



Journalism, Truth and the Restoration of Trust in Democracy

The EU's Anti-fake News Strategy from a Public Sphere Perspective

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Abstract

Disrupted public spheres are commonly characterized by misinformation and fragmentation in terms of dissonance and disconnections of public debates that are not conducive to public will formation. Such a disruption of public will formation processes has damaging effects on democracy in terms of truth, inclusion and freedom of expression. Trust in journalism in Europe and beyond has been undermined by a series of scandals, by the closeness of journalists to political parties and government, but also by more frequent attacks against freedom of speech and of the press run especially by populist leaders and new authoritarian governments. In our chapter, we critically discuss the responses, i.e. counter-strategies, for trust-(re)building that this disruption triggers, from a top-down EU policy perspective. In some countries, like Hungary, Poland and Italy, the press freedom index is in steep decline and governments have also entered a 'war' with journalism, putting increasing pressure on the free exercise of the profession, restricting budgets and the autonomy of public service broadcasting. We assess the EU's response to the authoritarian and fake news challenge and discuss the limits of a voluntary approach in light of public sphere standards.

Keywords

EU Policy – Journalism – Post-truth Politics – Public Sphere – Trust

Introduction

Digitalisation, particularly its social media dimension, is inextricably linked with what most scholars, politicians and journalists consider an unprecedented fake news epidemic, which is putting the very legitimacy of democratic government in peril (Alvares and Dahlgren 2016; Edson et al. 2019; Newman et al. 2018). At the same time, digital media are considered the catalyst in the (re)surfacing of extreme political ideologies and the disruption these cause to democratic discourse conventions and trust in representative democracy (Inglehart and Norris 2016; Sunstein 2017). Consequently, we observe an increasing polarisation of political discourse, often characterised by ‘trench warfare dynamics’ (Karlsen et al. 2017) and the radicalisation of political views (Ernst et al. 2019; Sunstein 2009; van Houwelingen et al. 2019; Zürn and de Wilde 2016). The process of public opinion formation through the public sphere is thus disrupted in the double sense of the erosion of the trustworthiness of news and of the consensus of core democratic values. For critical media scholars, it is clear that the digital spread of misinformation, division and hatred is a ‘peril for democracy’ and a pollutant of ‘[t]he channels of information that inform democratic citizens – the lifeblood of democracy’ (Ward 2019: 33).

Nevertheless, the empirical evidence that supports the fake news-epidemic thesis and the link between extremism, digital media and the declining trust in democratic institutions – including journalism and the democratic public sphere – is inconclusive, if not scant (Allcott and Gentzkow 2017; Halberstram and Knight 2016; Hong and Kim 2016; Srijan and Shah 2018). For Phil Howard, the more we investigate the empirical evidence, the more it becomes apparent that ‘only one part of the political spectrum – the far right – is really the target for extremist, sensational and conspiratorial content. Over social media, moderates and centrists tend not to be as susceptible’ (University of Oxford News and Events 2018). In a similar vein, Rune Karlsen, Kari Steen-Johnsen, Dag Wollebæk and Bernard Enroljas (2017) point out that the echo chambers that were meant to signal the fragmentation of the public sphere remain empirically elusive. Cas Mudde (2018), picks up this point, corroborated by a study on selective exposure to misinformation by Andrew Guess, Brendan Nyhan and Jason Reifler (2018), to highlight that it is rather hyperbolic to talk of a ‘fake-news epidemic’, because it is clear that: (a) only a small group of people with a specific political/ideological profile read and spread fake news online (extreme-populist right wingers, the vast majority of them); and (b) people read some fake news but also read a lot of ‘normal news’ too (Mudde 2018). Instead of focusing on pan-European legislation that will tackle a non-existent ‘fake-news epidemic’, Mudde redirects our attention to mainstream media’s click-bait strategies – strategies employed to ensure that as many people view their articles and thus increase their revenue. He also highlights the lack of in-depth investigation and analysis in journalistic work, whereby mainstream news outlets publish reports that are based on uncorroborated evidence and/or on single sources. In this, Mudde echoes much of the literature on post-truth and fake news, in which journalism is one of the core villains in the ‘prophecies’ about the state of democracy in the post-truth era (Farkas and Schou 2020: 58–60).

In this paper, we focus on the European Union (EU) policy response to reinforce the institutional role of journalism and to provide democracy with information that is considered to be of public relevance and, as such, used for the detection of collective problems and its solutions.¹ Instead of holding journalists individually accountable for the spread of fake news, we consider the various enabling and constraining factors of journalistic work and practices. Journalists are not individuals that are closer to facts or more devoted to the truth than others. They are rather embedded in a professional field of journalistic practices, which help to establish the value of information and establish their use in a way that becomes acceptable and convincing for the majority. Journalists are not defending truth standards against what is identified as ‘fake’ or ‘wrong’ but operate within a field where the value of information remains principally contested. Standards and procedures of journalism are therefore not applied in a way to detect truth in an absolute way and defend it against falsehood, but to approach truth in the most reliable and acceptable way. The truth value of information is not attached to it as an attribute that decides over its use in public debates; it is rather the (unstable) outcome of such procedures of critical debates and journalism practices.

