

Fighting epistemic pollution (fake news, business BS) with extended corporate social responsibility

*With the explosion of the internet and social media, it has become incredibly easy to disseminate unfounded rumours, “fake news” and other questionable information. **Erwan Lamy** and **Isabelle Beyneix** write that this genuine epistemic pollution, which undermines democracy and the trust necessary for the proper conduct of business, should be taken into account just like attacks on the environment and on the social climate. The notion of corporate social responsibility could thus be completed by introducing a specific notion of epistemic responsibility for companies.*

An epistemically responsible company is one concerned about its epistemic pollution, i.e., the false or questionable information it may have allowed to circulate. More precisely, it means being willing to account for this epistemic pollution. This does not at all imply being infallible, or always telling the truth. It implies a certain moral rectitude, in terms of intellectual practices. It may happen that a company allows itself to support fragile opinions, or to say something wrong, but it is then important that it is able to explain itself, provide the reasons for it, and if possible, correct the causes. Defined in this way, epistemic responsibility could be used to fight against fake news, [“business bullshit”](#) and, more generally, [“post-truth.”](#)

The dangers of epistemic irresponsibility

In 2008, such a notion would have made it possible to legally qualify the casual attitude of the heads of rating agencies [in front of the American Congress](#). Asked to explain why they had given the best possible scores to the financial products that had caused the greatest financial crisis of the past 100 years, the executives replied that these ratings were nothing more than opinions, and that they could therefore not be held responsible for them. This refusal to explain is a perfect example of epistemic irresponsibility. More recently, Neil Young published an [open letter](#) demanding Spotify remove his music because “Spotify is spreading fake information about vaccines – potentially causing death to those who believe the disinformation being spread by them.”

This notion of epistemic responsibility could also help to better regulate web platforms that can relay rants or accusations without being held accountable and without ever having to worry about the veracity of the information disseminated. These sites are in fact protected by US law, specifically by [Section 230 of the Communications Decency Act](#) (“230 CDA”), which de facto establishes generalised epistemic irresponsibility. A ‘complaint site’ such as [Ripoff Report](#), known for spreading [false accusations](#) and defaming companies, can thus brazenly warn its readers that “if someone posts false information about you on the Ripoff Report, the CDA prohibits you from holding us liable for the statements which others have written.”

The CDA 230 dilemma, and how to solve it

This way, 230 CDA establishes immunity for Internet service providers who allow access to content hosted by third-party sites. In particular, it prohibits these intermediaries from being treated in the same way as content publishers or from being forced to take measures to restrict access to content on third-party sites. This immunity is very broad and makes no difference regarding the legality of the truthfulness of the content. Therefore, the “providers or users of an interactive computer service,” and in particular the social networks, are allowed to publish anything they want in a discretionary manner without incurring any liability. This system obviously favours the emergence of fake news.

If misinformation can be a profitable business (for publishers, lawyers and companies charging money for defamation insurance or removing posts, etc.), the consequences of defamation can be very bad for business and online reputation management can be costly.

A balance to be found to preserve freedom of expression

But overturning this regulation would raise the same issue as the ex-ante situation. There's the risk of a massive suppression of publications that would discourage publication and limit freedom of expression. Epistemic responsibility does not imply an obligation to tell the truth. It implies the obligation for companies to prove they did everything possible to verify the reliability of the information they disseminated, without requiring them to be infallible. This epistemic responsibility could thus bring civil liability into play, on the basis not of an obligation of result, but of an obligation of means. This constraint would be a deterrent, as companies would have to answer for their epistemic pollution.

Corporate epistemic responsibility: a proposal for CSR extension

The implementation of epistemic responsibility through law could take the form of either 'soft law' or 'hard law'. The [ISO 26000 standard](#), one of the first original illustrations of *soft law* in this area, defines CSR (Corporate Social Responsibility) as "a concept in which companies integrate social, environmental and economic concerns into their operations and in their interactions with stakeholders on a voluntary basis." In the United States, as in Europe, legislators have preferred to use *soft law*, as its purpose is to modify or orient the behaviour of its recipients by encouraging their adherence without creating any right or obligation. With the law of 27 March 2017, CSR in France has taken the form of the duty of vigilance, a translation of the principle of "due diligence" in the English-speaking world. This is not soft but *hard law*, thanks to the creation of a reinforced obligation of means and even sanction mechanisms. A presumption of responsibility now hangs over parent companies and the companies giving orders in the event of serious human rights violations (health, safety, environment, etc.). On March 10, 2021, the European Parliament adopted [a resolution](#) in favour of more binding European legislation that would include this duty of care for companies.

An instrument to fight against the disorders which threaten both democratic societies and their economies

To implement epistemic responsibility without resorting to *hard law*, it would be possible to use *compliance*, provided that it is effective and not just a *marketing* veneer. How can this be done? Through a set of processes that ensure that the behaviour of a company and its managers conform to the legal and ethical standards that apply to them. Indeed, with compliance, conformity with the rules is no longer imposed from outside by the legislator but is internalised by the actors who seek to show transparent processes, which respect not only the rules specific to their sectors, but also rules which are not directly economic in nature.

Thus, the companies in question would be likely to prove that they have or have not respected an epistemological process explaining their ratings (in the case of the rating agencies) or the choice of online publications (in the case of internet companies). Overall, this notion of epistemic responsibility could be an instrument to fight against the disorders which threaten both democratic societies and their economies.



Notes:

- This blog post is based on [Epistemic responsibility: a missing dimension of corporate social responsibility](#), part of ESCP Business School's "[Better Business: Creating Sustainable Value](#)" impact paper series.
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