But other examples could be made concerning precisely the Covid-19 emergency on the transmissibility of the virus, on prudential rules to avoid contagion, on the use of one type of mask rather than another, on some remedies to fight or prevent infection.

The problematic profiles that revolve around scientific misinformation are many: from “epistemic disagreements” between scientists themselves to imaginable tools for the average citizen to make his convictions in the face of disagreements between experts to safeguard his decision-making autonomy and avoid the formation of technocracies in which the few experts decide for everyone. The problem arises especially when scientific theories can lead to manipulations or determinations¹⁴ on social policy issues. One thing seems irrefutable: in a democracy, one is equal one, but in science, cross-examination is among equals, among experts in that particular field. The institutional communication can then take charge of exposing the scientific data with the most frequent faq also to avoid possible instrumentalizations as happened in the case of compulsory vaccines.

4 POSSIBLE REGULATORY REMEDIES

In the digital agora, those who make information and those who receive it tend to get confused and with this also the roles: the expert on the one hand and those who are not, but operate on the net as if they were on the other seem to operate on the same level¹⁵. Everyone can become an active subject in the communication chain by commenting on a news item, posting videos or images: all you need is a device such as a smartphone or a sophisticated computer. Everyone can participate in the generation of news

14 On how to independently assess the expert’s opinion by a layman, see DORATO (2019, p. 105 et seq.), which applies the Condorcet theorem by demonstrating the consequences of disinformation on the functioning of democracy and the majority principle.

15 About the need to maintain a clear distinction between professional information and freedom of expression of thought see (CUNIBERTI, 2017, p. 36 et seq.).

with citizen journalism¹⁶. Unlike the Greek agora in which the participants in the debate were present in flesh and blood and could not hide behind any fake account, everyone presented themselves for what they were, on the other hand, in the digital agora their own identity, if you want, can take on a variety of guises. This is also a fact to consider in a possible regulation of the phenomenon.

The structural transformation introduced in the world of communication by the technological revolution, beyond the enormous possibilities in terms of interactivity between subjects from every part of the world, has highlighted – G. Pitruzzella (2017) reminds us – how the network possesses an <<intrinsic ambiguity>>: maximum decentralization in the production of information but at the same time maximum concentration in the hands of a few multinationals holding the keys of those famous “gates” of which it was said at the beginning (Google, Facebook, Twitter, etc.). This intermediation by the aforementioned digital platforms is not without costs; on the contrary, being holders of a great power deriving from the enormous amount of data collected, they take on the guise of the “real lords” of the net with all the relative potential. The search engine has its own rules, establishes through the algorithms what kind of information to give and with what order according to the user of the search.

Given the enormous power of digital platforms, there is no corresponding imputation of responsibility for the content they convey. In fact, unlike the editor of the newspaper who is held responsible for the content published there, the digital platforms are not responsible for what they convey¹⁷. True news, false news, fake news, post-truth¹⁸, malicious

16 Professional journalists must be subject to a whole series of duties (which are also relevant from a deontological point of view) and consequent sanctions in case of non-compliance. They are employed by a publishing company and in the event of the dissemination of false news, the relevant sanctions come into play. The offended individual has the right of rectification. Anonymity is permitted in online communication and there appears to be none of this. In the face of fake news broadcast on the Internet, the individual, parties and election candidates are defenceless without the author being identified. What tools are there to remedy these different treatments? For a “gradual and comprehensive” approach see (PINELLI, 2017, p. 47).

17 The Facebook, Microsoft, Twitter and You tube platforms signed a Code on 31 May 2016 committing to a series of measures to remove hate speech within 24 hours.

18 The Oxford Dictionary, choosing the term post-truth as the word of the year 2016, provided the following definition: “relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief”. The ideology behind post-truth, according to Ferraris (2017), is the atomism of millions of people who think they are right not alone, but together. On the point see also Adinolfi (2019).

information¹⁹, misinformation²⁰, disinformation²¹ (the latter three expressions can be summarized as information disorder): whatever the content and its dangerousness, can information on the Internet remain without rules? I believe this is one of the most formidable challenges facing constitutionalism today. On the other hand, it is unthinkable that one of the greatest achievements in terms of freedom, that of the manifestation of thought, can be crushed, deformed by what appears to be the maximum freedom, that of the Net. It is part of the ontology of any freedom the concept that identifies its limit(s) in the lesion of another good of constitutional importance and the mortification of the freedom of another subject. In the case of fake news, there is not only the need to balance the free manifestation of thought with that of information (in its various forms) but also the need to take into account the social dimension of the freedom to manifest thought to the extent that the circulation of ideas, their comparison and discussion can contribute to the improvement of the life of the community. In this sense, fake news can represent an obstacle to the free formation of a belief aggravated by the fact that the user, being unaware that it is a hoax, can itself be a vehicle of transmission to N subjects. The need for regulation is an opinion shared by many, but it is the ways and forms that register the greatest differences. The task is very difficult²².

