



MEMORANDUM

June 22, 2020

To: Subcommittee on Communications and Technology and Subcommittee on Consumer Protection and Commerce Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Joint Hearing on “A Country in Crisis: How Disinformation Online Is Dividing the Nation”

On Wednesday, June 24, 2020, at 11:30 a.m. via Cisco Webex online video conferencing, the Subcommittee on Communications and Technology and the Subcommittee on Consumer Protection and Commerce will hold a joint hearing entitled, “A Country in Crisis: How Disinformation Online Is Dividing the Nation.” The hearing will examine the role of social media platforms in disseminating disinformation relating to the coronavirus disease of 2019 (COVID-19) pandemic and racial injustice.

I. BACKGROUND

Our country is currently experiencing two crises: the recent spread of COVID-19 and a reckoning of a history of racial injustice.¹ The spread of COVID-19 has led to unprecedented health and economic consequences, which have had a disproportionate effect on people of color.² The video-recorded murder of George Floyd further jolted the Nation’s conscience with respect to the prevalence of racism and racial disparities.³ The confluence of these crises has resulted in multicultural and multiracial protests around the country and the world, seeking racial equity and systemic change.⁴

¹ *Two Crises Convulse a Nation: A Pandemic and Police Violence*, New York Times (May 31, 2020).

² Centers for Disease Control and Prevention, *COVID-19 in Racial and Ethnic Minority Groups* (www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html); *Black Americans Bear the Brunt of the COVID-19 Pandemic's Economic Impact*, NPR (June 3, 2020).

³ *How Public Opinion Has Moved on Black Lives Matter*, New York Times (June 10, 2020); The Harvard Gazette, *Why America Can’t Escape Its Racist Roots* (June 4, 2020) (news.harvard.edu/gazette/story/2020/06/orlando-patterson-explains-why-america-cant-escape-its-racist-roots/).

⁴ *See, e.g., D.C. Protests Over the Death of George Floyd Have Grown Bigger and More Diverse. That’s Not an Accident, Experts Say*, Washington Post (June 4, 2020).

Dangerous disinformation about COVID-19 and social unrest have become widespread on social media platforms.⁵ Often, such disinformation is targeted at people of color.⁶ Similarly, election disinformation also is often targeted at people of color.⁷ Reports indicate that, collectively, this disinformation is exacerbating injury, death, and division among the American people.⁸

II. SOCIAL MEDIA DISINFORMATION

Generally, disinformation is false information created with the intent to cause harm.⁹ The spread of disinformation has become easier and more prevalent with the advent of social media platforms.¹⁰ Both domestic and foreign state actors have used these platforms to spread disinformation, which can compromise the health and safety of Americans, exacerbate divisions within our country, and undermine democratic institutions.¹¹

A. The Spread and Consequences of Disinformation on Social Media Platforms

Disinformation regarding COVID-19 and social unrest have become prevalent on social media platforms and is being disseminated further by mainstream media outlets.¹² While disinformation about pandemics and other health crises has been a common historical

⁵ Avaaz, *Anti-Racism Protests: Divisive Disinformation Narratives Go Viral on Facebook, Racking Up Over 26 Million Estimated Views* (June 12, 2020) (secure.avaaz.org/campaign/en/anti_protest_disinformation/); *Big Tech Thought the Pandemic Wouldn't Be Political. Think Again.*, Vox (May 27, 2020) (www.vox.com/recode/2020/5/27/21270280/facebook-twitter-youtube-coronavirus-pandemic-misinformation-political-controversy-face-masks).

⁶ See, e.g., Southern Poverty Law Center, *Hate Groups and Racist Pundits Spew COVID-19 Misinformation on Social Media Despite Companies' Pledges to Combat It* (Apr. 17, 2020) (www.splcenter.org/hatewatch/2020/04/17/hate-groups-and-racist-pundits-spew-covid-19-misinformation-social-media-despite-companies); Dahleen Glanton, *Column: Let's Stop the Spread — Of the Myth Black People Are Immune to The Coronavirus*, Chicago Tribune (Mar. 18, 2020).

