An Roinn Turasóireachta, Cultúir,
Ealaíon, Gaeltachta, Spóirt agus Meán
Department of Tourism, Culture,
Arts, Gaeltacht, Sport and Media

National Counter Disinformation Strategy Subgroup 2 Report

Regulatory and Research Mechanisms
September 2023

The content of this paper is deliberative in nature and not conclusive. It reflects the initial scoping activities of the Working Group in response to the agreed terms of reference. It does not reflect the official views of Government or any participating organisation on the Working Group.

Contents

Purpose

To inform the development of the whole of Government national strategy for countering disinformation by identifying mechanisms and research measures that support innovation in areas critical to compliance in the emerging regulatory environment. It is anticipated that this work will outline the landscape for countering disinformation in Ireland by identifying relevant legislation, regulations, policies and entities (state, regulatory, NGO, networks and associations) active in the area, as well as the role for research in monitoring and assessing these mechanisms.

Challenges

Recommender systems

The recommender systems[1] of digital platforms like, for example, YouTube, Meta, TikTok or Instagram recommend content to users as they are browsing. As recommender systems can be designed for maximum engagement with the platform, content that prompts reaction may be prioritised. This is sometimes referred to as "algorithmic amplification" as certain content that is more likely to provoke a reaction from users is amplified. Recommender systems may then promote harmful content such as disinformation and expand the reach of this dangerous material. Without recommender systems, disinformation could still be posted on a platform, but it may not be widely seen. Addressing the issues with amplification and focusing on the reach of this material does not affect a user's right to freedom of expression.

POSSIBLE SOLUTIONS TO PROBLEM:

The EU Digital Services Act (DSA) will introduce user choice to switch off personalised recommender systems that are based on "profiling".[2] This applies to very large online platforms (VLOPs) under the Act. The DSA also introduces a requirement that VLOPs conduct a risk assessment of the harm to society[3] and enable independent analysis by researchers and separately by the European Commission.[4] As the national Digital Services Coordinator, it is intended that Coimisiún na Meán (the Media Commission) will have powers under the Act to enforce these provisions. In addition, the Online Media and Safety Regulation Act (OSMR) empowers Coimisiún na Meán to establish binding Safety Codes that prevent digital platforms from amplifying content that promotes hatred, genocide and discrimination.[5]

KEY ACTORS:

Coimisiún na Meán

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1 This is a general description; different digital platforms may refer to their recommender systems by different names.

[2] DSA, Article 28.

[3] DSA, Article 34.

[4] DSA, Article 40.

[5] OSMR section 139K(2)(c) by reference to Article 28b(1) of the Audiovisual Media Services Directive (AVMSD).

Micro-targeted digital advertising and "Real-Time Bidding" systems

Some digital advertising tracks people across the internet to advertise based on detailed profiles of their online activity and location history. The most popular online advertising technology is called "Real-Time Bidding" (RTB). It operates behind the scenes on many websites and apps. RTB broadcasts what people read, watch, and listen to, and where they are, to large numbers of entities without proper oversight, exposing people to profiling by malicious actors who can then discriminate against, mislead or manipulate them. In addition, it allows such actors to sell advertising based on data "arbitraged" from high quality media as well as automated "bot" fraud, which diverts funds away from journalism.

POSSIBLE SOLUTIONS TO PROBLEM:

The General Data Protection Regulation (GDPR) requires that personal data must only be used when it is kept protected, which is not the case in RTB. Enforcing the GDPR's security principle will protect people from dangerous profiling, and protect high quality media. In addition, the EU Digital Markets Act (DMA) introduces obligations for "gatekeepers". It states that gatekeepers shall not cross-use personal data and they also shall not process, for the purpose of advertising, personal data of end users. The Competition and Consumer Protection Commission (CCPC) is the Competent Authority under the DMA.

KEY ACTORS:

Data Protection Commission, Competition and Consumer Protection Commission

Media and the Disinformation Lifecycle

The role of platforms in the disinformation lifecycle – that is, the length of time and speed at which misleading content can circulate – can be significant. There are established national and international media that operate within national and international regulatory structures and with robust community guidelines around false, misleading or harmful content. These media operate on large well-known platforms. There are other media that do not adhere to national and international regulatory structures, and that operate with limited community guidelines around false, misleading or harmful content. Malicious actors may use these latter type of media to promote harmful or misleading content like disinformation as an alternative to, or sometimes in combination with, well-established platforms. Using these other platforms can prolong the disinformation lifecycle because it can be harder to debunk stories that are already circulating rather than pre-empting false narratives through pre-bunking.

POSSIBLE SOLUTIONS TO PROBLEM:

The application of online safety codes under the OSMR Act. Labelling and systematic review of content in line with obligations under the DSA. The support of fact-checking activities.

KEY ACTORS:

Regulators, Online Platforms, Fact-checkers

Lack of Transparency

Transparency in public policy can be broken down into three main categories: policies (or laws), processes (or practices) and outcomes. All stakeholders should endeavour to uphold their respective transparency obligations. Different levels of disclosure may be required for different stakeholders. For example, the case of governments, it is necessary to comply with data protection obligations, to protect Intellectual Property (IP) rights or to safeguard national security.