The paper proceeds as follows: First, we give an overview of the literature on the relationship between journalism and trust and distinguish two levels of truth and trust in the public sphere. We then link these levels of truth-trust to the three digital transformations of the public sphere. Subsequently, we discuss the EU’s anti-fake news strategy and proposed relevant news media actions in light of the three digital transformations and public sphere normative standards.

Journalism and truth

Before journalism, religious leaders and monarchs held the monopoly of (the divine) truth and conveyed it to the laypersons. Truth was not to be questioned, if not at the cost of torture, social ostracism or death. With the enlightenment idea of reason as an act of liberation of self-realising individuals, a social and communicative infrastructure was needed for individuals to partake in exchange of arguments about what could be held true and valid. This infrastructure was established with the modern public sphere grounded in the principles of free speech and publicity. In such an anonymous public sphere of mass communication, newspapers and journalism have played the key role as truth mediators and functioned as a safety valve that prevents the imposition of one institution’s or person’s truth on the whole of a society.

Truth is then not only dependent on ‘scientific facts’ but also on intersubjective agreement. It requires a shared epistemology among the truth finders and their publics (Waisbord 2018: 1871). Journalists, as critical mediators of truth, contribute to the sharing of such a common epistemology of rationality and facticity, and need to conform to its premises in their own work. They ‘tell the truth’, which they uncover from the ‘facts out there’, by applying de-personalised and rationalised working methods (Broersma 2013: 32). At the same time, journalists stick to rules of impartiality

¹ See John Dewey for such a pragmatic understanding of the public (sphere) and its problems (Dewey 1927).

and fairness. They support public reasoning by allowing for the expression of plural voices (governmental and oppositional, mainstream and marginal) and therefore, ideally, arrive at a balanced account of different versions of truth. This includes the difficult task of critically putting to the test the validity claims raised by these plural voices in a way that informs public opinion.

Journalism's relationship to truth is thus ambivalent: On the one hand, journalists claim the 'ontological truth' of news and their privileged role as 'truth finders' through their own methods of investigation. On the other hand, they do not work like scientists and therefore do not have the epistemological means that could substantiate the 'truth' in journalism work (Broersma 2013: 33). In practice, this means that journalists have to weight various accounts of truth and to acknowledge that their informed opinion cannot lay claim on the absolute truth, but instead remains tentative, contested and open to revision whenever new information comes forth and doubts about the correctness of available information are raised (Hendricks and Vestergaard 2018: 53). Their mediating role notwithstanding, there is no guarantee that society can agree on the truth value of information and its public uses.

Such an approach of the relationship between journalism and truth limits the explanatory force of establishing a causal linkage between journalistic output and the proliferation of fake news. How, then, are we to approach the regulation of journalism in the so-called post-truth era?

By shifting the 'villainess' (Farkas and Schou 2020) from journalism as such, to the process of digitalisation more broadly, we take a multi-causal approach of the way truth and trust are (re)defined and mediated by journalists in the digital era. The public sphere is inherently driven by critical debates and exchanges that contest the value of information and the degree of informed opinions. Information is therefore not synonymous with 'the truth', which only needs to be picked up by journalists and amplified to become accessible for broader publics. Truth is not an external input to news, but an unstable outcome of fact-finding, information-seeking and contestation, where journalists act as professional brokers. News media derive their trustworthiness from their 'selectivity' capacity rather than a claim of representing 'the absolute truth' (Kohring and Matthes 2007), i.e. their capacity to (convince the public that they) select reliable and appropriate sources and information and provide credible and objective assessment of these (Kohring and Matthes 2007). News readers as well change their expectations and learn and experience that news does not represent 'the truth' but 'a truth'. What counts then is not simply the truth value of information and news, but also trust in the institutions and procedures that generate news and allow to establish the value of news as a collectively binding force for the political community at large.

The relationship between the public sphere, journalism and truth is more complex than often suggested in fake news debates. The public sphere is not simply there to establish truth through its intermediators in journalism. Trust in journalists is in this sense a prerequisite for society to reach agreement about the value of information and of the public use of information to identify and detect problems. At the same time, a well-functioning journalism and public sphere are needed to generate trust in the

functioning of democracy. Trust has, thus, a plural meaning. It is trust in representatives, who defend or contest the value of truth, it is trust in the procedures that allow to establish the value of truth and, ultimately, it is also trust in the mediators, i.e. in the institution of journalism.

