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Comment of NetChoice on *Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation* before the House Energy and Commerce Committee

NetChoice

Introduction

Like many members of Congress, we are concerned about the rise of disinformation and misinformation and the potential impact this trend could have on society as well as the foundational pillars of our democracy. This concern has only intensified further following the violent protests that occurred on January 6th and the perceived role media played in the events leading up to the Capitol riot. Because of the important function that platforms provide when it comes to facilitating public discourse in our increasingly digital age, many have turned their focus specifically on the tech sector and the incentives that social media platforms like Facebook, Twitter, and Parler create for the dissemination of misinformation and the empowerment of the individuals who spread it. And we thank the House Committee on Energy and Commerce for holding this hearing on “Disinformation Nation: Social Media’s Role In Promoting Extremism And Misinformation.”¹

We also thank the Committee members for recognizing that misinformation is by no means a new phenomenon and it is certainly not one that will be solved by social media alone. That is why it previously held the hearing, “Fanning the Flames: Disinformation and Extremism in the Media.”² In that hearing we heard experts explain that the creation and dissemination of factually inaccurate information occurred long before the internet ever came into existence and will continue to occur long after the currently dominant technology businesses have shuttered their doors and given way to the next generation of innovation-driving entrepreneurs. If we hope to make any progress in addressing this problem, we must first recognize that it is a societal problem that will require a societal effort to address.

1 House Committee on Energy and Commerce, *Disinformation Nation: Social Media's Role In Promoting Extremism And Misinformation* (Mar. 25, 2021), <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-disinformation-nation-social-medias-role-in-promoting>.

2 House Committee on Energy and Commerce, *Fanning The Flames: Disinformation And Extremism In The Media* (Feb. 24, 2021), <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-fanning-the-flames-disinformation-and-extremism-in-the-media>.

Misinformation Isn't Unique to Social Media

There is no question that the spread of misinformation is a significant and complex problem, but it is one that extends far beyond the realm of social media.

Unfortunately, this hasn't stopped many critics from placing social media platforms in the role of a boogeyman, providing critics with an all-too-convenient fall-guy on which they can cast their aspersions. In reality, social media is a relatively small part of a much larger picture.

In fact, a recent study conducted by Harvard Law School Professor Yochai Benkler and researchers from the Berkman Klein Center for Internet and Society on the disinformation campaign surrounding voter fraud and mail-in ballots found that “[c]ontrary to the focus of most contemporary work on disinformation, our findings suggest that this highly effective disinformation campaign, with potentially profound effects for both participation in and the legitimacy of the 2020 election, was an elite-driven, mass-media led process.”³ The study specifically noted that “[s]ocial media played only a secondary and supportive role.”⁴

Traditional media was dealing with the problem of misinformation long before social media platforms ever even existed and these traditional media providers continue to have a stark impact on our public discourse. Whether the Zimmerman Telegram in World War One, the claims of Weapons of Mass Destruction for the Iraq War, or William Randolph Hearst saying, “you provide the photos, I’ll provide the war” legacy media has been a source and spreader of misinformation and disinformation.

Moreover, the impact of both traditional and social media pales in comparison to the greatest driver of misinformation: word of mouth. The vast majority of misinformation is spread through one on one conversations with friends, family, and colleagues, and these conversations tend to have a much larger impact as the information comes to you from someone you trust.

The unjustified demonization of social media platforms as the main driver of misinformation isn't just another example of politically convenient blame-shifting. It's the kind of short-sided scapegoatism that not only threatens to jeopardize the incredible services and speech-empowering innovation that social media provides, but also greatly undermines our ability to identify and address the broader causes of this dangerous phenomenon. Casting social media platforms as the sole or even main cause of misinformation detracts from our efforts to effectively remedy this issue. It is a great way to lose the forest of factually inaccurate information for the tree of any one specific conduit.

3 Yochai Benkler, Casey Tilton, Bruce Etling, Hal Roberts, Justin Clark, Robert Faris, Jonas Kaiser, and Carolyn Schmitt, Mail-In Voter Fraud: Anatomy of a Disinformation Campaign, Berkman Klein Center for Internet & Society at Harvard University (2020), <https://cyber.harvard.edu/publication/2020/Mail-in-Voter-Fraud-Disinformation-2020>.

4 Id.

If we focus too heavily on social media platforms, we risk ignoring the ways in which traditional media and everyday social interactions contribute to this ongoing problem. None of this is to say that social media doesn't play a role in spreading misinformation, only that it shouldn't be looked to as a catch-all panacea for what is actually a much broader issue.

The Cure Shouldn't Be Worse Than The Disease

While we share concerns about bad actors using the internet and social media platforms to spread disinformation and misinformation, it is not clear that federal intervention into the decisions of digital forums will actually improve the marketplace of ideas. In fact, history suggests that federal intervention will likely worsen matters and the internet overall. To avoid that, and to practice what the First Amendment preaches, Congress should trust that the United States will rise to the challenge while promoting media literacy amongst its citizens.

Media literacy is part and parcel of critical thinking. To be a conscientious consumer of digital products and information, Americans must hone the critical thinking skills they mastered in the analog world. Many already have, but scaling that media literacy will take some time and conscious effort. That disinformation and misinformation currently exist should not, however, worry us too much. For starters, websites like Facebook, YouTube, Google Search, and Twitter take their job seriously. All of them, for example, have moderation policies that aid Americans in their consumption of information. Sometimes that means the outright removal of content, which each did in response to quack "miracle cures" for Covid-19; other times that means adding additional context, like labeling a Twitter account as "state-sponsored" or appending a fact check to a post.

