

# Public consultation for legal entities on fake news and online disinformation

Fields marked with \* are mandatory.

## Public consultation for legal entities - "Fake news and online disinformation"

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The phenomenon of fake news and online disinformation is a source of deep concern for its potential effects on the reputation of public institutions, the outcome of democratic deliberations or the citizens' opinion-forming on important public policies such as health, environment, immigration, security, economy or finance.

Although not new, this phenomenon is often said to be more pervasive and impactful today than ever before because of the ease with which news can be posted and shared by anyone on social media, the velocity at which such news may spread online, and the global reach they might effortlessly attain.

For the purposes of defining appropriate policy responses, a broad distinction can be drawn between false information that contain elements which are illegal under EU or national laws such as illegal hate speech, incitement to violence, terrorism or child abuse, and fake news that fall outside the scope of such laws. This consultation only addresses fake news and disinformation online when the content is not per se illegal and thus not covered by existing legislative and self-regulatory actions.

When tackling fake news, the public intervention must respect and balance different fundamental rights and principles, such as freedom of expression, media pluralism and the right of citizens to diverse and reliable information.

The purpose of the consultation is to collect views from all parties concerned across the EU as regards the scope of the problem and the effectiveness of voluntary measures already put in place by industry to prevent the spread of disinformation online and to better understand the rationale and possible directions for action at EU and/or national level.

This questionnaire specifically targets **legal entities and journalists, including independent/freelance journalists**. There is another questionnaire for citizens.

Your input will be used by the Commission to nourish policy discussions at EU level on the spread of disinformation online.

The consultation process will be complemented with a Eurobarometer public opinion survey to be launched early 2018 to measure and analyse the perceptions and concerns of European citizens around fake news.

## Identification of respondents

**\* Please indicate your sector of activity**

- News media
- Online platform
- Fact-checking organisation
- Civil society organisation
- Academia Educational sector
- Public authority
- Other

**\* Respondant's first name**

*100 character(s) maximum*

Kevin

**\* Respondant's last name**

*100 character(s) maximum*

Rogers

**\* Organisation's name**

*100 character(s) maximum*

British and Irish Law Education and technology Association

**\* Contact details**

*150 character(s) maximum*

BILETA  
C/o Kevin Rogers  
Department of Social Sciences  
311 Duchesne Building  
University of Roehampton, Roehampton Lane  
SW15 5SL  
London

**\* Company/organisation website**

*100 character(s) maximum*

<http://www.bileta.ac.uk/Home/>

**\* Legal seat of the organisation you represent**

100 character(s) maximum

United Kingdom

**\* Countries in which your organisation is active**

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Extra-EU
- All around the World

**\* Brief description of entity's sector(s) of activity**

300 character(s) maximum

BILETA was formed to promote the use of technology in legal education throughout the UK and Ireland. It organises an annual conference, promotes research projects, provides information on technology in law developments, supports relevant journals, and makes representations on technology and law .

**Number of employees**

- < 10
- 11-50

- 51-250
- > 250

**Turnover of your organisation in 2016**

- < 2 million EUR
- 2-10 million EUR
- 11-50 million EUR
- > 50 million EUR

**If part of a group of companies, please specify the identity of the group.**

*300 character(s) maximum*

**\* Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?**

- Yes
- No
- Not applicable: I am replying as an individual in my personal capacity

If you are an entity not registered in the Transparency Register, please register in the Transparency Register before answering this questionnaire. If your entity responds without being registered, the Commission will consider its input as that of an individual.

**For journalists: please briefly indicate the topics you cover**

*600 character(s) maximum*

**For media companies: please provide a short overview of your online and off-line news and information services.**

*600 character(s) maximum*

**For social media and online platforms: please provide a short overview of your core services. Please specify those enabling users to access news and information through your platform.**

*600 character(s) maximum*

**For civil society organisations: please explain the corporate mission of your organisation and briefly describe its activities, including those designed to reduce disinformation.**

*600 character(s) maximum*

**For the educational sector: please clarify whether primary/secondary/higher, and indicate whether your institute teaches media literacy.**

*600 character(s) maximum*

**For academia: please briefly describe your field of research and its relevance for a better understanding of the phenomenon of fake news.**

*600 character(s) maximum*

Bileta is an academic association with over 25 years experience in the field of technology and law. Our membership includes a range of experts in the field in a variety of disciplines from digital cultures, to cybersecurity and data protection. Our annual conference/supported journals and research expertise cover a variety of regulatory issues and understandings of digital culture. This response is endorsed by the executive and membership of our organization. Our unique contribution is that our membership reflects a range of independent multidisciplinary scholars.