In the fake news debate, it is often assumed that truth orientation leads to trust building, while misinformation and fake news are ways to undermine trust or disseminate distrust. Truth orientation unites and builds trust, while falsehood triggers distrust and polarisation. The way trust is generated through the public sphere and journalism is, however, not through consent, but through public contestation of what is held to be true. People trust because they can also express critique (and thus distrust). In the same vein, people accept the value of information, because they can also question its value. Information as such is not trusted. It is the procedures that establish the value of information and the collective actors and institutions that make use of information that are or are not trusted. As Farkas and Schou (2020: 57) remind us, trust can '[...] interfere with or combat truth: When users receive content from people they trust, they forget to assess its inherent accuracy'. In a similar vein, promoters of fake news can only undermine trust, if their own style of communication is found trustworthy. They therefore do not only undermine trust but also generate new trust through what is called 'alternative facts'.

Truth and trust from a communication perspective

Models of journalism often explain the linkage between truth orientation and trustworthiness of news by underlying a linear transmission model of communication, as famously proposed by Herbert Lasswell (1948). According to this model, information and facts are considered as senders' input that is channelled through the black box of the media to form receivers' opinions (informed opinions, so to speak) as an output. Once the information value of communication inputs is established, opinions can be classified as being close or not to truth (to the original input). To be able to identify disruptive public spheres based in misinformation and fake news, we would thus need to identify deviations in the 'normal functioning' of public spheres and journalism, i.e. a dissonance in the truth orientation of the senders of information and a non-linearity in the process of intermediation. Under these circumstances, media and journalism could be claimed to become 'dysfunctional'.

Problems with this model are addressed by more recent approaches of mediatisation, which instead of a simple cause-effect model, as for instance in the uni-directional relationship between sender and receiver, emphasise the ubiquity of media communications as constitutive for culture, politics and society (Hjarvard 2013). The emphasis then shifts from trust-building through the strategic communication efforts of political actors to the overall role of media institutions and practices as infrastructures that foster trust but also distrust relationships or that sustain cultures of trust and distrust (Barthel and Moy 2017). Trust is thus no longer considered as a media output that results from informed inputs but as a complex feedback relationship that involves, for instance, creative ways of role shifting between producers and users

of fact finding (the 'producers' of online communications as in (Bruns 2010)). The literature on political communication in social media provides ample evidence for such interlinkages and feedback mechanisms in trust and distrust building. For example, fake news creates distrust in the work of the media and journalism and discredits, at the same time, established political institutions, particular actors or even the whole democratic system (McNair 2017). Yet, fake news also triggers public sphere resilience in the form of a re-assessment of the work of quality journalism or a return of critical counter-publics (Michailidou and Trenz 2015).

The new reality of hybrid media cultures also invites us to reconsider the neat distinction, offered by functionalist accounts in media studies, of desirable (thus functional) and undesirable (thus dysfunctional) media effects. What is usually not taken into consideration, is the possibility of an inverse relationship in the sense that distrust may also be functional (Rosanvallon 2008). Such an inverse perspective comes close to the agenda of critical media studies with an emphasis on the role of conflicts and contentions as constitutive of trust and distrust, for instance, subversive actions by social movements that are mobilised to challenge and rebuild trust relationships (della Porta 2012). An attitude of mistrust in media products and media performance is also part of a more recent opposition movement to global surveillance capitalism (Zuboff 2019). Distrust should neither be considered just as the absence of trust nor is it a temporary dysfunction that can be corrected by taking the right measures of trust building. Critical media scholars would rather understand the media's trust building as ideological, and thus as a form of power politics defending the hegemony of an ideological apparatus of culture and politics (Fuchs 2019). Distrust in the media and distrust in representative government are then closely interlinked as a form of political resistance. We discuss in the following how this interlinkage of trust and distrust plays out in the public sphere most recently, for instance, in the case of the global Covid-19 pandemic.

The proliferation of fake news is parasitic on a well-functioning public sphere. The diffusion of disinformation and conspiracy theories would be more difficult to achieve in authoritarian societies, where 'truth' is defended by government in an inherently propagandistic manner. A well-functioning public sphere allows multiple proponents of fake news the freedom of expression, to protest in the streets and to make use of media channels to reach out. Fake news production is thus driven by Ideological divisions and diversity of opinions in the public sphere (Schlesinger 2020). This means, in turn, that also populists as fake news promoters cannot escape the mechanism of trust-building through the public sphere. Even if their primary aim is to undermine trust in democracy, they still need to use public sphere infrastructures in a way that their own communication appears trustworthy (Privitera 2018). In doing so, they not only rely on the availability of media infrastructures and channels to amplify and reach out to audiences. They also require critical engagement with news and presuppose audiences that take critical distance and question truth. Fake news is critical in the basic sense that it is used to question power and gain control.