Transparency is vital for the public to understand their rights and responsibilities and how laws apply online, the relationships they enter into with online platforms, and the digital environment in which they spend increasing amounts of time. Overall, transparency must complement rights to data privacy, not erode them. A good model for transparency will protect individuals' data privacy while enabling a macro understanding of the nature and scale of technology platforms' processes and any potential impacts on democracy, infringement of rights or harms that stem from their platforms. However, the requirements and expectations associated with transparency can be poorly articulated, lack specificity, or vary across online platforms and offline jurisdictions, so calls for further transparency should have a strong rationale and be as specific and targeted as possible.

POSSIBLE SOLUTIONS TO PROBLEM:

Data sharing with researchers (as well as audits of reports) is a part of the EU Code of Practice on Disinformation. The transparency requirements under the Digital Markets Act also set out obligations on gatekeeper platforms to provide information in relation to data profiling. As stated in Recital 72 of the Regulation,

> *"Transparency puts external pressure on gatekeepers not to make deep consumer profiling the industry standard, given that potential entrants or start-ups cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency*

> *should allow other undertakings providing core platform services to differentiate themselves better through the use of superior privacy guarantees."*[6]

Under Article 5 of the Regulation, the gatekeeper shall not cross-use personal data from the relevant core platform service in other services provided by the gatekeeper. They also shall not process, for the purpose of advertising, personal data of end users who are using services of third parties on the gatekeeper platform. In addition, Article 15 obliges gatekeepers to submit an independently audited description of any consumer profiling techniques applied across their core platform services.

KEY ACTORS:

Online Platforms, Regulators, Policy makers

Data access for researchers

There is a lack of transparency from platforms on the performance of fact-checking procedures in relation to content flagged as disinformation. Fact-checkers rely on transparency reports from platforms, which may be infrequent. It can be difficult to get detailed information from platforms on the application of interventions such as labelling. For example, ISD noted, during a study of content labelling on TikTok, that it is unclear how effective content moderation banners labelling disinformation can be due to lack of data access for researchers.[7]

POSSIBLE SOLUTIONS TO PROBLEM:

Partnering of platforms with academic institutions, established researchers and fact-checking organisations. The enforcement of transparency requirements under the DSA. Working with platforms under the EU Code of Practice on Disinformation.

KEY ACTORS:

Online Platforms, Researchers, Policy makers, Regulators

Artificial Intelligence

Generative AI is the use of AI/Machine learning to generate images, text, audio, video and chat responses, among other things. Generative AI applications are available as consumer

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[6] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.265.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A265%3ATOC
[7] https://www.isdglobal.org/digital_dispatches/tags-flags-and-banners-evaluating-the-application-of-information-resources-on-vaccine-content-on-tiktok/

products, with minimal checks on the veracity and subsequent (mis)use of the data generated. As such, there are concerns that disinformation actors could use AI to flood the net with disinformation narratives. While current generative AI apps would refuse to fulfil requests for disinformation, these refusals are not consistent as a reworded or translated prompt may yield results. As a single prompt can yield multiple outputs, this can increase the quantity of disinformation circulating online. The generated media can be shared as multiple manipulative reinforcing articles (ActiveFence 2023). There has also been concerns about "hallucinated" material, where generated text is supported by fictitious citations. Both of these uses of generative AI would make it harder to identity disinformation. The use of AI in this fashion is currently believed to be limited.

POSSIBLE SOLUTIONS TO PROBLEM:

The draft EU Artificial Intelligence Act[8] was adopted by the European Parliament on 14 June 2023. There are a number of provisions that feature in the draft, designed to make users aware that they are interacting with AI generated content, such as:

- Mandatory labelling of machine created content (Article 52, amendment 486)
- Generative AI companies should be transparent about the data their AI models have been trained on. (Article 28 b, amendment 399)
- New provision for the European Commission to remote access AI systems' code and perform audits (Recital 69, amendment 115)

Industry has also suggested that images appearing on a search engine will be labelled to identify if the image has been tampered with. From September 2023, Google has issued election advertising rules which require advertisers to disclose where the content is "synthetically" or "computer generated." This disclosure requirement applies globally to Google and YouTube verified advertisers, including in Europe.

KEY ACTORS:

Online Platforms, AI Regulatory Authorities

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[8] https://www.europarl.europa.eu/doceo/document/TA-9-2023-0236_EN.html

Changing Media Landscape

Media pluralism, access to a diversity of views and transparency of who ultimately owns and controls a media service, is essential for users in determining the reliability of information they are receiving and in tackling disinformation. Ireland has existing legislative protections for media pluralism through the media mergers regime established under Part 3A of the Competition Act 2002. In addition, Coimisiún na Meán funds mediaownership.ie, a publically available database of Irish media outlets and the companies and individuals who own them. However, the changing media landscape poses new challenges for media pluralism, in particular online. Notably the 2023 Media Pluralism Monitor has identified market plurality as being 'high risk' across Europe, including in Ireland, citing ownership transparency and plurality in digital markets as some of the relevant issues.

POSSIBLE SOLUTIONS TO PROBLEM:

The proposed European Media Freedom Act (EMFA) seeks to strengthen media freedom and pluralism across the EU. It will enshrine the right for the public to receive a plurality of news and current affairs content, and will also provide a common framework for the national assessment of media mergers across the Union. Under Article 6 of EMFA, media service providers will be obliged to make information easily accessible on their ownership. Such provisions can be expected to update and strengthen the regulatory protection for media pluralism in Ireland.

