

***Media Platforms Responsibility in Restricting Free Expression of Misinformation***

Elizabeth Wilson

Department of Communication Studies

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Dr. Travis Cram

## **Introduction**

Media platform providers ought to censor or add advisories on creators' expression and espousal of misinformation as its consequences on public health are detrimental; by permitting this form of speech, it skews the public arena's knowledge of true fact and misleads individuals.. These providers are those who have a platform where creators are able to spread information freely, such as Spotify, Youtube, Facebook, Twitter, etc. These platforms allow for the spread of misinformation, which is false or fabricated information that intends to disrupt and mislead the minds of others. This is especially important to be wary because of the scientific misinformation being spread pertaining to the COVID-19 pandemic. Public interest should be the priority over complete free expression, specifically regarding the distribution of misinformation. Ethical issues come into play when coming to the conclusion of controlling free speech over allowing it. Media platforms have to balance the responsibility of the primary ethical criteria involving the freedom to express and the importance of public health and safety. Again, this issue is pressing and needs to be addressed as a result of the increase in media technology and in light of the recent pandemic. An analysis is necessary to define what the issue is, how ethics play into platform responsibility, and what criteria relates and contends that platform providers need to add labels or censor creators who release misinformation to the public

## **Descriptive Analysis**

In light of controversy surrounding a recent podcast entitled the "Joe Rogan Experience," ethical analysis is warranted to describe the effects of misinformation. Well known commentator and comedian, Joe Rogan, hosts a podcast where guests are brought on and they discuss various topics pertaining to health, wellness, sports, comedy, and more.. Controversy arose recently when Dr. Robert Malone, the self-proclaimed pioneer of the mRNA vaccines, was welcomed

onto the podcast. Malone is a vaccine skeptic with a life mission to limit and ultimately stop mandated vaccines to supposedly save lives. He also has a history of being censored on Twitter and restricted from speaking in multiple public settings due to his COVID vaccine claims that are inaccurate to a majority of the scientific community. Malone claimed during Rogan's (2021) podcast that "sudden deaths in high-performing athletes that are being observed all over the world, particularly in footballers where they're just suddenly dropping, is it because they've been infected or because they've been jabbed? And I think it's a mixture of both" (Rogan, 2021).

Along with many other misleading and baseless claims, Malone and Rogan were both accused of using the platform to intentionally or not, influence the general public. Misinformation like the claim above is absorbed by podcast listeners; this podcast has over 11 million listeners per episode (McNeal, 2022). This podcast warrants concern because of the implications of misinformation entering public discourse. After analyzing the consequences of misinformation, it is apparent that the spread of misinformation should be contained over permitting freedom of speech. Platform providers run the risk of validating distrust in science by allowing the misinformation to be spoken and spread. Media providers who give creators a platform play a crucial role in containing the spread of misinformation because these companies have a responsibility to protect the public, whether it be their health or safety.

With regards to this case study, public health should be prioritized in this case study as its importance outweighs the freedom to express and speak. This is taking into consideration that not all speech is considered constitutionally protected free speech. New media technologies require updated examinations as to what sort of communication is allowed on platforms such as Spotify. Plunviano et al. (2017) carried out a study which examined the effectiveness of correcting misinformation within public campaigns. This study revealed through a series of tests

that people retain misinformation and it lingers in human's minds even when corrective measures are taken to show the public the proven scientific facts. Of the many strategies typically used to help correct vaccine misinformation, all were proven ineffective and even reinforced that the myth was more believable. The authors suggest "...a golden strategy capable of overcoming all the intricacies of setting people straight, regardless of their basic beliefs and/or temporal shifts, does not exist" (p. 11). This study illustrates how deeply misinformation embeds into human's minds. Even though no grand solution exists, there is significant reason for platforms to limit and restrict misinformation pertaining to public health as it only reinforces division between science and people's beliefs about science.

Further analysis of the effects of misinformation can highlight how it divides society and harms the public's minds through the misleading rhetorical claims made by Rogan and others during the pandemic. Southwell and Thorson (2015) identify the consequences of misinformation as being specifically problematic. When looking at new information, individuals analyze it based on a few criteria. Humans compare it to their past notions to see if the information fits with their narrative of beliefs. This article confirms that "...prominent sources can propagate myths and misinformation, especially, when such information confirms an audience's pre-existing attitudes" (p. 590). Platforms have the responsibility to monitor what creator's are expressing, otherwise followers of podcasts such as the Joe Rogan Experience will continue to reinforce and propagate misinformation. The spread of misinformation poses a real and dangerous threat of dividing and dismantling society, government institutions, organizations, and the public's health (p. 591).

