Table of Contents

Introduction

The Canadian Association of Research Libraries (CARL) would like to thank the Government of Canada for consulting with Canadians on the Government's proposed approach to regulating social media and combating harmful content online. The information provided in this brief reflects many of CARL's positions already submitted to governments in our Brief to the Federal Government on Access to Information Review[1], Brief to the Ontario Government's consultation Trustworthy Artificial Intelligence (AI) Framework[2], CARL Submission to the Office of the Privacy Commissioner's Consultation on the OPC's Proposals for ensuring appropriate regulation of artificial intelligence.[3]

Canadian research libraries support the assertion in the Discussion Guide that Canadian citizens deserve a "safe, inclusive, and open online environment" but we have concerns that the proposed approach may do more harm than good in many instances. First, we outline approaches for combating online harm that would benefit Canadians either in lieu or in conjunction with legislative or regulatory changes. Second, we provide commentary on the discussion guide and the technical paper.

We suggest that an important part of this process would be for the government to engage with focus groups or panel discussions composed of the many experts who have researched and published on the topic of hate speech to obtain the expert guidance that is needed moving forward.

Approaches for combating online harm and misinformation that would not require legislative or regulatory change.

1. Increasing funding for libraries

Libraries are committed to fighting misinformation online. Advocates[4], researchers[5], and journalists[6] have called on us for help, pointing to our information-seeking skills[7]

---

[1] Access To Information – Broadening the Openness of Government, August 2021 https://www.carl-abrc.ca/wp-content/uploads/2021/08/2021_CARL_Brief_ATI_Consultation.pdf

[2] Letter to John Roberts, Chief Privacy Officer and Archivist of Ontario, and Chief Information Security Officer https://www.carl-abrc.ca/wp-content/uploads/2021/06/CARL_Ontario_AI_Submission.pdf

[3] Canadian Association of Research Libraries, Commissioner of Canada's Proposals for ensuring appropriate regulation of artificial intelligence, March 2020, https://www.carl-abrc.ca/wp-content/uploads/2020/03/CARL_Submission_AI_and_PIPEDA.pdf

[4] Barclay, Donald A., PBS News, "Column: Can librarians help solve the fake news problem?" January 2017, https://www.pbs.org/newshour/education/column-can-librarians-help-solve-the-fake-news-problem

[5] Joan Donovan, Claire Wardle and Kate Starbird, NBC News, "These disinformation researchers saw the coronavirus 'infodemic' coming", May 2020 https://www.nbcnews.com/tech/social-media/these-disinformation-researchers-saw-coronavirus-infodemic-coming-n1206911

[6] Ryan Holmes, Forbes, "How Libraries Are Reinventing Themselves To Fight Fake News", April 2018, https://www.forbes.com/sites/ryanholmes/2018/04/10/how-libraries-are-reinventing-themselves-to-fight-fake-news/?sh=49a80d8afd16

and our position as trusted community leaders. This is further supported in a recent article in The Guardian where Joan Donovan, a misinformation scholar at Harvard, noted that "10,000 librarians"[8] are needed to address the misinformation crisis.

Declining trust in the government and the mainstream media[9] have created a fertile environment for misinformation to spread. Much of this misinformation can be credited to far-right publications with billionaire backers, like The Epoch Times, or viral online cults like QAnon, but the problem is even more widespread. Misinformation also fills a social gap. Former QAnon adherent Lenka Perron told the New York Times[10] about how, feeling abandoned by politicians and ignored by the media, she found emotional support among Q believers. The fact that so many are only able to find community among conspiracy theorists, whose narratives are frequently racist and anti-Semitic, raises serious concerns. Stories like Perron's demonstrate that the response to misinformation can't only be teaching people how to evaluate the news.

Misinformation researchers[11] and librarians[12] identify the rise of "Big Tech" whose algorithms promote the most incendiary voices as a major driver of misinformation online. Big Tech dominates the information landscape with billions of users, creates vectors of "fake news," and undermines librarians' ability to serve as information stewards. Librarians are simply not equipped to combat these issues when advertising and social media giants like Facebook and YouTube design their algorithms to encourage maximum engagement[13] rather than accuracy or reliability. While platforms like Twitter are finally attempting to combat misinformation, corporations should not be allowed to serve as the sole arbiters of speech in a democracy.