KEY ACTORS:

Coimisiún na Meán, Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

Trustworthiness and Credulity

PERITIA (Policy, Expertise and Trust in Action) is an EU Horizon 2020 funded research project exploring the conditions under which people trust expertise used for shaping public policy. People can and do place trust in experts, taking account of their training or track records. According to the research, we also place trust in experts because we think they are honest and have integrity. It is important to foster trust in experts with increasing levels of education and training for people so that they can enhance their own skills and knowledge to enable them to engage with expert input.

POSSIBLE SOLUTIONS TO PROBLEM:

Broader digital and media literacy and critical thinking skills across the population.

KEY ACTORS:

Department of Education, Media Literacy Ireland, Journalists

FIMI and Criminal Networks

Due to ongoing conflict in Ukraine and other countries, increasing tensions between world powers, and the desire of certain nations and very large trade and commercial organisations to influence European democratic processes, the European Union and many of its individual nations have become increasingly concerned with disinformation and other hybrid threats. As a result, the EU and some individual countries have introduced legislation and policies to criminalise and/or limit the spread of disinformation, alongside increased funding for media literacy and other social and educational programmes and funding for research into methods to detect, analyse and disrupt disinformation campaigns.

One of the key areas of concern is Foreign Information Manipulation and Interference (FIMI) campaigns. Often such campaigns are designed to exert influence on a country or region, disrupt society and reduce trust in democratic institutions and the rule of law. Common tactics include targeting groups in society to increase division, targeting marginalised groups, or promoting disinformation campaigns and conspiracies that make effective government and the delivery of services more difficult. Since 2015, the European External Action Service is among many European institutions to have significantly increased its capacity to deal with FIMI campaigns.[9]

A second area of growing concern is disinformation linked to criminal networks (criminal gangs, cyber criminals, extremist groups, violent nationalist movements, paramilitary movements and radical and terrorist groups). They use disinformation to recruit individuals, promote divisiveness, raise finance, and to further their political and economic goals. In recent years, such criminal groups have become adept at spreading disinformation on the Internet and social networks. In some instances, (see disinformation lifecycle above) their narratives have been picked up by media platforms with limited community guidelines around false, misleading or harmful content, prolonging the disinformation lifecycle.

[9]

POSSIBLE SOLUTIONS TO PROBLEM:

There are three potential solutions that could be considered:

- Multidisciplinary research and the creation and funding of multidisciplinary teams to provide accurate and up-to-date tracking data on the key issues.
- Collaborative fora between the key actors including State bodies and agencies.
- Targeted media literacy and educational measures and campaigns to grow understanding of civic rights and democratic values.

It is also suggested that increasing long-term funding for media literacy and other social and educational programmes and funding for research into methods to detect, analyse and disrupt disinformation campaigns would help mitigate this issue.

KEY ACTORS:

Government Departments, Funding bodies, National Cyber Security Centre, Academia, Media literacy and educational stakeholders

Policy Context

Legal/regulatory

The regulation of disinformation in Ireland is a complex matter. Currently there are a number of legislative frameworks in place at EU and national level, which aim to counter disinformation indirectly by ensuring a pluralistic and impartial media environment and an empowered and media literate public. These legislative frameworks include:

EU - AUDIO VISUAL MEDIA SERVICES DIRECTIVE

The Audiovisual Media Services Directive (AVMSD)[10], which has been partially transposed as part of Online Safety and Media Regulation (OSMR) Act 2022, aims to govern EU-wide coordination of national legislation on all audiovisual media, which include traditional TV broadcasts and on-demand services. The safeguarding of media pluralism is central to the AVMSD and the directive includes provisions with regard to the prominence of audiovisual services of general interest (Article 7a)[11] as well a requirement for on demand services to ensure prominence of European works (Article 13)[12] and requirements for the broadcast of Independent European works (Article 17)[13]. The AVMSD also includes provisions for media literacy, with requirements for the regulator to ensure video service providers (VSPs) include effective media literacy measures at Article 28b(3)(j)[14] and again at Article 33a which has requirements for the promotion and the development of media literacy skills as well as reporting requirements for Member States. Finally, Article 30b of the AVMSD provides for the formal recognition and reinforcement of ERGA's role, including in terms of providing technical advice to the EU Commission. This has been particularly evident in the work ERGA has undertaken in monitoring the EU Code of Practice on Disinformation.

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[10] Audiovisual and Media Services | Shaping Europe's digital future (europa.eu)

[11] AVMSD Article 7a – Member States may take measures to ensure the appropriate prominence of audiovisual media services of general interest.

[12] AVMSD Article 13 – Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30% share of European works in their catalogues and ensure prominence of those works.

[13] AVMSD Article 17 – Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10% of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping, or alternately, at the discretion of the Member State, at least 10% of their programming budget, for European works created by producers who are independent of broadcasters.

[14] AVMSD Article 28b (3)(j) – Providing for effective media literacy measures and tools and raising users' awareness of those measures and tools.