⁷ See, e.g., Spencer Overton, *State Power to Regulate Social Media Companies to Prevent Voter Suppression*, U.C. Davis Law Review (2020).

⁸ *Bleach and Misinformation Are Not Coronavirus Cures. They Can Be Fatal*, USA Today (Apr. 27, 2020); *How Social Media Exacerbates the Racial Divide*, Marketplace (Nov. 1, 2017).

⁹ UNESCO, *Journalism, 'Fake News' and Disinformation: A Handbook for Journalism Education and Training* (en.unesco.org/fightfakenews).

¹⁰ See, e.g., Quartz, *How to Communicate in A Postmodern Pandemic* (May 7, 2020) (qz.com/1852552/past-pandemics-show-the-danger-of-misinformation-during-covid-19/).

¹¹ *How Digital Disinformation Sows Hate, Hurts Democracy: QuickTake*, Washington Post (Feb. 26, 2020).

¹² See e.g., *Battling The 'Pandemic of Misinformation'*, The Harvard Gazette (May 8, 2020) (news.harvard.edu/gazette/story/2020/05/social-media-used-to-spread-create-covid-19-falsehoods/).

occurrence,¹³ disinformation about COVID-19 has been easier to access and more widespread and believed due to the expanded reach of social media.¹⁴ For example, disinformation regarding the severity of the virus and the effectiveness of alleged cures for COVID-19 has been widespread.¹⁵ President Trump has used social media to promote unproven treatments.¹⁶ Disinformation has also claimed that East Asian people are predisposed to the virus,¹⁷ while Black people are immune to the virus.¹⁸ This kind of disinformation can prolong the pandemic, cause injury and death,¹⁹ and prompt hate crimes.²⁰

Disinformation campaigns have also been directed at the recent social unrest resulting from racial injustice. George Floyd's murder and ensuing protests have been subject to a host of disinformation, such as false reports about the scale of violent protests,²¹ that protestors are threatening to assassinate white people,²² and that George Floyd is still alive.²³

The rampant disinformation around the murder of George Floyd and the resulting protests is an extension of disinformation campaigns and efforts seen during election cycles. For instance, during the November 2016 election, social media platforms were used to disseminate information – mainly about social issues – to manipulate public opinion²⁴ and discourage certain

¹³ See note 10.

¹⁴ See note 12.

¹⁵ *Id.*

¹⁶ *Big Tech Thought the Pandemic Wouldn't Be Political. Think Again.*, Vox (May 27, 2020) (www.vox.com/recode/2020/5/27/21270280/facebook-twitter-youtube-coronavirus-pandemic-misinformation-political-controversy-face-masks).

¹⁷ Southern Poverty Law Center, *Hate Groups and Racist Pundits Spew COVID-19 Misinformation on Social Media Despite Companies' Pledges to Combat It* (Apr. 17, 2020) (www.splcenter.org/hatewatch/2020/04/17/hate-groups-and-racist-pundits-spew-covid-19-misinformation-social-media-despite-companies).

¹⁸ *Column: Let's Stop the Spread — Of the Myth Black People Are Immune to The Coronavirus*, Chicago Tribune (Mar. 18, 2020).

¹⁹ *Doctors: Bleach and Misinformation Are Not Coronavirus Cures. They Can Be Fatal*, USA Today (Apr. 27, 2020).

²⁰ *Asian American Doctors and Nurses Are Fighting Racism and The Coronavirus*, Washington Post (May 19, 2020).

²¹ *Those Rumors of Looting on Social Media - A Conversation with An Expert*, NPR (June 5, 2020).

²² *Avaaz, Anti-Racism Protests: Divisive Disinformation Narratives Go Viral on Facebook, Racking Up Over 26 Million Estimated Views* (June 12, 2020) (secure.avaaz.org/campaign/en/anti_protest_disinformation/).