**For public authorities: please briefly describe whether and how your organisation is involved in reducing the impact of disinformation.**

*600 character(s) maximum*

**\* Your contribution,**

Note that, whatever option chosen, your answers may be subject to a request for public access to documents under Regulation (EC) N° 1049/2001

- can be directly published with your personal information** (I consent to publication of all information in my contribution in whole or in part including, where applicable, my name/the name of my organisation, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication)
- can be directly published provided that I/my organisation remain(s) anonymous** (I consent to publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that this is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication).

## Scoping the problem

"Fake news" represents an ill-defined concept encompassing different types of disinformation, such as misrepresentation of reality or distortion of facts. In the context of this questionnaire, the focus is on **news that is intentionally created and spread online to mislead the reader** (e.g. for political or economic reasons). Generally, individual opinions, satire and pure journalistic errors are not considered as fake news. While the spread of certain fake news may constitute an illegal conduct under EU and/or national laws (e.g. as illegal hate speech, incitement to violence, terrorism or child abuse defamation, libel, etc.), in many other cases fake news may have harmful effects on society without being necessarily illegal.

The following sub-set of questions is aimed at enabling the Commission to scope the problem and assess the mechanisms that may contribute to the spread of fake news which are not deemed illegal.

**1. In your opinion, which criteria should be used to define fake news for the purposes of scoping the problem?**

*2000 character(s) maximum*

Fake news is false information on matters of public interest being disseminated in any media. The distributor may or may have an ulterior purpose (advertising/propaganda) and/or either knowingly or recklessly disregards any considerations arising from the truth or falsity of the statement. The issue lies not with the definition of the term but when/if it should become actionable. Many individuals will innocently disseminate such information and it would be improper to take action against them. However, the unknowing user should also not become a shield for those who deliberately disseminate such material with intent or recklessly whilst purporting to be a legitimate "news outlet" or who while acting in the course of a business, with the same recklessness or intent fail to stop its dissemination when that is within their power to do so.

**2. Are the following categories of fake news likely to cause harm to society? Please answer on a scale from 1 to 4: 1 (no harm), 2 (not likely), 3 (likely) to 4 (highly likely).**

	No opinion	1	2	3	4
Intentional disinformation aimed at influencing voting decisions at elections	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at influencing health policies	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at influencing environmental policies	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at influencing immigration policies	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at influencing economy or finance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at undermining trust in public institutions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at undermining public security	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Intentional disinformation aimed at generating advertisement revenues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other categories of intentional disinformation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

\* Please specify which other categories of fake news are more likely to cause harm to society.

*300 character(s) maximum*

False information about the nature of the law or the outcomes of legal processes.

**3. If you have remarks on these categories, please explain why and/or suggest additional categories of fake news.**

300 character(s) maximum

We have categorized some of the above as not likely to cause harm predicated that in a democratic society such policies will be made by qualified and rational public officials. if however, the democratic process /confidence in officials are eroded all these could be impacted.

**4. In your opinion, what are the main economic, social and technology-related factors which, in the current news media landscape, contribute to the increasing spread of fake news? For instance, you can address reading behaviour, advertising revenues, the changing role of journalists and/or the impact of sponsored articles.**

3000 character(s) maximum

Based on studies by Stanford (The Stanford History Education Group, "Evaluating Information: The Cornerstone of Civic Online Reasoning" 2016 available online at <https://sheg.stanford.edu/upload/V3LessonPlans/Executive%20Summary%2011.21.16.pdf>) and Demos (Bartlett, J., and Miller, C., "Truth, Lies and the Internet a Report into Young People's Digital Fluency" 2011 available online at [https://www.demos.co.uk/files/Truth\\_-\\_web.pdf](https://www.demos.co.uk/files/Truth_-_web.pdf)) one can tentatively suggest that there is a growing trend to gather news via social media (i.e. without the intervention of conventional accountable gate keepers), and that although most consumers consider themselves digitally literate enough to identify false reports, there is a statistically significant (though by no means large) portion of adults who clearly do not display sufficient critical skills to do so. This combined with the use of algorithms (and user friend group selection) can create something of an opinion echo chamber lending false authenticity to fake information. Finally, the financial incentives offered to platforms/content generators by "click bait" advertising have created an environment where sensationalism shading into inaccuracy has become an accepted facet of business practice.

