

EU Code of Practice on Disinformation

INTRODUCTION

In light of the European Commission Communication "Tackling online disinformation: a European approach"¹ (hereafter "the Communication"), the Report of the High Level Expert Group², the Council Conclusions of 28th June 2018³, and the various important initiatives taking place across Europe⁴ to address the challenges posed by the dissemination of disinformation, the Signatories of this Code recognise their role in contributing solutions to the challenges.

The Signatories also recognise and agree with the Commission's conclusions that, "The exposure of citizens to large scale disinformation, including misleading or outright false information, is a major challenge for Europe. Our open democratic societies depend on public debates that allow well-informed citizens to express their will through free and fair political processes." The Signatories are also mindful of the fundamental right to freedom of expression, and the delicate balance which any efforts to limit the spread and impact of otherwise lawful content must strike.

In recognition that the dissemination of disinformation has many facets and is facilitated by and impacts a very broad segment of actors in the ecosystem, all stakeholders have roles and responsibilities to play in countering the spread of disinformation.

It is in this spirit that the Signatories⁵ have drafted the present Code and its Annex, which is an integral part of this Code, and hereby commit themselves to adhere to it.⁶ The Annex sets out existing best practices. Signatories agree that the Annex might periodically be amended in light of market, technical and other developments.

¹ http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=51804.

² <https://ec.europa.eu/digital-single-market/en/news/final-report-high-level-expert-group-fake-news-and-online-disinformation>.

³ <http://www.consilium.europa.eu//media/35936/28-euco-final-conclusions-en.pdf>.

⁴ Measures taken by the European Union, its Member States and other relevant stakeholders should limit the incidence and impact of online disinformation and must be taken within the legal framework provided by the Charter of Fundamental Rights of the European Union (CFREU) and the European Convention on Human Rights (ECHR). In particular, Freedom of expression is enshrined in Article 11 of the CFREU and Article 10 of the ECHR as an indispensable enabler of sound decision-making in free and democratic societies. Freedom of expression extends to print, broadcast and online media and includes the right to hold opinions and to receive and impart information and ideas "without interference by public authorities and regardless of frontiers," as well as the integral, corollary values of media freedom and media pluralism.

⁵ Given the breadth of the commitments outlined in the Code, and the range of stakeholders involved, Signatories will sign up only to commitments which correspond to the product and/or service they offer, and their role in the value chain. Hence, we have opted to use "Relevant Signatories" when referring to certain commitments. This does not commit all Signatories of the Code to sign up to every commitment. Further elaboration of the roles and actions carried out by the range of stakeholders shall be outlined in the Annex.

⁶ The Signatories include corporate entities that will be responsible for implementing the relevant policies reflected in the Code. The Signatories recognise that trade associations that have signed the CoP are not entering into obligations on behalf of their members. However, these associations commit to make their members fully aware of the CoP. A signatory may withdraw from the Code at any time, by notifying the European Commission and the other Signatories. Such a withdrawal will not have the effect of terminating the Code between the other Signatories.

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CODE OF PRACTICE

I. Scrutiny of ad placements

Recognising the objective outlined in the Communication the Signatories acknowledge the need to:

“significantly improve the scrutiny of advertisement placements, notably in order to reduce revenues of the purveyors of disinformation”. Relevant Signatories will use commercially reasonable efforts to implement policies and processes not to accept remuneration from or otherwise promote accounts and websites which consistently misrepresent information about themselves. We recognise that all parties involved in the buying and selling of online advertising and the provision of advertising–related services need to work together to improve transparency across the online advertising ecosystem and thereby to effectively scrutinise, control and limit the placement of advertising on accounts and websites belonging to purveyors of disinformation. Avoiding the misplacement of advertising on online disinformation sites requires further refinement of already widely used brand safety tools to successfully continue to meet this challenge, in recognition of the nature of this content.⁷

Commitment:

1. Relevant Signatories will implement policies and processes to disrupt advertising revenue from going to accounts and websites that repeatedly misrepresent material information about themselves. Such policies and processes will include, where possible and appropriate, the use of brand safety and verification tools, and, where appropriate, will provide advertisers with necessary access to client-specific accounts to help enable them to monitor the placement of ads and make choices regarding where ads are placed.

II. Political advertising and issue based advertising

Signatories acknowledge the Communication’s call to “recognise the importance of ensuring transparency about political and issue-based advertising. Transparency should be ensured also with a view to enabling users to understand why they have been targeted by a given

⁷ Communication ‘Tackling online disinformation: a European Approach’, http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=51804. “Disinformation is understood 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. Public harm comprises threats to democratic political and policy-making processes as well as public goods such as the protection of EU citizens' health, the environment or security. Disinformation does not include reporting errors, satire and parody, or clearly identified partisan news and commentary. This Communication is without prejudice to the applicable legal rules at Union or national level relating to the issues discussed, including disinformation containing illegal content. This Communication is without prejudice to ongoing approaches and actions in relation to illegal content, including as regards terrorist content online and child sexual abuse material.”

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advertisement” as indicated in the Commission Communication. Therefore, the Signatories of this Code commit to the following:

Commitment:

1. Signatories respect the requirement set by EU or national laws and outlined in self-regulatory Codes⁸ that advertisements should be clearly distinguishable from editorial content, including news, whatever their form and whatever the medium used. When an advertisement appears in a medium containing news or editorial matter, it should be presented in such a way as to be readily recognisable as a paid-for communication and labelled as such.
2. Relevant Signatories should enable public disclosure of political advertising (defined as advertisements advocating for or against the defeat of candidates or referenda in national and European elections).
3. Relevant Signatories should use commercially reasonable efforts towards devising approaches to publicly disclose issue advertising. Given the implications related to freedom of expression, Signatories encourage engagement with expert stakeholders to explore approaches that both achieve transparency but also uphold fundamental rights.