EU - DIGITAL SERVICES PACKAGE I.E., DIGITAL SERVICES ACT AND DIGITAL MARKETS ACT

The Digital Services Act (DSA)[15] is an EU regulation which came into force in EU law in November 2022 and will be directly applicable across the EU with effect from 17 February 2024. This new regulation aims to contribute to the proper functioning of the EU's internal market for online intermediary services by setting out harmonised rules for a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the EU Charter of Fundamental Rights[16], including the principle of consumer protection, are effectively protected. Under Article 45 of the DSA, it is intended to transform the current EU Code of Practice on Disinformation into a co-regulatory Code of Conduct. As agreed by Government, Coimisiún na Meán will be formally designated the Digital Services Coordinator for Ireland and accordingly will be the competent authority responsible for the application and enforcement of this EU regulation.

Under Article 34 of the regulation, risk assessment obligations for very large online platforms are outlined to ensure any systemic risks are identified and analysed. Such risk assessments should analyse whether risks identified are influenced by intentional manipulation of the service, along with the amplification and potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions. In addition, there are also obligations for recommender system transparency, including the provision under Article 38 of the regulation, that very large online platforms must provide at least one recommender system option that is not based on profiling.

The regulation is designed to provide greater online safety. Coimisiún na Meán has been designated the Digital Services Coordinator for Ireland and accordingly will be the competent authority responsible for the application and enforcement of this EU regulation.

The Digital Markets Act (DMA)[17] is an EU regulation intended to foster fair competition, which came into force in November 2022 and is directly applicable across the EU with effect from May 2023. This new regulation is set to address "the negative consequences arising from certain behaviours by online platforms acting as digital gatekeepers to the EU single market" in

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[15] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065&qid=1670837883291
[16] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT
[17] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R1925

order to ensure fair and open digital markets for all users by establishing obligations that "gatekeepers" must comply with in their daily operations.

EU - PROPOSED EUROPEAN MEDIA FREEDOM ACT

The proposed European Media Freedom Act is intended to protect media pluralism and independence in the EU. It includes provisions designed to strengthen the editorial independence of media, to ensure transparency of media ownership and to protect the content of media service providers online. The proposal also envisages the establishment of a new European Board for Media Services to replace the existing ERGA. Negotiations on the proposal are ongoing and are expected to conclude in early 2024.

NATIONAL - ONLINE SAFETY AND MEDIA REGULATION ACT 2022

The Online Safety and Media Regulation (OSMR)[18] Act 2022 was signed into law on 10 December 2022. The Act dissolved the Broadcasting Authority of Ireland (BAI) and established Coimisiún na Meán as the body responsible for overseeing the regulation of broadcasting and video-on-demand services and introducing the new regulatory framework for online safety, implementing the revised Audiovisual Media Services Directive into Irish law and for supporting the development of the wider media sector in Ireland. It should be noted that disinformation is not a category of harm under the Online Safety and Media Regulation Act 2022. However, disinformation can be used in online campaigns promoting hate crimes, terrorism content and other forms of illegal content. In addition, disinformation can be used in promoting other forms of harmful online content noted in the Act (the promotion of suicide/self-harm, the promotion of feeding/eating disorders and the promotion of cyberbullying), it is expected that it will also be an area of concern for Coimisiún na Meán and the Online Safety Commissioner.

Plurality and media literacy continue to be central themes with Coimisiún na Meán (as it was with its predecessor the Broadcasting Authority of Ireland[19]) and the responsibilities of the BAI (including all its policies) were transferred to An Coimisiún on establishment day in March 2023. Therefore, Coimisiún na Meán continues to have a role in promoting and supporting media plurality and media literacy. These roles are undertaken in the context of the Broadcasting and Other Media Regulation Acts 2009 and 2022 as amended by the Online

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[18] https://www.irishstatutebook.ie/eli/2022/act/41/enacted/en/html
[19] Further to the provisions of the Online Safety and Coimisiún na Meán was established on the 15th of March 2023 and the staff and responsibilities of the Broadcasting Authority of Ireland (BAI) were transferred to An Coimisiún.

Safety and Media Regulation Act 2022 (OSMR) and Part 3A of the Competition Act 2002[20] (as inserted by the Competition and Consumer Protection Act 2014[21]). An Coimisiún's role with regards to media plurality and media literacy are as follows:

MEDIA PLURALITY - STATUTORY DUTIES

Under Section 7(2)(c) of the OSMR, Coimisiún na Meán is charged with endeavouring to ensure the provision of open and pluralistic broadcasting and on-demand services. An Coimisiún, like its predecessor the BAI, endorses the statutory premise that a free and pluralistic media is an essential component of a modern representative democracy, and continues to uphold the BAI's Media Plurality Policy[22] in order to promote and support media plurality in Ireland. The primary purpose of the Media Plurality Policy is to set out how Coimisiún na Meán will support and promote media plurality. The policy provides context for An Coimisiún's role in respect of media plurality; provides a definition for media plurality; outlines why media plurality is important; details policy objectives; and outlines the measures the Coimisiún na Meán takes – and will continue to take – to promote and support media plurality in Ireland.

Coimisiún na Meán continues to uphold the BAI's Ownership and Control Policy[23]. This policy gives practical effect to the obligations set out in the Broadcasting and Other Media Regulation Acts 2009 and 2022, which An Coimisiún must consider when deciding on the most suitable applicant for the award of a radio or television service contract. It is also used by Coimisiún na Meán to assess requests for changes to the ownership and control of existing broadcasting services, for example, changes in shareholdings and directors. The policy provides guidance and rules for An Coimisiún when considering the desirability of allowing any person, or group of persons, to have control of, or substantial interests in, an undue number of media services in the Irish State.