Finally, beyond the civil/commercial scene in a scenario of heightened political discourse (for example around issues like immigration, EU membership, terrorism) genuine differences of opinion can be exploited by the injection of counterfactual information and it appears that this has become a recognized part of many nations cyber-conflict approach.

**5. In which media do you most commonly come across fake news? Select the most relevant options.**

- Traditional print newspapers and news magazines
- Traditional online newspapers and news magazines
- Online-only newspapers
- News agencies (e.g. Reuters, ANSA, AFP)
- Social media and messaging apps
- Online blogs/forums
- TV
- Radio
- News aggregators (e.g. Google News, Apple news, Yahoo news)
- Video sharing platforms (e.g. YouTube, DailyMotion, Vimeo)
- Information shared by friends or family
- No opinion

**6. Indicate which of the following dissemination mechanisms, in your opinion, have the highest impact on the spread of fake news in the EU? Select the most relevant options.**

Online sharing by human influencers / opinion makers

- Online sharing done by bots (automated social media accounts)
- Sharing among social media users
- Recommendation algorithms used on online platforms
- Media editorial decisions
- Others

**7. Which of the following areas have, in your view, been targeted by fake news during the last two years? Please, for each area, use a scale from 1 to 4; 1 (not targeted), 2 (marginally targeted), 3 (moderately targeted), 4 (heavily targeted).**

	No opinion	1	2	3	4
Political affairs (e.g. elections)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Security	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal life of public figures (e.g. politicians)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Show biz and entertainment	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Immigration (e.g. refugees)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Minorities (e.g. religious, ethnic, sexual orientation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Health (e.g. vaccines)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Environment (e.g. climate change)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Economy and finance (e.g. market rumours)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Science and technology (e.g. fake or misleading studies)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

**8. In your view, has public opinion been impacted by fake news in the following areas during the last two years? Please for each area use a scale from 1 to 4: 1 (no impact), 2 (some impact), 3 (substantial impact) to 4 (strong impact).**

	No opinion	1	2	3	4
Political affairs (e.g. elections)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Security	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Personal life of public figures (e.g. politicians)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Show biz and entertainment	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Immigration (e.g. refugees)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minorities (e.g. religious, ethnic, sexual orientation)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Health (e.g. vaccines)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Environment (e.g. climate change)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Economy and finance (e.g. market rumours)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Science and technology (e.g. fake or misleading studies)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

**9. If you are an online platform or a news organisation, please explain the criteria you use to rank news content on your platform/online website and a description of their impact on the ranking of other sources of news.**

*3000 character(s) maximum*

N/A
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## Assessment of the measures already taken by online platforms, news media organisations and civil society organisations to counter the spread of disinformation online

Concrete steps have been taken by online platforms, news media organisations and civil society organisations (e.g. fact checkers) to counter the spread of disinformation online. For instance measures have been taken to deprive fake news websites of online advertising revenue, to close fake accounts, and to establish flagging mechanisms (by readers and trusted-flagger organisations alerting the platforms about content of dubious veracity) and collaborations with independent fact-checkers adhering to the International Fact-Checking code of principles.

The following subset of questions is aimed at collecting information needed to better identify the positive impact, and the drawbacks, of current measures to counter the spread of disinformation online.

**10. To what extent, if at all, have the following measures reduced the spread of fake news? Please evaluate each of the following statements on a scale from 1 to 4; 1 (no contribution), 2 (minor contribution), 3 (appreciable contribution), 4 (great contribution).**

	No opinion	1	2	3	4
Pop-up messages on social media, encouraging readers to check news and sources	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Mechanisms to display in prominent position information from different sources representing similar viewpoints (e.g. "related articles" button)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Mechanisms to display in prominent position information representing different viewpoints (e.g. "other sources say" button)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Mechanisms enabling readers to flag content that is misleading and/or fake	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Warnings to readers that a post or article has been flagged /disputed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Fact-checking through independent news organisations and civil society organisations (explaining why a post may be misleading)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Mechanisms to block sponsored content from accounts that regularly post fake news	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Closing of fake accounts and removal of automated social media accounts (based on the platforms' code of conduct)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