III. Integrity of services

Relevant Signatories underline an ongoing commitment that before launching new services, they should consider to have in place safeguards against misrepresentation. Relevant Signatories should also review existing services with to ensure that such safeguards are likewise implemented, to the extent possible. In line with the European Commission Communication which recognises “the importance of intensifying and demonstrating the effectiveness of efforts to close fake accounts as well as the importance of establishing clear marking systems and rules for bots to ensure their activities cannot be confused with human interactions.” Relevant Signatories further recognize the importance of ensuring that online services include safeguards against disinformation.

Relevant Signatories should intensify and demonstrate the effectiveness of efforts to ensure the integrity of services with regards to accounts whose purpose and intent is to spread disinformation whose specifics should be assessed and determined by the individual signatory. Consistent with Article 8 of the European Convention on Human Rights⁹, Relevant Signatories should not be prohibited from offering anonymous or pseudonymous services to the public.

⁸ Such as the Advertising and Marketing Communication Practice Consolidated ICC Code (<https://cdn.iccwbo.org/content/uploads/sites/3/2011/08/ICC-Consolidated-Code-of-Advertising-and-Marketing-2011-English.pdf>) or the advertising Codes of conduct enforced by self-regulatory organisations at national level.

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Commitment:

1. Relevant Signatories should have clear policies in place regarding identity and the use of automated bots on their services, and should have systems in place to enforce these policies within the EU. Such measures could include some of the measures included in the Annex to this Code.
2. Relevant Signatories will put in place policies on what constitutes impermissible use of automated systems and will make this policy publicly available on the platform and accessible to EU users.

IV. Empowering consumers

Consistent with Article 10 of the European Convention on Human Rights and the principle of freedom of opinion, Relevant Signatories should not be compelled by governments, nor should they adopt voluntary policies, to delete or prevent access to otherwise lawful content or messages solely on the basis that they are thought to be “false”. Instead, Relevant Signatories should invest in technological means to prioritize relevant, authentic, and accurate and authoritative information where appropriate in search, feeds, or other automatically ranked distribution channels.

The Signatories of this Code recognise that transparency should be ensured with a view to enabling users to understand why they have been targeted by a given political or issue-based advertisement. This transparency should reflect the importance of facilitating the assessment of content through indicators of the trustworthiness of content sources, media ownership and verified identity. These indicators should be based on objective criteria and endorsed by news media associations, in line with journalistic principles and processes. They also recognise the importance of diluting the visibility of disinformation by improving the findability of trustworthy content and consider that users should be empowered with tools enabling a customized and interactive online experience so as to facilitate content discovery and access to different news sources representing alternative viewpoints, and should be provided with easily-accessible tools to report disinformation, as referred to in the Communication and therefore make the following commitments;

Commitments:

1. Relevant Signatories will invest in products, technologies and programs to help people make informed decisions when they encounter online news that may be false, including by supporting efforts to develop and implement effective indicators of trustworthiness.
2. Relevant Signatories will also invest in features and tools that make it easier for people to find diverse perspectives about topics of public interest.

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3. Signatories will partner with civil society, governments, educational institutions, and other stakeholders to support efforts aimed at improving critical thinking and digital media literacy.
4. Signatories will encourage market uptake of tools that help consumers to understand why they are seeing particular advertisements.

V. Empowering the research community

Last but not least, this section addresses the principle raised in the HLEG Report and reflected in the Communication that Relevant Signatories “will take the necessary measures to enable privacy-compliant access to data for fact-checking and research activities; further, they will cooperate by providing relevant data on the functioning of their services including data for independent investigation by academic researchers and general information on algorithms.”

Commitments:

1. Relevant Signatories will support independent efforts to track disinformation and understand its impact, including by sharing privacy protected datasets, undertaking joint research, or otherwise partnering with academics and civil society organizations.
 2. Relevant Signatories will not prohibit or discourage, good faith research into disinformation and political advertising on their platforms.
 3. Signatories should encourage research into disinformation and political research into disinformation and political advertising on their platforms.
 4. Relevant Signatories should convene an annual event to foster discussions within academia, the fact-checking community and all members of the value chain.
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Key Performance Indicators

The following set of Key Performance Indicators are not meant to cover all the Signatories of the Code but rather the Relevant Signatories to the respective commitments.

- Relevant Signatories commit to writing an annual account of their work to counter disinformation, in the form of a publicly available report reviewable by a third party. The report would include details of any measures taken by the Signatories to improve the transparency regarding disinformation, such as:
 - In line with Commitment I.I, policies and enforcement activity in relation to reducing monetisation opportunities for providers of disinformation
 - In line with Commitment II, measures to improve the visibility to consumers of instances of political advertising
 - In accordance with Commitment II, measures to improve the ability of researchers and civil society groups to monitor the scope and scale of political advertising
 - In line with Commitment III, measures to integrate and roll-out policies in relation to the integrity of their services in the context of disinformation
 - In line with Commitment IV, measures to empower consumers with products, technologies and programmes

- In the specific case of advertisers, the World Federation of Advertisers will provide aggregated reporting to track and identify the different brand safety activities and policies employed by brand owners.
- In the specific case of advertising agencies, the European Association of Communications Agencies (EACA) will provide aggregated reporting to track and identify the different brand safety activities and policies employed by advertising agencies.
- Relevant Signatories commit to selecting an objective 3rd party organization to review the annual self-assessment reports submitted by the Signatories and evaluate the level of progress made against the Commitments.

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