From the above, it becomes clear that what is critical for the democratic resilience of the public sphere – besides the content of news – is the procedure through which the

value of information is established: Either through an argumentative exchange, which remains principally open and inconclusive (trust in the procedures and institutions of public contestation) or through personal attributes and style of representatives who proclaim the value of information through the media. In the first case, the value of information relies on an argumentative exchange in search of truth, in the second case, it relies on the blind faith of publics and the face value of information received by them. Journalism and the news media have thus principally two options to generate trust in the value of information:

Truth through argumentation. This is the type of truth we arrive at through consideration of different arguments in a critical and open exchange among journalists, experts and political representatives. Truth is the unstable and preliminary outcome of the procedures of fact-finding and fact-checking. Even if arguments and debate do not lead to an ultimate agreement on the value of information as truth, democracy can still rely on trust in the process of establishing truth and the collectively binding forces generated by it. Procedures of establishing the truth: This is what journalists ought to adhere.

Truth through proclamation. Contrary to the Socratic, or deliberative, type of truth established through exchange of arguments, proclamatory truth entails the acceptance of the truth value of information on the basis of the authority or the person defending it, the suggestive force of the underlying dogma or followers' blind trust in the proclaimed truth. Truth would be an external, but stable and unquestionable input that determines the content of news. Expressions of critique of distrust in the value of information are not foreseen or even precluded. Journalism and the news media would then simply be a forum for trusted authorities to proclaim truth, which would have an ultimate binding force for their followers. The press would ultimately be partisan, and readers would align according to the trustworthiness of news sources for whom journalists are only the mouthpiece.

We can see that the latter mode of establishing the value of information through proclamation would easily lead to the strengthening of trust in single representatives at the cost of undermining trust in the procedures that allow to establish the truth. The public sphere would not be 'deliberative', but become 'representative' again, as in the pre-modern era (Habermas 1989), with the difference that not one general absolute truth is defended with authority, but several versions of categorical truth. The result would be polarisation of different 'trust communities' that diverge in how they interpret the value of information. This model of journalism as a mouthpiece for the proclamation of partial truths is not new; we find it in the partisan press of the pre-digital era, and in many cases it remains a core pillar of national media systems today (Brüggemann et al. 2014; Hallin and Mancini 2004).

The fake news debate thus relates to a shift from deliberative to categorical conceptions of truth, and it is therefore no coincidence that critical observers also speak of the return of the partisan press that spread their partial truths to faithful adherents, such as Fox News in the United States (US) (Levendusky 2013). The denial of the promoters of fake news to enter an argumentative exchange and their often-aggressive strategies

to proclaim their truth against science bears the risk of a retreat of reason in public debates. Deliberative rationalists, in turn, might take a more defensive stance by highlighting consensus about scientific facts instead of epistemological struggles over knowledge. As public contestation of scientific facts is increasingly perceived as risky, science communication in the media is thus either reduced or oversimplified. This might be an indicator of the fact that also deliberative democrats increasingly lose trust in the media as mediators of the value of information and in public sphere procedures of establishing the truth. Following this line of argument, if existing media infrastructures become dysfunctional and the public sphere is disrupted, democracy needs to be protected from the damaging effects of a disrupted public sphere and deliberative fora ought to be sheltered.

We therefore need to approach the role of journalism in the digital age not as an institution that ought to merely re-assert its authority, but rather to reinstall procedures of truth finding that have a collective binding force and do not divide society into different trust communities represented by different types of media. This requires non-partisan journalism, independent of financial and political influence (Broersma 2013; Davies 2019; Ward 2015, 2019). It is under this prism that we assess the EU's policy for news media in the post-truth era and its implications for the public sphere.

Confronting the new digital challenges to build trust through the media

When confronting new digital challenges of political communication, it becomes increasingly necessary to understand not only how different layers of trust building through journalists, political representatives and self-empowered digital media users are interrelated empirically, but also to question the normative assumptions that underpin these interconnections. By focusing on these implicit normative assumptions of the public sphere as a pillar of democracy, we can unpack the interplay between different layers of trust building shaped by competing expectations about the ideal functioning of journalism. We distinguish in the following between three interrelated functions of journalism in democracy: publicity, public opinion formation, and legitimation. Each of these functions can be enhanced, but also fundamentally challenged by digital transformations. We then review the disruptions to these functions that arise from digital transformations and critically discuss the counter-strategies that are proposed by the EU.

Publicity as challenged by information abundance/ overload/ surveillance

Publicity relates to the public sphere's function in democracy to make matters of shared concern visible and relevant in public, to the public and by the public, in a manner that ensures plurality of voices and the safeguarding of basic principles of civil public exchange (Dewey 1927; Splichal 2002). The abundance of information available online risks to overload legacy media institutions' abilities to verify the accuracy of content distributed online and challenge governments' policy-making ability (Voltmer

and Sorensen 2016). Online publicity is further distinguished by the hybridity of content and data that flows in semi-public and semi-private spheres, which with both content providers (e.g. cultural industries or news industries) and individual users losing control over the flow of data. The freedom of access and openness of digital media content and services often comes at the price of pervasive surveillance, which may limit individuals' freedom and narrow their sources of information, as well as empowering business and states vis-à-vis citizens (Webster 2017).