**11. If you are an online platform or a news organisation and you have adopted measures aimed at countering the spread of disinformation on your online platform, news media or website, or on those operated by third parties, please explain the measures you took. Please provide a short description of their characteristics as well as their results.**

*3000 character(s) maximum*

N/A

**12. If you are an online platform or a news organisation, which tools do you use to assess the content uploaded on your platform/the quality of online information used to produce news content? Please evaluate each of the following measures on a scale from 1 to 4; 1 (rarely), 2 (occasionally), 3 (often), 4 (always).**

	No opinion	1	2	3	4
Fact checking (human fact checkers)	<input type="radio"/>				
Peer reviews	<input type="radio"/>				
Flagging (by users)	<input type="radio"/>				
Flagging (by trusted flaggers)	<input type="radio"/>				
Automated content verification tools	<input type="radio"/>				
Other	<input type="radio"/>				

**13. In your view, are readers sufficiently aware of the steps to take to verify veracity of news, when reading and sharing news online (e.g. check sources, compare sources, check whether claims are backed by facts)?**

- Yes
- No
- No opinion

You are welcome to provide a comment on readers' awareness on the precautions they should take when reading and sharing news online

*600 character(s) maximum*

Research indicates that younger readers and a proportion of adults struggle to identify the difference between reporting and sponsored opinion pieces.

**14. If you are an online platform or a news organisation, what does your organisation do in order to inform readers about the precautions they should take when reading and sharing news online (e.g. periodic notifications, media literacy programmes) ? How do you help them assess a specific article/post (tools to investigate the source, links to facts & figures, links to other sources etc.) ?**

*3000 character(s) maximum*

N/A

## Scope for possible future actions to improve access to reliable information and reduce the spread of disinformation online

It is sometimes argued that the mechanisms put in place so far by online platforms and news media organisations to counter the spread of fake news only capture a small fraction of disinformation, and that this involves labour-intensive human verification of content and does not prevent virality of fake news through social media. Moreover, concerns have been voiced about the risks of censorship and the need to ensure a more diversified and pluralistic ranking of alternative news sources on social media. The following questions are aimed at collecting information on additional actions which may help to provide a comprehensive and effective response to the phenomenon of fake news.

**15. Do you think that more should be done to reduce the spread of disinformation online?**

- Yes
- No
- No opinion

You are welcome to comment on what should be done to reduce the spread of disinformation online.

*3000 character(s) maximum*

**16. In your view, which measures could online platforms take in order to improve users' access to reliable information and prevent the spread of disinformation online?**

*3000 character(s) maximum*

Pursuant to the Joint Declaration on Freedom of Expression and 'Fake News', what online platforms should do is to support initiatives, which provide fact-checking services to users and reassess their advertising business strategies to ensure that they do not detrimentally affect diversity of ideas and opinions. Moreover, importantly, it is suggested that, as opposed to any regulatory solution, online platforms should endorse the research and development of 'voluntary' human rights compliant solutions, which are compatible with both, Article 20 of the International Covenant on Civil and Political Rights or its equivalent Article 10 of the European Convention on Human Rights (ECHR).

Firstly, any solution to this problem, should be compatible with the European Court of Human Rights (ECHR) accessibility, foreseeability and rule of law principles. Accordingly, online platforms should adopt effective measures to enable users to easily access and understand any policies such as, terms of service – please refer to the Joint Declaration at pg 4. Furthermore, consistent with the rule of law principle, any technical solution to the 'fake news' problem should also be subject to effective supervision – see eg., *Barbulescu v Romania* App no 61496/08 (ECtHR, 5 September 2017) [110].

Secondly, any measure should also be compatible with the ECtHR necessity and proportionality principles. Consequently, a measure should not be considered necessary if other means existed which would be equally adequate but interfered to a lesser extent with Article 10 ECHR, as for instance relying on a 'voluntary' solution – please see *Yildirim v Turkey* App no 3111/10 (ECtHR, 18 March 2013) [64]. Moreover, if exceptional circumstances justified the blockage of unlawful information, any measure should be specifically targeted so that users were always able to legally access information – please refer to *Yildirim v Turkey* App no 3111/10 (ECtHR, 18 March 2013) Page 29. Lastly, in assessing whether measures are proportionate, the gravity of the sanction should also be considered as per *Neij and Sunde Kolmisoppi v Sweden* App no 40397/12 (ECtHR, 19 February 2013).