Part 3A of the Competition Act 2002 sets out the statutory process for assessment of media mergers in Ireland, providing important protections for media plurality and diversity. Under this framework, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media may request that Coimisiún na Meán undertake a full examination of a media merger where there is a

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[20] https://revisedacts.lawreform.ie/eli/2002/act/14/revised/en/html - PARTIIIA
[21] http://www.irishstatutebook.ie/eli/2014/act/29/section/74/enacted/en/index.html
[22] https://www.bai.ie/download/128743/
[23] https://www.bai.ie/download/128746/

concern that a media merger may be contrary to the public interest in protecting the plurality of media in the State.

MEDIA PLURALITY - CURRENT ACTIVITY/FUTURE PLANS

The Media Ownership Ireland website[24] is a database designed and maintained by staff at the DCU School of Communications. It was an initiative of the BAI and continues to be funded by Coimisiún na Meán.

The database is publicly accessible and has been designed to be a useful reference point for the implementation of the Media Mergers section of the Competition and Consumer Protection Act 2014. In particular, it contributes toward Coimisiún na Meán's requirement to produce a report every three years that provides an analysis of the impact of relevant ownership and control changes on the plurality of media in the State. Two such reports have been published to date (2012-2014[25] and 2015-2017[26]) and a third report (2018-2020) is due for publication in 2023.

The annual Digital News Report by the Reuters Institute for the Study of Journalism at the University of Oxford is the largest ongoing study of news consumption trends in the world. The global report covers 46 countries, and since 2015 the BAI has sponsored the inclusion of Ireland in this international research project as part of its work on media plurality in Ireland. To maximise the use of the data, the BAI has partnered with the DCU Institute of Future Media, Democracy and Society (FuJo)[27] to produce a more detailed Irish specific report, with the most recent report (2022) published in June 2022[28].

Coimisiún na Meán has provided information to the European Commission's DG Justice and Consumers team, who have prepared the EU Rule of Law Report in recent years. The report provides an assessment of both the rule of law situation across the EU and in each Member

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[24] http://www.mediaownership.ie/
[25] https://www.bai.ie/download/128749/
[26] https://www.bai.ie/en/download/133642/
[27] https://fujomedia.eu/
[28] https://www.bai.ie/en/download/137249/

State. Rule of Law reports for 2023[29], 2022[30] and 2021[31] have been contributed to by Coimisiún na Meán/the BAI.

The Media Pluralism Monitor[32] published by the Centre for Media Pluralism[33] in Florence, Italy is a key information source for the Rule of Law Report. Coimisiún na Meán continue to act as an expert reviewer of the application of this monitor in Ireland and contributes to discussions about how the tool should evolve to reflect the evolving media landscape.

MEDIA LITERACY - STATUTORY DUTIES

Under Section 7(3)(g) of the OSMR, similar to its predecessor the BAI, Coimisiún na Meán has a commitment to encourage research, promote or endorse educational and training initiatives and activities, including in media literacy. As part of this remit, the BAI developed and launched the BAI Media Literacy Policy in 2016, which articulates a set of key principles flowing from which are three competencies and a set of desired outcomes and potential metrics which enable the policy to be grounded in practice. This also acts as both a guide to the development of the media literacy work plan of the BAI and as a means for ensuring transparency. Additionally, the outcomes and metrics provide external stakeholders with useful parameters when developing their own media literacy approaches.

MEDIA LITERACY - CURRENT ACTIVITIES/FUTURE PLANS

In 2017, and following a commitment given by the Authority at the launch of the Media Literacy Policy, the BAI convened a number of key stakeholders to set up a volunteer multi-stakeholder alliance to promote the aims of the Policy: Media Literacy Ireland (MLI). MLI currently has over 250 members nationwide with also a European appeal and the National Coordinator of MLI is a member of the European Commission's Media Literacy Expert Group. MLI's work focusses on the coordination and innovation of media literacy initiatives and also the communication and promotion of media literacy initiatives on a nationwide basis. MLI is supported financially by Coimisiún na Meán.

Key areas of activities include the Be Media Smart public awareness campaign initially launched in 2019 and re-packaged during the pandemic, the MLI awards, along with

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[29] https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2023-rule-law-report_en
[30] https://ec.europa.eu/info/publications/2022-rule-law-report-communication-and-country-chapters_en
[31] https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report/2021-rule-law-report-communication-and-country-chapters_en
[32] https://cmpf.eui.eu/mpm2021-results/
[33] https://cmpf.eui.eu/

conferences and webinars on a broad range of topics aiming to encompass the breadth of media literacy activities.