It is precisely on the ways and timescales that we will focus to better understand its current nature and reflect on possible remedies. In principle, the appropriate instruments to regulate this phenomenon may appear to be

19 That is to say untrue content not created with malicious intent, but suitable to be received by users as news about real facts.

20 This information is based on real facts but contextualised in such a way as to cause damage.

21 This expression is used to indicate false news created to harm someone or something with the most diverse purposes (economic, political, ideological) and conveyed through online platforms with massive propagation effects.

22 On the contribution that information technology can offer to the fight against disinformation and the diffusion of fake news see also, Ruffo and Tambuscio (2020) in the focus dedicated to online disinformation by M. Monti. The A.'s advance a possible way of contrasting fake news in which fact-checking becomes an integral part of a viral process in which buffalo and denial compete with each other. However, on the difficulty of the validation of this model and others based on the same logic see in particular pg. 12. On the insignificant impact of fact-checking in the fight against disinformation see D'Agostini and Gronchi (2020). The EU has developed various actions to combat online disinformation by also setting up a high-level expert group. See the final report of the High Level Expert Group on Fake news and Online Disinformation. This report suggests the development of a kind of Code of Principles that digital platforms should respect. Among the ten key principles outlined in the report, the invitation to online platforms that should explain how the algorithms that determine the visibility of content work, greater transparency on the use of personal data for advertising purposes, distinction between sponsored content and information, more visibility – in cooperation with the media – of reliable sources of information and the possibility to respond on platforms with links to fact-checking sites.

V. Brussels, 26.4.2018 COM(2018) 236 COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Countering online disinformation: a European approach.

multiple. Preventive control of the contents and their subsequent removal is rooted in a censorship logic that in itself collides with the free circulation of ideas and the confrontation underlying the public debate. Even more problematic would be the identification of the bodies responsible for such control. The fact that it can be entrusted to the same platforms that host the contents is very dangerous, if only for the enormous economic interests they bear, but not even a public authority comparable to an independent administrative authority²³ that, based on principles established by the legislator, is authorized to discriminate between what is true and what is false would be devoid of those risks that are played on the ground of the free movement of ideas, even those more radical and dissenting than common feeling.

This is not intended to argue that the legal system should remain devoid of any kind of regulation and not pose the serious problem of how to combat and contain fake news that in some areas (political, medical-scientific) are particularly insidious.

First of all, one could think of setting up a mechanism for the evaluation (rating) of the main information dissemination platforms, to be entrusted to a third party and “*super partes*” body, which would evaluate ex-post the number of information conveyed that could be classified as fake news and which would attribute a sort of “license of reliability” to the platforms themselves. This approach makes it possible to trigger a “healthy conflict of interest” between social and information platforms to stimulate and control the flow and quality of the information conveyed.

In terms of methods, the use of IT tools in general and the network, in particular, has made the phenomenon of fake news pervasive and particularly relevant in today’s society. This is due not only to the speed of communication and dissemination of information thanks to the web, but also to the pervasiveness of the tools used to access the network itself, primarily smartphones, which contribute to increasing the distorting effects of the phenomenon. If the perverse short-circuit between ease of access to information, its proliferation, and the end user’s ability to discern it is known, this short-circuit is further amplified by the use of tools such as smartphones, which are unlikely to allow a deeper understanding of information.

23 See the proposal of Pitruzzella, (2017, p. 92 et seq.), in the sense of introducing specialised institutions placed in a position of impartiality, independent, which, on the basis of pre-established rules and at the request of a party, remove content that is manifestly false, misleading and harmful to fundamental rights. An intervention that should be ex post, therefore not censorious and in any case ancillary to the instruments of self-regulation. In the opposite direction Zanon (2018).

One element to be taken into consideration is represented by the times with which it is now possible to convey the information, times that are very short also because of the modes of communication mentioned above. The time factor is particularly decisive not only for a general analysis of the fake news phenomenon but also for its instrumental use. Contrary to what happened in the past, the speed of dissemination of information is an element that in some cases represents an advantage for access to information, in others a critical element for the dissemination of that misleading and deliberately false information.

This instrumental use of communication speed and the ability to pervasively reach an ever-widening segment of the population represents the real element of novelty that makes it possible to distinguish current fake news from the false news of the past. For the latter, there was a sort of natural antidote that, in the worst-case scenario, allowed to dilute its effects and put in place the appropriate countermeasures in terms of information campaign. Today, on the contrary, the speed of diffusion of the information and the consequently reduced time of diffusion represent formidable attachments of those who intend to use fake news in an instrumental way to gain a direct and programmed advantage.

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