That these websites moderate content on a sliding scale does not guarantee perfection, but it does mean they are working to strike a good balance between promoting free and open debate and protecting Americans from bad actors. In the six months between July and December 2018, Facebook, Google, and Twitter took action on over 5 billion accounts and posts, 17 million of which were related to child safety.⁵ 12 million were related to extremism and hate speech and 57 million were related to pornography.⁶

However, we intentionally use the word "good" because, as each major social media platform has said before, there is always room for improvement and these decisions will never be perfect or make everybody happy. But improving they are. From rapidly responding to Covid-19 and the cheats, charlatans, and con-artists it unleashed, to cracking down on election interference, American tech is consistently learning, adapting, and improving to provide better products and services for consumers.

5 NetChoice, Social Media Content Moderation: The Numbers, <https://netchoice.org/wp-content/uploads/Transparency-Report.pdf>.

6 Id.

We must be careful not to let perfection be the enemy of the good. Even assuming it were possible to stamp out all instances of disinformation and misinformation, such a result would cost us far more: a free and open internet. It would also let fear of new technology crowd out technology's potential to help Americans and to raise their quality of living.

Take television. In the 1960s, FTC Chairman Newton Minnow worried about Americans' consumption of television or, as he called it, a "vast wasteland." While a few Americans probably agreed with him, most appreciated the medium's transmission of entertainment, knowledge, news, sports, and weather. It was the television after all that Congress, the president, and political candidates used to connect with voters. And it was also the television that displayed horrific and violent images of racist sheriffs beating and siccing dogs on peaceful civil rights protesters—images that historians believe helped rally the country in supporting the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Of course, television could—and still is—capable of manipulating Americans. Intermixed with television's benefits was commercial advertising. Back then, watching commercials was unavoidable: there were no streaming services like Netflix or recording devices like TiVo. And because many of these commercials featured subtle forms of messaging and manipulation (as all commercials do), people like Chairman Minnow worried greatly about protecting Americans from such content.

But what those folks overlooked was their own role in worsening the situation. Back when the FCC's Fairness Doctrine reigned supreme, television networks avoided "controversial" topics. That, in turn, led speakers to mask their views, cloaking them as much as they could as "facts." This camouflaging actually hurt Americans' media literacy because many were led to believe that whatever they heard on the news was objective and factual. Over time, Americans grew more skeptical and today, of course, Americans have a low opinion of traditional media outlets and take what they say with a grain of salt.

The point is, by trying to shield Americans from certain "low-quality" content, the government actually hurt Americans' media literacy and stifled public discourse. In doing so, the government also failed in its efforts to promote balanced debate—networks ignored certain topics and speakers adopted commercial advertising's technique of subtle messaging—and protect consumers from the so-called "vast wasteland."

By contrast, exposure to television's good and bad influences helped hone Americans' media literacy. Just as exposure to radio stations did a generation before. And just as exposure to the internet is doing now.

Unlike in the past, today's preferred medium—the internet—is open to unlimited points of view. To be sure, that openness means more speech—good, bad, and otherwise. But it also means Americans have access to more information than ever before. And it means Americans can quickly find other sources that support or



undercut the news they're reading. Indeed, research suggests Americans are getting the news from multiple digital sources. As they are exposed to more sources and more flare-ups over "fake news," disinformation, and misinformation, the more cunning they will become in analyzing whether a piece of content is trustworthy or suspicious. And finding accurate information has never been easier—just ask anyone having a debate at a bar and finding the answer within seconds. Or friends challenging each other's extreme statements.

The internet's vast trove of information does mean Americans can read only sources that are likely to share their point of view. No doubt that has contributed to "echo chambers." But in reality, that's no different from Americans reading only newspapers or watching only news channels that align with their ideology. By contrast, social media platforms at least offer exposure to other views. On Twitter, for instance, "trending" stories promote links to news sources across the ideological spectrum; Facebook exposes us to friends and family members who may not share our views; Google Search and YouTube return search results for content from the likes of Mother Jones and The New Republic to National Review and Fox News.

None of this is to say that disinformation and misinformation aren't problems - they are. But the answer is not federal intervention; it's time and awareness. Schools can teach media literacy skills that focus on digital content. Politicians can debunk or respond to content they disagree with. And private businesses like Facebook and Google can continue to experiment with moderation policies that work best for their users. Indeed, a one-size-fits-all approach to shielding Americans from potentially harmful content is destined to fail: manipulative content is inevitable and how to combat it varies from website to website.

Congress can, of course, take a renewed look at advertising. Just as regulatory agencies require certain disclosures and promulgate truth-in-advertising rules for traditional media, they can (and are) doing the same for digital ads.

Conclusion

Disinformation and misinformation are a problem. But they are nothing new and they are certainly not confined to social media. On the contrary, Americans have used content distribution channels to manipulate and mislead since the founding. For many, the antidote lies in more speech: the more content we have, the likelier it is that the truth will prevail. As the Supreme Court Justice Louis Brandies once said, "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence." More fundamentally, however, the answer lies in media literacy. Whether watching broadcast news, reading the New York Times, or scrolling through social media, Americans should take what they read with a grain of salt.



This method is neither splashy nor quick. But it's effective, long-lasting, and doesn't come with the unintended consequences of heavy-handed government intervention. Rather than intervene and make things worse, Congress should allow private businesses and websites to develop moderation policies that work for their users. At the same time, Congress should use its platform to shine a spotlight on disinformation and misinformation throughout society. By suggesting the problem is confined mainly to websites, Congress risks lulling Americans into falsely believing that what they see is what they should believe—so long as it's not online.

Sincerely,

Carl Szabo
Vice President & General Counsel

Chris Marchese
Counsel

Trace Mitchell
Policy Counsel

NetChoice