One crucial tool for combating misinformation is to increase funding for Canada's libraries. All schools need a librarian. Universities and colleges need funding for

---

[7] Nicole Higgins DeSmet, USA Today, "School librarians teach CRAAP to fight fake news", July 2017, https://www.usatoday.com/story/news/nation-now/2017/07/25/school-librarians-teach-craap-fight-fake-news/507105001/

[8] Julia Carrie Wong, The Guardian, "Banning Trump won't fix social media: 10 ideas to rebuild our broken internet – by experts", January 2021 https://www.theguardian.com/media/2021/jan/16/how-to-fix-social-media-trump-ban-free-speech

[9] Christy Somos, CTV News, "Only 53 per cent of Canadians trust core institutions, report says", January 2020, https://www.ctvnews.ca/canada/only-53-per-cent-of-canadians-trust-core-institutions-report-says-1.4775238

[10] Sabrina Tavernese, The New York Times, "Trump Just Used Us and Our Fear': One Woman's Journey Out of QAnon", January 2021, https://www.nytimes.com/2021/01/29/us/leaving-qanon-conspiracy.html

[11] Supra note 2, https://www.nbcnews.com/tech/social-media/these-disinformation-researchers-saw-coronavirus-infodemic-coming-n1206911

[12] Amy Carlton, American Libraries Magazine, " Libraries and Invasive Technology", January 2021 https://americanlibrariesmagazine.org/blogs/the-scoop/libraries-and-invasive-technology/

13 Joan Donovan and Ahmed Khan, The Guardian, " Big tech was allowed to spread misinformation unchecked. Will Biden hold them accountable?" January 2021, https://www.theguardian.com/technology/commentisfree/2021/jan/27/qanon-facebook-google-twitter-misinformation-big-tech

library staffing to help improve information literacy and to invest in resources and infrastructure that accelerates the shift towards Open Science and Open Access publishing, improving access to reputable and verifiable information online. Municipalities must invest in the things that help build communities -- housing, parks, schools, recreation facilities, and, of course, libraries. Libraries are also the only source of internet access for many Canadian citizens. In a 2011 report from OCLC, researchers found that Canadian public libraries supported 3.2 million free wi-fi connections annually with internet use through library workstations surpassing 18 million. Access to the internet was declared a human right by the United Nations in 2016. With this in mind, the Canadian government should make universal broadband an expedited priority, and fund library internet access.

Librarians are ready to bring our skills and values to this fight. We just need adequate and maintained funding in order to ensure that we have the resources to do so.[14]

2. Curtail monopolistic social media platforms

As noted above, the Big Tech social media platforms like those identified in the discussion paper (e.g. Facebook, Instagram, Twitter, YouTube, TikTok, Pornhub) are designed for maximum engagement, promoting the most inflammatory opinions and voices and creating vectors of fake news. The impact of these design choices is compounded by the monopolistic tendencies of these companies, giving them unprecedented control over the content that Canadians access on the Internet. In a recent blog post, Cory Doctorow uses the example of Facebook, in that the company has grown exponentially in size through "a history of anticompetitive mergers – Whatsapp, Instagram, Onavo and more – based on fraudulent promises to antitrust regulators". Doctorow notes that through this practice, "FB set out to acquire a monopoly and extract monopoly rents from advertisers and publishers, with a pathological indifference to how these frauds would harm others".[15] He goes on to demonstrate, using the example of Facebook's legal challenges to Adobserver, that the company is actively hostile towards organizations that try and ensure that they are accountable in their promises to limit misinformation through labelling political ads and blocking paid disinformation.[16]

In order to effectively combat online harm, Canada must closely examine the anti-competitive and monopolistic practices of these Big Tech companies. Big Tech must be held accountable and must face actual consequences for the harm that they inflict.