²³ *Id.*

²⁴ *The Propaganda Tools Used by Russians to Influence the 2016 Election*, New York Times (Feb. 16, 2018).

voters, especially Black voters, from voting.²⁵ Deepfake videos of candidates and other politicians have also been created to spread false information.²⁶ Many believe that these forms of election disinformation – which rely upon and fester social discontent – will only continue and become more pervasive.²⁷

B. Social Media’s Response to Disinformation

Social media platforms have done little to curb the recent spread of disinformation,²⁸ or to disable the amplification of this damaging information.²⁹

Disinformation policies, and enforcement of those policies, vary across platforms. For example, reports indicate that some platforms, such as Facebook and Twitter, have been aggressive in removing fake accounts, while others, such as YouTube, have removed false accounts, to a lesser degree.³⁰ These reports similarly note that Facebook, Instagram, YouTube and Twitter have invested in fact-checking capacity, and some platforms have established teams specifically to prevent election interference.³¹

Generally, social media platforms have been reluctant to remove disinformation; however, in select, discrete cases, Facebook, YouTube and Twitter have each taken down demonstrably false information or disinformation that can cause harm.³² Other social media platforms, such as Facebook, Instagram and Twitter, demote or label disinformation.³³ Yet, enforcement of each platform’s policies generally vary from platform to platform.³⁴ For example, Twitter enforced its policy on disinformation when it recently fact-checked tweets from

²⁵ See note 7.

²⁶ Paul M. Barrett, *Disinformation and the 2020 Election: How the Social Media Industry Should Prepare*, NYU Stern Center for Business and Human Rights (Sept. 1, 2019).

²⁷ See, e.g., *How Russia Weaponized Social Media, Got Caught and Escaped Consequences*, Washington Post (Nov. 18, 2019).

²⁸ *The Technology 202: Protests, Coronavirus and Election Present Disinformation Challenge for Social Media Companies*, Washington Post (June 1, 2020).

²⁹ *Id.*; *Big Tech Thought the Pandemic Wouldn’t Be Political. Think Again.*, Vox (May 27, 2020) (www.vox.com/recode/2020/5/27/21270280/facebook-twitter-youtube-coronavirus-pandemic-misinformation-political-controversy-face-masks).

³⁰ See note 26.

³¹ *Id.*

³² *Id.*; New America, *How Internet Platforms Are Combating Disinformation and Misinformation in the Age of COVID-19* (June 1, 2020) (www.newamerica.org/oti/reports/how-internet-platforms-are-combating-disinformation-and-misinformation-age-covid-19/).

³³ See note 26.

³⁴ *While Twitter Confronts Trump, Zuckerberg Keeps Facebook Out of It*, New York Times (May 29, 2020).

President Trump, while Facebook has not taken similar action even when the posts deviate from Facebook's policies.³⁵

The President responded to Twitter's fact-check the next day, on May 27, 2020, by threatening to take "[b]ig action."³⁶ On May 28, 2020, the President signed an Executive Order asking the National Telecommunications and Information Administration to petition the Federal Communications Commission to rethink the scope of Section 230 of the Communications Decency Act.³⁷ Section 230 provides liability protections for providers of interactive computer services, such as social media companies, that ensure these providers are not treated as the publisher or speaker of third-party content.³⁸ Section 230 further immunizes these providers from liability associated with the moderation of third-party content that they may host.³⁹

III. WITNESSES

The following witnesses have been invited to testify:

Brandi Collins-Dexter
Senior Campaign Director
Color of Change

Hany Farid
Professor
University of California, Berkeley

Spencer Overton
President
Joint Center for Political and Economic Studies
Professor of Law
George Washington University

Neil Fried
Former Chief Counsel for Communications and Technology
Energy and Commerce Committee
Principal
DigitalFrontiers Advocacy

³⁵ *Id.*

³⁶ Donald J. Trump (@realDonaldTrump), Twitter (May 27, 2020, 10:22 AM) (twitter.com/realDonaldTrump/status/1265649545410744321).

³⁷ *Trump Signs Order That Could Punish Social Media Companies for How They Police Content, Drawing Criticism and Doubts of Legality*, Washington Post (May 28, 2020).

³⁸ 47 U.S.C. § 230(c).

³⁹ *Id.*