MIS/DISINFORMATION AND IMPARTIALITY - STATUTORY DUTIES

In accordance with Sections 42(1), 42(2)(a) and 42(2)(b) & (e) of the Broadcasting Act 2009 (prior to the enactment and commencement of the Online Safety and Media Regulation Act 2022), the BAI prepared a Code of Fairness, Objectivity and Impartiality[34], which applies to sound and audiovisual services licensed by the Broadcasting Authority of Ireland. In accordance with section 46N(11) of the Broadcasting and Other Media Regulation Acts 2009 and 2022, Coimisiún na Meán continues to uphold this Code which deals with matters of fairness, objectivity and impartiality in news and current affairs content. The BAI has also prepared Guidance Notes[35] for this Code and mandatory guidelines in respect of the coverage of elections[36] and another in respect of the coverage of referenda[37]. The BAI completed a statutory review[38] of its codes, including the Code of Fairness, Objectivity and Impartiality, prior to its dissolution. This will inform the work of Coimisiún na Meán in developing and implementing media service codes, which will apply to both broadcasting and video-on-demand services, under section 46N of the Broadcasting and Other Media Regulation Acts 2009 and 2022.

MIS/DISINFORMATION AND IMPARTIALITY - CURRENT ACTIVITY/FUTURE PLANS

Since 2019, the BAI has played a leadership role in the European Regulators Group for Audiovisual Media Services (ERGA) subgroup on Disinformation. The Subgroup assisted the EU Commission with assessing the implementation of the first iteration of the Code of Practice on Disinformation. In support of this activity, the BAI commissioned the Institute of Future Media, Democracy and Society (FuJo) at Dublin City University (DCU) to examine and report on how the Code signatories implemented their commitments under this voluntary Code of Practice. In this regard the BAI published three reports.

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[34] https://www.bai.ie/en/download/129469/
[35] https://www.bai.ie/en/download/128534/
[36] https://www.bai.ie/en/download/133142/
[37] https://www.bai.ie/en/download/132680/
[38] https://www.bai.ie/en/media/sites/2/dlm_uploads/2023/04/20230306_CodesRules_Statutory-Review_vFinal-1.pdf

ElectCheck 2019[39] examined how Facebook, Twitter and Google implemented their commitments in relation to transparency of political advertising during the 2019 European Election campaign. A second report, CodeCheck[40], was published in April 2020 and looked at how Facebook, Twitter, Microsoft and Google implemented their commitments under all five Pillars of the Code of Practice during 2019. This has a particular focus on activities to empower consumers and the research community. A third report, CovidCheck[41] was published in September 2021 and focused on the platforms transparency reports regarding COVID 19. All three reports recommend that more robust procedures for reporting and monitoring online disinformation need to be developed for the EU Code of Practice on Disinformation to become a more effective tool in fighting disinformation. DCU FuJo is continuing to monitor the code through its work with EDMO Ireland.

Coimisiún na Meán remains a member of the ERGA subgroup on Countering Disinformation and Strengthening Democracy. This subgroup continues to advise and provide assistance to the European Commission in the effective implementation of the strengthened Code of Practice on Disinformation[42]. Members from this ERGA subgroup are also engaged in the Code of Practice Taskforce which is dedicated to keeping the Code future-proof and fit for purpose. The Taskforce meets as necessary and at least every six months and is monitoring and adapting the commitments in view of technological, societal, market and legislative developments. ERGA members involved provide updates on a regular basis. There are a number of subgroups within the Taskforce and they include:

- Scrutiny of advertising placement
- Integrity of services
- Empowerment of fact checkers
- Monitoring and reporting (led by ERGA)
- Crisis Response
- Transparency Centre
- Outreach & Integration of new signatories

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[39] https://www.bai.ie/en/new-report-on-political-social-media-ads-identifies-inconsistencies-in-datasets-and-definitions/
[40] https://www.bai.ie/en/new-report-highlights-inconsistencies-across-digital-platforms-in-tackling-disinformation/
[41] https://www.bai.ie/en/new-report-recommends-development-of-robust-procedures-for-reporting-and-monitoring-online-disinformation/
[42] https://digital-strategy.ec.europa.eu/news-redirect/749495

Other areas being examined include political advertising, user empowerment and research empowerment.

ELECTORAL REFORM ACT

The Electoral Reform Act 2022[43] provided for the establishment of An Coimisiún Toghcháin (the Electoral Commission) on 9 February 2023, an independent statutory body with responsibility for a broad range of electoral functions set out in the Act. This includes responsibility of the regulation of online paid-for political advertising and for investigation and monitoring of online disinformation and misinformation during an election or referendum campaign. Part five of the Electoral Reform Act provides An Coimisiún Toghcháin (the Electoral Commission) with extensive powers to combat disinformation, and inauthentic and manipulative online behaviour during an election campaign period (although, as of September 2023 this Part of the Act has not yet commenced).

National/International Cooperation

Countering disinformation at national and international levels will require cooperation from a broad and diverse range of stakeholders. See appendix for a non-exhaustive list of relevant national stakeholders. There are both national and international opportunities for collaboration available, such as those facilitated by the European Digital Media Observatory[44], Media Literacy Ireland[45] and the DCU FuJo Institute[46]. International organisations working in this area include:

- **European Platform of Regulatory Authorities** (EPRA)[47]: was set up in 1995 in response to the need for increased co-operation between European regulatory authorities. With its 25 years of experience and a robust network of working-level contacts, EPRA is the oldest and largest network of broadcasting regulators and is a key setting for the exchange of information, cases and best practices between media regulators in Europe. 55 regulatory authorities from 47 countries are members of EPRA[48]. The European Commission, the