Thirdly, any technological solution to the 'fake news' problem, should also be compatible with the right of online platforms and users to a fair trial under Article 6 ECHR. Specifically, pursuant to the Strasbourg Court equality of arms principle, online platforms should be required to quickly notify users when material that they generated, uploaded or host might be subject to a technical measure – please refer to Joint Declaration at pg 4; *Barbulescu v Romania* App no 61496/08 (ECtHR, 5 September 2017) [133]. Moreover, following this principle, users should also be given an opportunity to respond to any technical measure - please see Joint Declaration at pg 4; see also the CJEU C-314/12 *UPC Telekabel Wien GmbH v Constantin Film Verleih GmbH and anor* [2014] All ER (D) 302 (Mar) [57].

**17. How effective would the following measures by online platforms be in preventing the spread of disinformation? Please evaluate each action on a scale from 1 to 4; 1 (no impact), 2 (low impact), 3 (moderate impact), 4 (strong impact).**

	No opinion	1	2	3	4
Rank information from reliable sources higher and predominantly display it in search results or news feeds.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Provide greater remuneration to media organisations that produce reliable information online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Allow more control to users on how to personalise the display of content.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Allow direct flagging of suspicious content between social media users.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Invest in educating and empowering users for better assessing and using online information.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Provide buttons next to each article that allow users to investigate or compare sources.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Inform users when certain content was generated or spread by a bot rather than a human being.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Inform users about the criteria and/or algorithms used to display content to them (why they see certain content).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Support civil society organisations to improve monitoring and debunking of fake news.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Employ fact-checkers at the online platform.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Further limit advertisement revenues flowing to websites publishing fake news.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improve and extend to all EU Member States online platforms' current practices, which label suspicious information after fact-checking.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Invest in technological solutions such as Artificial Intelligence to improve the discovery and tracking of fake news.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Develop new forms of cooperation with media outlets, fact-checkers and civil society organisations to implement new approaches to counter fake news.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

\* Please specify other.

600 character(s) maximum

Require news agencies to engage in greater source/editorial transparency and the production of counter-narratives

**18. In your view, which measures could news media organisations take in order to improve the reach of reliable information and prevent the spread of disinformation online?**

3000 character(s) maximum

Pursuant to the Joint Declaration on Freedom of Expression and 'Fake News', news media organizations should endorse effective self-regulation either at the specific media sector level such as, press complaints groups or at the individual media outlet level like public editors or ombudsmen. Both types of self-regulatory measures involve standards aimed at delivering reliable and accurate information including a right of correction and/or reply to tackle false statements in the press. Moreover, news media organizations should contemplate the possibility of including important coverage of 'fake news', propaganda and disinformation as part of their services following their journalism's watchdog role, especially during election campaigns concerning debates on issues of public interest. The Fighting Fake News Workshop Report has also noted that news media organizations should embed their professional rules into new technologies of distribution, better explain these rules to civil society, and protect the public from misinformation. Furthermore, these organizations should also get involved in practices, which increase the chance to create high-quality and trustworthy news. Firstly, news media organizations should voluntary comply with specific rules. For example, these rules could include the use of headlines, which correctly reflect the content of news, detecting double-or-multiple-sourced real statements, highlighting dependence on anonymous sources, including pictures of editors and links to their profiles, and recognizing and making public inaccuracies and amending them. Notably, editors frequently play a key role in implementing these rules. Secondly, given that 'fake news' generates a substantial number of clicks, it can be said that news media organizations amplify the widespread of misinformation. It is therefore arguable that it may be beneficial to shift the business model from a click model to a subscription one. The latter would enable more thoughtful journalism due to loyalty and brand promotion, as well as a decrease in economic pressure. Thirdly, fact-checking per se achieves little. Thus, when a statement is fact-checked and labeled as false, an individual having an opinion shaped by the false statement barely changes this opinion. For this reason, news media organization should focus upon offering counter-narratives, news which disprove the claim without expressly repeating it. For instance, when a statement is fact-checked and labeled as false. Fourthly, once statements are found to be

false, news media organizations should also display fact checks as their product like an unattributed editorial, instead of relying upon specific editors, reporting in their individual capacities to do so. This is because when a fact checking piece is published as the account of account of a specific editor this diminishes the power of the fact check. Finally, it is particularly important to differentiate between objectivity and neutrality.