In a chain-reaction process, the declining quality of reporting and questionable democratic credentials of media owners fuel the decline in trust in the institution of journalism across Europe and globally (Gallup 2019). Direct attacks against freedom of speech and of the press have also become more frequent, provoked especially by populist leaders and new authoritarian governments. In some countries, like Hungary, Poland and Italy, the press freedom index is in steep decline and governments have also entered a 'war' with journalism, putting increased pressure on the free press, restricting budgets and the autonomy of public service broadcasting (Reporters without Borders 2020).

In the struggle over digital publicity, we observe how media industries' and governments' monopoly on information is challenged by the rise of digitally driven political mobilisation, with some digitally-driven movements transforming into mainstream political parties, such as the Five Star Movement in Italy or the transnational DiEM25. Digital movements of opinion may be civil society-driven, or they may be launched by individual influencers through YouTube or Instagram, often reaching out to millions of people worldwide (Barisione et al. 2019). Social media campaigns can become decisive in democratic elections or referenda, such as Brexit. Thus, the mobilising function of digital communication means that while political representatives no longer rely on the mediating function of journalists to reach out to their electorates, they also face a challenge to their legitimacy as representatives of the people's will by digitally empowered, formerly passive audiences and new political actors.

Public opinion formation as challenged by plurality/polarisation of voice

The public sphere functions as the carrier of public opinion and will formation regarding both the substance of democratic government and the norms of what are appropriate political expressions (Habermas 1974; Neidhardt 1994). It facilitates not only the participation of citizens in public exchanges about the form and content of government, but also citizens' self-perception of this role. Digital transformations have multiplied voices and opinions that are channelled through a plurality of media, but, at the same time, new digital divides have emerged and media competences are distributed unequally (Bright 2018). Through digital media, individuals can become richer in information and more connected, but they can also more easily withdraw from public life, as can their private life also be more easily intruded by companies and governments. New sources of biases in opinion have emerged through targeted

campaigning, stealth propaganda, inauthentic online expression, and unaccountable algorithmic filtering, which may potentially result in manipulation, polarisation and radicalisation of substantial amounts of citizens.

The Covid-19 crisis offers plenty of examples in this direction. Fake news has circulated in every country about everything from how to avoid getting infected, celebrities having tested positive for the disease, to the origin of the virus and possible cures (Brennen et al. 2020; Naeem et al. 2020). Unsubstantiated and alarmist fake news has readily found fertile ground among frightened and frazzled publics around the world, from Greece to Australia, from the US to South Africa. Nevertheless, professional news media, social media platforms, scientists and the general public have come together to scrutinise the credibility of such claims, using precisely the same platforms, sources and strategies to reach out to wider audiences (Trenz et al. 2020).

The Covid-19 case is the latest to offer encouraging evidence that public spheres around the globe have retained enough resilience to withstand polarisation, fragmentation and the ensuing susceptibility to misinformation even under conditions of a global pandemic. Public sphere scholars' early concerns regarding possible audience fragmentation across several digital public spheres, or even sphericules or echo chambers, have yet to be corroborated to the degree originally feared, of corrosive 'echo chambers' (Bruns 2019; Fletcher and Nielsen 2017). Instead, empirical analysis shows that the same digitally-driven infrastructures and modes of participation that fuel intense polarisation and even tribalisation of the public sphere also facilitate cross-camp exchanges and subject the claims of opposing factions and parties to intense scrutiny. The higher the stakes for the public good, the more likely is it that moderate voices will not be drowned but brought under the public spotlight to reinstate reason and balance in the public debate – such as in cases of intense financial crisis, a global pandemic or escalating tensions between nuclear powers.

Legitimacy as challenged by hyper-scrutiny/hyper-cynicism

The public sphere constitutes the ideational dimension of democracy. It requests good arguments and justifications for why opinions should be considered as valid and political decisions as just and legitimate (Bohman 1996; Peters 1994). The sheer volume of information available to individuals, coupled with the democratisation of participation in the public sphere through social media, discussion platforms, participatory journalism, personalised/curated news feeds and blogs, results in increased scrutiny of the traditional knowledge-producers, mediators and gatekeepers of the public sphere (journalists, experts and politicians). The increase in seeming plurality of voices and opinions harbours a dark side, which media and political institutions are still struggling to address in an effective yet democratic manner. While public scrutiny of political and intellectual elites is welcome, if not necessary, in a democracy, the hyper-scrutiny taking place in the digital public sphere may have the unwelcome effect of weakening a commonly accepted benchmark for normative critique and moral standards (Davies 2019). Digitalisation has multiplied the arenas for the diffusion of selective information that claims validity and involved also media