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[43] https://www.irishstatutebook.ie/eli/2022/act/30/enacted/en/html 2022
[44] https://edmo.eu/
[45] https://www.medialiteracyireland.ie/
[46] https://www.dcu.ie/communications/fujo-institute-future-media-democracy-and-society
[47] https://www.epra.org/
[48] http://www.epra.org/organisations

Council of Europe, the European Audiovisual Observatory and the Office of the OSCE Representative on Freedom of the Media are permanent Observers of the Platform.[49]

- **European Regulators Group for Audio-Visual Media Services** (ERGA)[50]: gathers the audiovisual media regulators of the EU-27 and is working to provide expert advice to the European Commission including on issues of the protection of Freedom & Democracy. The network runs a number of working/action groups addressing these very matters including Disinformation and Media Literacy. ERGA was the key driver on the work of the Code of Practice on Disinformation, 2021 (2nd iteration). The proposed EMFA legislation envisages the establishment of a European Board for Media Services and Cooperation to replace and develop the work of ERGA.

- **Global Online Safety Network** (GOSRN)[51]: This network (currently made up of Members from Australia, Fiji, the UK and Ireland) aims to make sure the approach to online safety between countries is as consistent and coherent as possible. The Network will share information, best practice, expertise and experience, to support harmonised or coordinated approaches to online safety issues. Members share a commitment to human rights, democracy and the rule of law, and to acting independently of commercial and political influence.

- **European Advertising Standards Alliance** (EASA)[52]: EASA has a network of 42 organisations representing 28 advertising self-regulatory organisations (also referred to as "standards bodies") from Europe and 13 organisations representing the advertising ecosystem (the advertisers, agencies, and the media) and one digital pure-play company. The ASAI is a member.

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[49] http://www.epra.org/articles/permanent-observers
[50] https://erga-online.eu/
[51] https://www.esafety.gov.au/about-us/who-we-are/international-engagement/global-online-safety-regulators-network
[52] https://www.easa-alliance.org/

EU Code of Practice on Disinformation

Purpose

This section provides an overview of the scope of the EU Code of Practice on Disinformation and the Digital Services Act in Ireland, outlines its monitoring and compliance process under the DSA, highlights Ireland's existing role in monitoring the Code, and addresses the necessary considerations for developing a long-term monitoring plan for the Code.

Background on the Code

The Code of Practice on Disinformation (The Code) is a set of voluntary standards which asks signatories to be much more transparent about their practices and policies regarding disinformation, to demonstrate their willingness to collaborate with others and to take concrete actions to tackle disinformation.

Current signatories to the Code include Google, Meta, Microsoft and TikTok as well as a number of smaller scale companies and NGOs. In 2018, the first Code of Practice was launched, and it was later replaced by a Strengthened Code of Practice in 2022[53], which aimed to address some of the issues identified in the 2018 version. The first self-assessment reports from the new Code were released in January 2023.

WHAT COMMITMENTS DO SIGNATORIES MAKE UNDER THE CODE?

The Code includes 44 Commitments which address the following pillars:

- **Scrutiny of Ad Placements**: Demonetising disinformation and reducing spread via effective advertising policies and actions.
- **Political Advertising**: Ensuring clear transparency through measures such as clear labelling, payment information and ad libraries.
- **Integrity of Services**: Cross-signatory collaboration to reduce manipulative or coordinated behaviour.
- **Empowering Users**: Helping users recognise, understand and flag disinformation through means such as labelling content or via media literacy initiatives. This also covers transparency in recommender systems.

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[53] https://digital-strategy.ec.europa.eu/en/library/2022-strengthened-code-practice-disinformation

- **Empowering researchers**: Improving access to data and offering greater cooperation opportunities.
- **Empowering the fact-checking community**: Increasing access to data and resources for fact-checkers as well as integrating fact-checks into platform services.
- **Transparency Centre**: Signatories are to work together on producing the Disinfocode.eu website[54].
- **Permanent Taskforce**: Contributing to work which ensures the Code is continually improved.
- **Monitoring**: Contributing to work which enables monitoring of the Code. Also includes requests for new information during a crisis - e.g. War in Ukraine.

The executive summary[55] provides further details about the specific commitments associated with each pillar.

How will it interact with the DSA?

The Code of Practice is self-regulatory meaning that platforms voluntarily sign up to it, provide reports outlining their efforts. As it is voluntary, its impact has been limited. However, it is envisioned that the Code will become a code of practice under the DSA which means that very large social media platforms (VLOPs) and search engines (VLOSEs) can cite their compliance with the Code as evidence that they have met their risk mitigation obligations for disinformation under the DSA.

Who monitors the effectiveness of the Code?

The European Commission was responsible for monitoring the 2018 Code, and it sought the assistance of the European Regulators Group for Audio Visual Services (ERGA) to conduct this task.

In the updated Code, the European Commission describes both ERGA and EDMO as having some responsibility for monitoring. The Code also specifically recognises the importance of monitoring at a Member State level, although it does not specify who would conduct such country-based monitoring, and it requests that platforms provide Member State breakdowns of

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[54] https://disinfocode.eu/
[55] https://disinfocode.eu/reports-archive/reports/?chapter=executive-summary&commitment=executive-summary

data for certain commitments. The Commission has made it clear that they want to see a collaborative effort in monitoring the Code but it is still unclear how that will be operationalised.

What has Ireland's role been so far?