---

[14] This section was adapted, with permission, from an unpublished article on misinformation and libraries drafted by members of the Library Freedom Project.
[15] Doctorow, Cory. Facebook algorithm boosts pro-Facebook news. 22 Sept. 2021. https://pluralistic.net/2021/09/22/kropotkin-graeber/#zuckerveganism
[16] Doctorow, Corpy. Facebook escalates war on accountability. 5 Aug 2021. https://pluralistic.net/2021/08/05/comprehensive-sex-ed/#quis-custodiet-ipsos-zuck

Commentary on the Discussion Guide and the Technical Paper

3. Penalties for non-compliance

Our comments on the monopolistic tendencies in Big Tech directly relate to the significant penalties for non-compliance that have been outlined in the Discussion Paper. As with the GDPR, deep pockets and vast resources are required to comply with the complicated and onerous requirements in the proposed online harm legislation. Research libraries appreciate that the online services that we offer appear to fall outside of the proposed legislation, but we also feel that it is important to ensure that organizations that represent the public interest like Wikipedia, the Internet Archive, Project Gutenberg and others are also exempted. These organizations would likely not have the resources to comply, are not actively promoting online harm, and include much content that can be used to combat the spread of misinformation. Forcing them to comply with these requirements may actually force them to stop operations in Canada, further cementing the dominance and control that big tech has over the contents on the internet. As noted by Doctorow, new internet regulations like the General Data Protection Regulation (GDPR) have "done more to enshrine Big Tech's dominance than the decades of lax antitrust enforcement that preceded them. This will have grave consequences for privacy, free expression and safety."[17]

4. Guarding against the over-removal of content

CARL is concerned that the proposed approach may result in the significant over-removal of content. Without any measures to compel platforms to mitigate such overreach, this loss of content will harm the public historical record as well as small, independent content producers that depend on these platforms.

In comments that we submitted to the government that relate to the right to be forgotten (RTBF), we note that, any such right must:

- Aim to balance an individual's right to privacy with others' freedom of expression.
- Protect from the over-removal of content.
- Respect the integrity of the historical record.[18]

---

[17] Doctorow, Cory. Regulating Big Tech makes them stronger, so they need competition instead. The Economist. Jun 6, 2019. https://www.economist.com/open-future/2019/06/06/regulating-big-tech-makes-them-stronger-so-they-need-competition-instead

[18] CARL response to Modernizing Privacy in Ontario Empowering Ontarians and Enabling the Digital Economy. https://www.carl-abrc.ca/wp-content/uploads/2021/09/2021_CARL_Response_Mondernization_Privacy_Ontario.pdf

These three principles are also very relevant in this context. Over-removal in a RTBF regime or in an online harm regime as described will impact individual freedom of expression rights, increase the spectre of censorship and damage the historical record. This final point is of paramount importance to libraries. Information on the Internet may have future value for both the public and for researchers and we believe that an expert assessment of the impact of the removal on the historical record should form part of every decision to remove information from the internet.

Canadian libraries are also concerned that the proposal requires the use of algorithmic filters and AI driven tools to facilitate the removal of content. These problems are exacerbated by the 24-hour removal timelines and massive penalties for companies that fail to remove banned content. This will all-but guarantee that the system will lead to the mass removal of content. In addition, with no penalties in place for companies that over-remove content, there will be no incentive to restore content that was removed erroneously.

As noted in the commentary by Matt Hatfield from Open Media,

> The more our government leans on platforms to remove content quickly through this legislation, the more they'll have to rely on algorithms that will flag for removal satire and humour, documentation of human rights abuses and attacks, sex education and voluntary sexual expression, conversation within marginalized communities about their experience, and more— not just the intended targeted hateful or violent content. Even if a human reviewer needs to approve the algorithm's suggestion, the legal incentives and limited time they have to make a decision will encourage removing all but the most obviously innocuous types of flagged content.[19]

Canadian libraries have tangible examples of how algorithmically driven removal tools controlled by private companies can impact the public record. For example, the University of Calgary Copyright Office discovered that Leni Riefenstahl's 1935 documentary "Triumph of the Will", was removed from YouTube shortly following the announcement of its new standards, claiming it fell under the category of "videos that promote or glorify Nazi ideology, which is inherently discriminatory,…".[20] This film is used in many history classes across the country to study nazi Germany, and is an important historical artifact.