users in constant truth-seeking. This extension and perpetuation of practices of truth-seeking through argument exchange (everything can be questioned all the time) harbours the danger of the loss of a shared epistemology to assess truth claims (Waisbord 2018). There is, in the words of Mark Andrejevic (2013), a discrepancy between the digitalisation-fuelled utopian quest for the pure truth and the 'cultural logic of big data', whereby no frame is accepted as reliable or trustworthy, and all frames, particularly those of journalists and other public actors are treated as by definition flawed or suspected for biases. 'What we are witnessing is a collision between two conflicting ideals of truth: One that depends on trusted intermediaries (journalists and experts), and another that promises the illusion of direct access to reality itself' (Davies 2019). Through digital media, regular users are blended with an information overflow and the requirement to become self-selective and develop individual strategies of 'mastering the web' without relying on intermediaries such as journalism.

At the same time, digital and global communication have led to fundamental value and identity conflicts, which shatter the normative underpinning of the modern public sphere. Public sphere transformations have, on the one hand, contributed to a 'silent revolution', a long-term process of cultural change that marked a shift towards liberalism, with political competition confined to mainstream parties. Inglehart and Norris (2016) argue, on the other hand, that this development has reached a turning point, as new political parties and leaders have emerged in all Western societies who mobilise electorates along a new cultural cleavage that pits adherents of liberal values against adherents of illiberal or authoritarian values.

Group identities take on a transnational dynamic as much in politics (e.g. the #metoo recast of gender equality and the revived environmental activism led by Greta Thunberg), as in culture and entertainment (e.g. the collective understanding of those using Facebook or Netflix, or the fans of a specific TV series or movie saga, coming together across the globe to virtually debate their favourite characters). As a result, the digital transformation of the public sphere pushes the boundaries of the political community, redefining communitarian nationalists and cosmopolitans along a globalised, interconnected axis. In facing the challenge of immigration and refugees, for instance, social media is used simultaneously for the mobilisation of solidarity and for the expression of racism and xenophobia (Michailidou and Trenz 2019). In Brexit campaigns, social media have become the site for the confrontation between pro-Europeans and Eurosceptics, but debates are not so much about the advantages or disadvantages of European integration than about national sovereignty and the boundaries of the political community (Brändle et al. 2021).

The rise of populism, illiberalism and political extremism undermine the authority of the intermediaries of truth and encourage their adherents to search for their own facts against established media and journalism. They thus build up their support base of seemingly self-empowered digital media users. In turn, policies that aim to stamp out misinformation, or algorithms that aim to detect fake news online equally build on the dichotomy between biased and pure truth and the promise to come up with a clear-cut response. This disregards the old insight of public sphere theory that news making

and decisions about the authority of information have always been political acts to the extent that journalism and news media prioritise some stories over others, that they also prioritise according to news organisation agendas and the personal biases of the journalist. As such, journalists are not closer to truth, but rather more faithful to the procedures that allow to establish information value and truth in a way that is consensual to a majority.

Such epistemic conflicts are translated into fundamental disagreement and antagonism between social groups that escape established procedures of conflict management and solution. Digitalisation would not necessarily result in fragmentation (the echo chamber argument) but in polarisation. Adherents to different epistemic communities would even question the legitimacy of how others form their opinions. There is no longer agreement on the meta-problem of how legitimately to form opinions with others in public debate. Some forms of public and media debate are dismissed as elitist, and, therefore, exclusionary and, therefore, illegitimate. Others are dismissed as abusive, as refusing even to listen to the views of others, and therefore, illegitimate.

However, the conditions that facilitate the discursive weaponisation of fake news and the undermining of trust through hyper-scrutiny, also allow for the public sphere to rebound and bring the fake news cry-wolves themselves under scrutiny. The Covid-19 crisis is proving a litmus test for this manifestation of public sphere resilience (Trenz et al. 2020). When the Norwegian Public Broadcaster NRK, for example, published a news article containing controversial claims by experts (a Norwegian vaccine researcher and a former head of the British intelligence service MI6) about the allegedly man-made origin of the Covid-19 virus, the reaction of the Norwegian scientific community was swift and effective: The article was revised to include an apology for having too few sources and miscommunications (Svaar and Venli 2020). A new article was also published, which explained the disagreements within the field about the composition of the virus, as well as about drawing conclusions about the origin of the virus based on this. In this way, journalists set the hyper-scrutiny of public claims about the virus on a more solid basis, relaying to the public how scientists work to understand the virus and the difficulty of establishing the truth from a scientific perspective.