**19. How effective would the following measures by news media organisations be in strengthening reliable information and tackling fake news? Please evaluate each actions on a scale from 1 to 4; 1 (no impact), 2 (low impact), 3 (moderate impact), 4 (strong impact).**

	No opinion	1	2	3	4
Invest more in new forms of journalism (i.e. data-based investigative journalism) to offer reliable and attractive narratives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Increase cooperation with other media organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Help readers develop media literacy skills to approach online news critically	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Help readers assess information when and where they read it (e.g. links to sources)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Support civil society organisations and participative platforms (for instance using the model of Wikipedia/Wikinews) to improve monitoring and debunking of fake news.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Invest in technological solutions to strengthen their content verification capabilities, in particular for user-generated content, in order not to contribute to the proliferation of fake news.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please specify other.

600 character(s) maximum

Develop new social norms and cultural practices.

**20. In your view, which measures could civil society organisations take in order to support reliable information and prevent the spread of disinformation online?**

3000 character(s) maximum

As the Wilton Park report 17 February 2017 has noted, civil society organizations such as, non-governmental institutions and groups, academia and think tanks, all have a key role in tackling the ‘fake news’ phenomenon. These groups have the ability to establish new rules and put social pressure upon news content distributors to comply with existing rules, such as social contract agreements, shaming bad actors and appreciating honesty.

Firstly, and in line with the Joint Declaration on Freedom of Expression and ‘Fake News’, (see pg 2, 5) civil society organizations could spread the idea of a publicly-funded communications service media aimed at serving the public and establish how this kind of service could be adapted to be implemented in different

countries - please refer to Wilton Park report pg 1.

Secondly, civil society organisations could also offer partnership and support to independent fact-checking groups, and act as effective watchdogs to establish how governments are countering online disinformation. It is true that fact-checking groups are key to civil society organizations and may be considered the answer to the ‘fake news’ problem because these organizations could potentially reduce the effect of propaganda. However, it should be noted that such fact-checking groups establish the truth by being able to verify information. Thus, importantly, news that might be accurate but impossible to verify, may not pass as true on a fact-checking website. For this reason, arguably, instead the focus should be upon supporting, encouraging and promoting high-quality journalism - please see Wilton Park report pg 1, 8.

Thirdly, it is true that allegations of disinformation can generate backlash against civil society organizations and be employed to silence human rights-related activities. For example, in some Middle Eastern countries, in which government and religion are closely associated, a government may label news from civil society organizations as disinformation, and those organization members could be regarded by the community as spewing blasphemies. This is serious religious crime. However, on the other hand, civil society groups such as human rights organisations, could also endeavour and appeal to certain groups of society, which are more likely to believe in ‘fake news’ by recognizing these groups’ opinions and providing facts and context to societal problems. It can be argued that reiterating the ‘fake news’ narrative may be adding fuel to the fire instead of extinguishing it. Therefore, it is suggested that rather than retaining such narrative, the answer to this issue should be framed in different terms. For instance, this could not only be done by paying more attention to the way in which society is encouraging journalism, but also critically assessing what society does, or perhaps more relevantly, what it should do to arrive at the truth – please refer to Wilton Park report pg 7-8.

**21. How do you rate the added value of an independent observatory/website (linking platforms, news media organisations and fact-checking organisations) to track disinformation and emerging fake narratives, improve debunking and facilitate the exposure of different sources of information online? Please evaluate each of the following statements on a scale from 1 to 4; 1 (strongly disagree), 2 (disagree), 3 (agree), 4 (strongly agree). If you find it useful, you can voice suggestions for independence hereunder - e.g. academic supervision, community-based structures or a hybrid such as Wikipedia.**

	No opinion	1	2	3	4
The public would benefit from an independent observatory that acts like a knowledge centre, gathering studies and providing general advice on how to tackle disinformation online.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The public would benefit from an independent observatory that looks at popular social media posts, asks fact-checkers to look at them, and provide warnings (to platforms, public authorities, etc.) that they need to be flagged.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The public would benefit from an independent observatory /website that looks at popular social media posts, researches the facts and develops counter-narratives when necessary.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The public would benefit from an independent observatory /website that does not look at posts, but instead helps to gather					

factual information (and possibly user ratings) for each source, to help create a factual snapshot of each source's activity and reputation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An observatory is not useful for the public	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**22. What actions, if any, should be taken by public authorities to counter the spread of fake news, and at what level (global, EU, national/regional) should such actions be taken?**