The use of AI for monitoring and removing online content goes against the very premise of net neutrality, something that the Canadian government formally

[19] A First Look at Canada's Harmful Content proposal. https://openmedia.org/article/item/a-first-look-at-canadas-harmful-content-proposal
[20] YouTube Pulls 'Triumph of the Will' for Violating Hate Speech Policy https://www.indiewire.com/2019/06/youtube-hate-speech-policy-triumph-of-the-will-1202147879/

recognized in a motion in parliament in 2018.[21] Further supporting the government's adoption in Parliament, the Canadian Telecommunications Act - S.C. 1993, c. 38, specifically has safeguards embedded within legislation against discrimination and content control:

- **Canadian Telecommunications Policy, 7 (a)** to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;[22]
- **Section 36** Except where the Commission approves otherwise, a Canadian carrier shall not control the content or influence the meaning or purpose of telecommunications carried by it for the public.[23]

By implementing a system that is charged with broad, sweeping reviews of high level content with the intention of removal goes against current Canadian legislation, the principle of net neutrality, and has the potential to jeopardize intellectual freedom, "especially those who may have specific needs or come from groups which are marginalized or subject to discrimination".[24]

5. Expected Effects on Marginalized Communities

The increasing use of AI to identify and remove content brings with it a myriad of concerns related to privacy, some of which are human rights (by reinforcing bias and systemic racism) and transparency in decision making.[25] Increasingly, discussions related to the ethical use of AI technology and algorithms come into play, but the more complex the algorithm, the more opaque the decision making process becomes and inherently leads to greater racial biases.[26] These biases have significant implications for marginalized communities.

Examples of this type of bias can be seen in methods such as "predictive policing technologies that use historical and real time data to predict when and where a crime is most likely to occur or who is most likely to engage in or become a victim of criminal activity."[27] This is further demonstrated in findings by researchers at

---

[21] M-168 Net Neutrality, 42nd Parliament, 1st Sessions, Decision: Agreed To (May 2018), https://www.ourcommons.ca/members/en/john-oliver(88881)/motions/9630989

[22] Telecommunications Act S.C. 1993, c. 38, https://laws-lois.justice.gc.ca/eng/acts/t-3.4/page-1.html#h-459827

[23] Ibid

[24] Comments by the International Federation Of Library Associations And Institutions (IFLA) to the Content Regulation in the Digital Age 2018 Human Rights Council Report https://www.ohchr.org/Documents/Issues/Opinion/ContentRegulation/IFLA.docx

[25] Modernizing Canada's Privacy Act, Brief by the Canadian Association of Research Libraries (2021), https://www.carl-abrc.ca/wp-content/uploads/2021/02/210212_CARL_Brief_Modernizing_Canada_Privacy_Act.pdf

[26] Richardson, Rashida and Schultz, Jason and Crawford, Kate, Dirty Data, Bad Predictions: How Civil Rights Violations Impact Police Data, Predictive Policing Systems, and Justice (February 13, 2019). 94 N.Y.U. L. REV. ONLINE 192 (2019), Available at SSRN: https://ssrn.com/abstract=3333423

[27] Nani Jansen Reventlow, How Artificial Intelligence Impacts Marginalised Groups, Digital Freedom Fund, May 2021, https://digitalfreedomfund.org/how-artificial-intelligence-impacts-marginalised-groups/

Stanford University and McMaster University using GPT-3, an AI system that generates text. The researchers explored the capabilities of the algorithms to generate jokes based on partial sentences entered for analysis. It resulted with the use of the word "Muslim" persistently resulting in generating violent text.[28] These examples display the potential for algorithms to predict potential harms deriving from biased algorithms that could not only remove content by, and about, marginalized communities from the internet unnecessarily, but also provide unwarranted and erroneous information about specific communities to policing agencies.