The EU's response to the 'fake news' challenge

From a policy perspective, this parasitic symbiosis of fake news and the democratic public sphere has functioned simultaneously as a trigger for action and hindrance to national and transnational efforts to tackle fake news / misinformation. The principle of freedom of expression has been used by the EU both to defend its policies against disinformation, but also as grounds to defend its (relative) inaction. The alarming rate at which fake news has been taking root in mainstream politics led the EU to classify disinformation as a threat to democratic, political and policymaking processes, as well

as public goods such as public health, security and environment (EC 2018a: 4).² At the same time, the EU argued that disinformation needed to be handled differently to illegal content, such as hate speech or incitement to violence. Despite being verifiably false or misleading, it is still legal content, and thus protected by the right to freedom of expression as enshrined in the European Union Charter for Fundamental Rights (EC 2018c: 1).

Initially, therefore, the European Commission developed an action plan against disinformation (EC 2018c), which was voluntary in nature. Online platforms, advertising industry, researchers, media and citizens alike were encouraged to inform themselves of the dangers of disinformation and the potential negative implications it could have on democratic decision-making. The EU's discourse aligned with dominant contemporary understandings of online and social media as spearheading post-truth politics, particularly highlighting the role of online platforms in enabling the proliferation of disinformation and appealing to their responsibility to act to limit its spread. These self-regulatory measures were preferred over laws and regulations, as there was a perceived risk of backlash against any law that could be considered to constrain freedom of speech. However, the EU itself criticized the self-regulatory measures that had been imposed by the different signatories and stakeholders and acknowledged limits to this approach (Eike 2020).

Addressing information abundance/ overload/ surveillance in EU news media policy

The virtually endless flow and amount of information of the digital era is mostly associated with matters of personal data protection and consumer safety in relevant EU policy documents. We discuss this dimension more in the relevant section on transparency further below. As far as the challenge of information abundance and overload is concerned, it is relevant to mention here that the EU recognises that this challenge also affects citizens' right to free and fair elections in a digital environment. Specifically, the EU recognises that current regulations to ensure transparency and parity of resources and airtime during political elections are out-of-date. The Digital Services Act calls for more transparency, information obligations and accountability for digital service providers, as well as effective obligations to tackle illegal content online. The hope is to improve users' safety online and protect their fundamental rights by making clear obligations for online platforms 'including notice-and-action procedures for illegal content and the possibility to challenge the platforms' content moderation decisions' (EC 2020a: 2). The EU also wishes to continue the self-regulatory measures to tackle disinformation, proposing that 'the rules on codes of conduct

² The European Commission, recognizing the increasing weaponisation of the term 'fake news', has deemed the phrase misleading and with negative connotations, as it is 'used by those who criticize the work of media or opposing political views' (EC 2018b: 7). Instead, it uses the term 'disinformation', which is, furthermore, intended to imply that 'the phenomena is a symptom of a wider problem of information disorder' (EC 2018b: 7), and is defined as 'verifiably false or misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm' (EC 2018a: 3).

established in this Regulation could serve as a basis and be complemented by a revised and strengthened Code of practice on disinformation' (EC 2020a: 5).

At the same time, the EU has taken lead role in addressing the challenge of hyper-surveillance and the blurring of private and public in the digital sphere by introducing the General Data Protection Regulation (GDPR), a flagship regulation with implications for the digital public sphere on a global scale. Although GDPR is intended as a consolidated framework that guides commercial use of personal data and strengthens data protection for EU citizens, particularly in the aftermath of the 2016 Cambridge Analytica scandal, it also:

[E]xponentially increases data security responsibilities and risks for organizations, and a strategy is required to cope with GDPR and other regulations. Information technology plays a key role in data governance, systems strategies and management, to accomplish personal data requirements, enhancing information security and developing breach-awareness capabilities aligned with those of the organization.

(de Carvalho et al. 2020)

Balancing plurality with polarisation of voice in EU news media strategy

As a counter-measure to the challenge of polarisation of public opinion, the EU is actively encouraging the strengthening of deliberative democracy infrastructure, the freedom and pluralism of the media industry, as well as raising awareness and building resilience against disinformation and influence operations: 'to ensure that citizens are able to participate in the democratic system through informed decision-making free from interference and manipulation affecting elections and the democratic debate' (EC 2020b: 2). The understanding of disinformation as a tool for manipulation of public opinion, and a threat to democratic decision-making, is what produces the argument for tackling disinformation:

The integrity of elections has come under threat, the environment in which journalists and civil society operate has deteriorated, and concerted efforts to spread false and misleading information and manipulate voters, including by foreign actors have been observed. The very freedoms we strive to uphold, like the freedom of expression, have been used in some cases to deceive and manipulate.