*3000 character(s) maximum*

In accordance with the Joint Declaration on Freedom of Expression and 'Fake News', States are under a global positive obligation to enable an online environment for freedom of expression, which entails supporting, promoting and protecting diverse media as well as endorsing citizens' ability to access and disseminate ideas and information – in this context see also *Delfi v Estonia* App no 64569/09 (ECtHR, 16 June 2015) [110]-[118]. Accordingly, pursuant to both, Article 20 ICCPR and Article 10 ECHR, States can only interfere with the right to freedom of expression following the three-part, non-cumulative test. Under the ICCPR and the ECHR, any interference with the right to freedom of expression such as preventing the publication of a news story featuring unreliable data (fake news), as for example, through the blocking of whole sites, IP addresses, network protocols or ports, must:

be 'provided by law'

pursue one or more specific legitimate aims, and

be 'necessary' and 'proportionate'.

Specifically, as opposed to vague concepts such as, 'false news' or 'non-objective information', the Joint Declaration states that interferences with freedom of expression can only be imposed to prohibit advocacy of hatred, which amounts to incitement to discrimination, hostility or violence as per Article 20(2) ICCPR and Article 10(2) ECHR. These standards apply 'regardless of frontiers'.

The Joint Declaration stresses that intermediaries should always be exempted from liability for any third party content unless they specifically engage in this content or refuse to comply with an order by an independent body such as a court – in this regard see also *Barbulescu v Romania* App no 61496/08 (ECtHR, 5 September 2017) [122].

Moreover, notably, the Joint Declaration has also warned that the adoption of content recognition and filtering systems to tackle the 'fake news' issue would constitute an unjustifiable interference with Article 20 ICCPR and Article 10 ECHR rights – in this context please refer to *Case 70-10 Scarlet Extended SA v Société belge des auteurs, compositeurs et éditeurs SCRL (SABAM)* [2012] ECDR 4 [53].

The Joint Declaration further elaborates that whilst criminal defamation legislation is unduly restrictive, on the other hand, civil defamation rules are only legitimate as long as defendants are able to rely on relevant and adequate defences. It explains that States should ensure that they do not disseminate statements that they know or reasonably should know to be false or that show a reckless disregard for reliable information. It suggests that States should also set out a clear regulatory framework for broadcasters, which is overseen by an independent body and includes a strong and adequately funded public service media. It concludes that States should finally put in place other measures to promote media diversity, digital literacy, non-discrimination and other democratic values.

**23. Please provide any comment and/or link to research that you consider useful to bring to the Commission attention.**

*3000 character(s) maximum*

The British and Irish Law Education and Technology Association (BILETA) would like to refer the European Commission to its Response to the Culture, Media and Sport Committee's 'Fake News' inquiry. This is

available at [http://researchprofiles.herts.ac.uk/portal/files/11257996/BILETA\\_Response\\_to\\_the\\_Culture\\_Media\\_and\\_Sport\\_Committee\\_s\\_fake\\_news\\_inquiry.pdf](http://researchprofiles.herts.ac.uk/portal/files/11257996/BILETA_Response_to_the_Culture_Media_and_Sport_Committee_s_fake_news_inquiry.pdf)

The British and Irish Law Education and Technology Association (BILETA) would also like to refer the European Commission to the Lexis PSL report entitled 'Fact, fiction and fake news—the involvement of data and analytics'. This is available at [http://researchprofiles.herts.ac.uk/portal/files/12171726/LexisNexis\\_Fact\\_fiction\\_and\\_fake\\_news\\_the\\_involvement\\_of\\_data\\_and\\_analytics.pdf](http://researchprofiles.herts.ac.uk/portal/files/12171726/LexisNexis_Fact_fiction_and_fake_news_the_involvement_of_data_and_analytics.pdf)

The British and Irish Law Education and Technology Association (BILETA) would also like to refer the European Commission to the UK Parliamentary Office of Science & Technology Report entitled 'Online Information and Fake News'. This is available at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/POST-PN-0559>

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