Another flaw in this system is that individuals and groups that promote racism and hate speech can use the reporting systems on these platforms to silence marginalized communities. Creating a legal framework that imposes quick turnaround times for the removal of content and leaves the responsibility for compliance to the online communication service provider (OCSP) will result in accounts being blocked and posts being removed. This enables bad actors to attack views that they oppose, thereby causing a more harmful experience for marginalized communities as opposed to providing a safe space for sharing viewpoints and discussion.

6. Potential impact of new regulators and dependance on law enforcement

The government proposal would create an administratively burdensome process overseen by a powerful new regulatory body that effectively has the authority to broadly interpret what qualifies as harmful content and determine sanctions, including significant financial penalties, based on its analysis.

As noted by Michael Geist:

> "The new commissioner would be empowered to hold hearings on any issue, including non-compliance or anything that the Commissioner believes is in the public interest. The Digital Safety Commissioner would have broad powers to order the OCSs "to do any act or thing, or refrain from doing anything necessary to ensure compliance with any obligations imposed on the OCSP by or under the Act within the time specified in the order."[29]

While the Digital Recourse Council of Canada will provide Canadians with a last chance review of their case, the likelihood of delays and a long-drawn-out review

---

[28] Abubakar Abid, Maheen Farooqi and James Zou, "Large language models associate Muslims with violence", Nature Machine Intelligence | VOL 3 | June 2021 | 461–463 | https://doi.org/10.1038/s42256-021-00359-2
[29] Picking Up Where Bill C-10 Left Off: The Canadian Government's Non-Consultation on Online Harms Legislation, https://www.michaelgeist.ca/2021/07/onlineharmsnonconsult/

process followed by binding decisions could result in content and OCS's being in limbo for years.

The proposed approach also includes mandatory reporting requirements to law enforcement and record retention by OCSPs but lacks provisions that would ensure users' privacy rights. Furthermore, the Digital Safety Commissioner would be granted overarching inspection powers of OCSPs and related companies, the ability to order website blocking and impose other obligations and penalties on OCSPs, with hearings potentially held in secret.

Reporting requirements to the RCMP and CSIS raise particular concerns. Protecting children and vulnerable and marginalized communities from online harm is a priority, however, the resulting regulation must include clear transparent protocols that prevent a surveillance state and mis-categorization of individuals. As Open Media has noted, "this proposal will create an unprecedented system of online surveillance of ordinary people in Canada and normalize the removal of much entirely lawful online speech. It won't make online spaces safer or more pleasant, and it is likely to hurt folk with marginalized identities the most."[30]

To complicate these issues even further, platforms will be required to report content they remove directly to law enforcement, including the RCMP and CSIS. Under this regime, users will not be made aware they have been reported, and there is nothing identified in this consultation that would regulate how that information is used by law enforcement with the information received. With the proposed methods in managing information and the serious problems raised earlier in this brief with regards to over-removal of content, biases in automated decision making, and the requirement for immediate removal of content without measured judgement, this leaves Canadians exposed to unnecessary and unwarranted policing with little or no recourse by individuals.

Conclusion

Canadian research libraries agree that Canadian citizens deserve a "safe, inclusive, and open online environment" but the proposed approach to regulating social media and combating harmful content online needs a great deal of critical thinking and caution. CARL is available to discuss the issues and recommendations detailed above.

CARL is the voice of Canada's research libraries. Our members include Canada's twenty-nine largest university libraries and two federal institutions. CARL enhances

---

[30] A First Look at Canada's Harmful Content Proposal, https://openmedia.org/article/item/a-first-look-at-canadas-harmful-content-proposal

its members' capacity to advance research and higher education; promotes effective and sustainable knowledge creation, dissemination, and preservation; and advocates for public policy that enables broad access to scholarly information. CARL's two federal member institutions contribute to Canada's research enterprise and collaborate in coordinated efforts with the academic library community, but do not engage in CARL's federal advocacy.