(EC 2020b: 1)

According to the EU, the Covid-19 pandemic has also been accompanied by an unprecedented 'infodemic' of mis- and disinformation, creating confusion and distrust and undermining an effective public health response (EC 2020c: 1). This digital wave of information – including everything from misleading health information and conspiracy theories to illegal hate speech, consumer fraud, cybercrime, and foreign influence operations – is said to demonstrate 'the crucial role of free and independent

media as an essential service, providing citizens with reliable, fact-checked information, contributing to saving lives' (EC 2020c: 11).

The media sector is described as a 'a precondition for a healthy, independent and pluralistic media environment, which in turn is fundamental for our democracy' (EC 2020d: 4), and the EU proposes a series of initiatives to address the risks to media freedom and pluralism, including to 'create a safer and better environment for journalists to do their work, as well as to promote media literacy' (EC 2020d: 4). The EU also underlines the importance of increasing citizens' media literacy in combating disinformation, describing it as including 'all technical, cognitive, social, civic and creative capacities that allow citizens to access the media, to have a critical understanding of it and to interact with it' (EC 2020d: 18). The Commission also launched a 'NEWS' initiative for news media to work on collaborative transformation and to:

[L]ook holistically at the challenges facing the news media industry and provide a coherent response, bringing together different funding instruments under a common banner. This will increase the coherence, visibility, and impact of actions supported under different funding streams, while fully respecting the independence of the media.

(EC 2020d: 9)

In a parallel effort to address publicity distortions due to digital advertising, Article 24 of the Digital Services Act (DSA) proposes that online platforms ensure that users can identify 'in a clear and unambiguous manner and in real time' that (a) the information displayed is an advertisement, (b) the source on whose behalf the advertisement is displayed, as well as (c) 'meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed' (EC 2020a: 58-59).

Transparency as the answer to hyper-scrutiny/hyper-cynicism?

The challenges to legitimacy caused by the digital transformation may be eased by the EU's measures to increase transparency of online platforms and service providers, support legacy media and empower citizens through media literacy. Fact-checking groups and civil society also contribute to bringing scrutiny to fake news producers, as well as to governments and corporate online platforms. Avaaz is an example of such resilience in civil society, with their extensive fact-checking of online communication, and political activity advocating further regulations from the EU. In this way, the public sphere is showing resilience to fake news both from the top-down and from the grassroots-up. The digital transformation has enabled the rapid growth of online campaigning, which offers new tools like the combining of personal data and artificial intelligence with psychological profiling and complex micro-targeting techniques, as well as algorithmic amplification of messages. While some of these tools are regulated by EU law, such as the processing of personal data, others are 'framed mainly by corporate terms of service, and can also escape national or regional regulation by being deployed from outside the electoral jurisdiction' (EC 2020b: 2). Having formerly considered self-regulatory measures more appropriate, the EU now seems to find that

regulation is needed. In 2020 the EU proposed the Digital Services Act (DSA) aimed at protecting citizens' fundamental rights in the online environment, by adapting commercial and civil law rules for commercial entities operating online (EC 2020a). This regulation is designed to protect EU citizens and will even apply to online platforms established outside the EU, when these are used by EU citizens³.

Conclusion

In this paper, we have discussed empirical evidence for the fake news pandemic not as a failure of journalism as a collective actor and institution, but of established procedures or truth finding within the broader public sphere. Although there is evidence for the disruption of the democratic public sphere (Bennet and Pfetsch 2018), such disruptions do not necessarily lead to a post-factual or post-truth democracy. The challenges of the post-truth era can also activate resilience mechanisms across all three core functions of the public sphere, both at the macro/policy level and the micro/individual level. Focusing on the former, we have reviewed here key EU actions and regulations aimed at addressing disruptive digitalisation processes. That there is any regulatory action at all towards this direction, is in itself indication of resistance – albeit at elementary state – against the most democratically corrosive aspects of digitalisation. In terms of substance, the EU actions and regulations address all three core functions and relevant challenges of the digital public sphere in a manner that strongly denotes not only a liberal democratic normative outlook (privacy protection regulation, for instance), but also a (neo?) liberal economic ideology. The latter comes through in the voluntary nature, for instance, of the counter misinformation actions initially proposed in the period 2018–2020. More recently, however, we see a shift both in terms of urgency and in the wording of EU regulation and actions, whereby the role of professional journalism is explicitly recognised as a pillar of democracy. The earlier voluntary character of proposed actions is also now turned mandatory for social media platforms and digital public sphere behemoths, such as Google and Apple. Crucially, the recognition of news media not only as commercial enterprises but also as a public good indicates a first step, albeit reluctant, away from the hyper-marketisation outlook that has defined the digital public sphere era thus far.

³ The DSA states that 'This Regulation shall apply to intermediary services provided to recipients of the service that have their place of establishment or residence in the Union, irrespective of the place of establishment of the providers of those services' (EC 2020a: 43).

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