Ireland has taken a highly active role in monitoring the Code which has been recognised at an international level. When the Commission tasked ERGA with monitoring the Code, ERGA encouraged its members to participate in this task. Ireland's national regulatory authority, then the BAI, commissioned three reports from the DCU Institute for Future Media, Democracy and Society which assessed the Code. Many of the recommendations from the Irish reports were included in ERGA's reports to the EU Commission and in turn contributed to the development of the 2022 updated version of the Code.

What should Ireland's role be in the future?

Outside of Ireland, Member State participation in ERGA's previous monitoring efforts was limited due to a lack of a clear mandate and limited financial and staffing resources. Ensuring monitoring of the Code continues at a national level In Ireland will require establishing who is responsible for overseeing monitoring of the Code, how this work will be funded and what bodies should be involved in the monitoring process.

If the Code is made a code of conduct, then this may fall under the jurisdiction of Coimisiún na Meán who will act as Ireland's Digital Services Coordinator for the DSA. As a member of ERGA, Coimisiún na Meán will also have the opportunity to contribute to ERGA monitoring efforts.

Other (non-regulatory) policies and strategies in Ireland

There are some other policies and strategies to be considered when dealing with the current Irish disinformation landscape.

The EU Digital Decade is an overarching strategy for the European Union, designed to further the digital transition in Europe. The European Declaration on Digital Rights and Principles rests underneath the Digital Decade framework. One of the pillars of the Declaration, Freedom of Choice, sets out the rights of users, including access to a fair online environment and safety from harmful and illegal content.[56]

At a national level, Be Safe Online[57] is Ireland's Official Online Safety Hub, which collates a wide range of online safety resources, including targeted material for young people, parents and teachers. Ireland's Action Plan for Online Safety[58] and AI Here for Good[59], Ireland's artificial intelligence strategy, are both notable as national policy developments impacting the Irish disinformation landscape.

There are also several policies furthered by non-governmental organisations designed to tackle disinformation. At a European level, the European Digital Media Observatory (EDMO) brings together those with expertise in the field of online disinformation. The independent observatory promotes scientific knowledge in the area, advances the development of fact-checking services and supports media literacy programmes. Nationally, Be Media Smart is an initiative of Media Literacy Ireland which encourages people to stop, think and check that the information they are getting is accurate and reliable. Facilitated by Coimisiún na Mean, Media Literacy Ireland is an independent alliance of people and organisations working on a mainly voluntary basis to promote media literacy in Ireland.

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[56] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030_en - digital-rights-and-principles
[57] https://www.gov.ie/en/campaigns/be-safe-online/
[58] https://www.gov.ie/en/publication/77f39d-action-plan-for-online-safety-2018-2019/
[59] https://www.gov.ie/en/publication/91f74-national-ai-strategy/

Research on Disinformation

Building on research such as that of DCU FuJo, EDMO Ireland, ISD and others, more research is required in a host of areas to better understand the challenges presented by disinformation in Ireland and how to address the problem. For example, more research is needed in the following areas:

- Research on the dynamics of disinformation in Ireland, both in general and in relation to specific topic areas such as climate change. Such research may include analysis of narratives, actors, platforms, international links, and monetisation strategies. It may also examine how disinformation intersections with wider issues.

- Research on the social and psychological appeal of disinformation including the overlaps between disinformation, hate, polarisation, and wider inequalities.

- Research on the efficacy of counter disinformation efforts such as fact-checking, media literacy, and pre-bunking, and content labels. Related to this, research examining best practices in debunking false claims and producing fact-check material should also be prioritised in the short to medium term.

- Research on policy and regulatory responses including the implementation of the Code of Practice on Disinformation will be an ongoing requirement

Such research will require adequate funding but, Ireland can play an important role in wider efforts to ensure platforms provide adequate access to data for research.

Appendix I: Key actors

Below is a non-exhaustive list of actors working to identify, understand and guard against disinformation.

Research and Academia

Tackling disinformation is in the interest of all third level institutions in Ireland in order to protect the integrity of education and academia across the board. In addition, some civil society organisations undertake research on disinformation in Ireland Below is a non-exhaustive list of some organisations and institutes which have produced research related to disinformation in Ireland:

- DCU /FuJo and the /EDMO Ireland hub
- Institute for Strategic Dialogue
- UCD and the Centre for Digital Policy
- Maynooth University
- UCC
- The ADAPT Centre and its Harmful Information Working Group

State Bodies

Specific state bodies will be responsible for enforcing regulatory measures that will go towards tackling disinformation, like Coimisiún na Meán and an Coimisiún Toghcháin. Other State bodies, including some Government Departments, will also have a role to play, along with the following organisations:

- Advertising Standards Authority for Ireland
- An Garda Síochána
- The Arts Council of Ireland
- TUSLA
- Defence Forces
- Director of Public Prosecutions
- Local education and training boards
- County Councils
- Health Information and Quality Authority (HIQA)
- Health Products Regulatory Authority (HPRA)

- Health Research Board (HRB)
- Library Association of Ireland (developing media literacy programs and initiatives)
- Health Service Executive (protection of staff and services)
- Environmental Protection Agency
- Teagasc
- Charities Regulatory Authority

Civil Society and other stakeholders

- Institute for Strategic Dialogue
- Irish Council for Civil Liberties
- Media Literacy Ireland (developing media literacy programs and initiatives)