### **Ethical Criteria**

The determination to require censorship or advisories on misinformation about COVID-19 is based on the ethical framework relating to consequentialism.

Goldberg's (2016) analysis on the framework of free speech consequentialism expresses the idea that courts must look at the nature of the first amendment as malleable in certain instances to determine if it is permissible conduct. This is instrumental when determining the grounds to censor misinformation. Goldberg suggests "...courts should account for the harms caused by speech that can be analogized to conduct" sparingly (p. 738). This law review aims to allow as much free speech as legally allowed "...while allowing emerging harms caused by speech to be regulated" (p. 756). Misinformation across media platforms is an emerging harm yet to be fully examined. Through the ethical framework of consequentialism, free speech is warranted as long as its consequences do not cause significant harm. The action of platforms allowing the spread of misinformation holds consequences that outweigh the platforms value of free speech and freedom in creative expression. These consequences are increasing scientific distrust, leading to logical and intellectual decline, and creating a society concerningly malleable as a result of the media.

As posed above, misinformation is especially used in Rogan's podcast to cultivate distrust between science and the public. When referring to this issue through a free speech consequentialism frame, Goldbergs claims that courts must analyze harms sparingly in order to ensure rights are not infringed upon is pertinent when deciding what actions should be taken in regard to misinformation. Goldberg may even contend that this issue is rare and should be looked at in light of the effects of misinformation spreading. The level of strictness in ensuring the freedom of speech relates to a concept called strict scrutiny. This is when the government claims that a particular law infringes on constitutional rights to some degree. Pinsoneault (2020) offers a

modern approach to strict scrutiny versus historical approaches and claims that “...strict scrutiny analysis requires that the Court undertake a flexible, value-driven analysis, which in turn helps to ensure that decisions regarding content-based speech restrictions will be reasonable in light of contemporary values” (p. 262). Even with the strictness of courts decisions to uphold constitutional rights such as freedom of speech, there is a shift happening with contemporary issues where the water gets muddier. Misinformation about COVID-19 is an example where content-based speech restrictions are reasonable because allowing the misinformation causes no benefit and in fact harms society. Some could make an argument as to not allow the censorship of misinformation on media platforms because it infringes on first amendment rights. However with the application of Pinsonneault’s nuanced approach to strict scrutiny, content containing misinformation can be censored as it is reasonable in light of contemporary values such as public health amidst the current COVID-19 pandemic. This issue should be analyzed because as modern approaches to the law evolve, it is essential to evaluate the harms and weigh them among the positives. Using a law-based ethical description, platform providers should also follow suit in alignment with this logic.

### **Prescriptive Ethical Analysis**

Given the study that discovered the ever-lingering misinformation in the mind’s of individuals exposed to corrected strategies, it seems that controlling misinformation at its source is necessary. The CEO and founder of Spotify, Daniel Ek, claims that "We know we have a critical role to play in supporting creator expression while balancing it with the safety of our users. In that role, it is important to me that we don’t take on the position of being content censor while also making sure that there are rules in place and consequences for those who violate them” (Ek, 2022). Spotify determined their course of action to be adding an advisory link to the

Center for Disease Control and Prevention. It is evident here that Spotify acknowledges their ethical dilemma and must take action while taking into consideration the competing criteria at play. However, it bears an important question: is Spotify doing enough as a platform provider? It appears that if more is not done with containing the misinformation spread, the government should intervene to protect public health and maintain scientific truth as much as possible.

It appears to be ethically sound to add advisories to COVID-19 conversations. However, simply referring an individual to a website does little in preventing the harm caused by spreading misinformation. Platform providers need to establish a standard protocol in determining the validity of information and harms caused by the information if it is false. By creating this, platforms can then determine the following with regards to misinformation: if the effects do not cause harm to the general public in ways that undermine the safety we aim to cultivate as a society, then it can be permissible as long as its consequences are not detrimental to our communities. Along with this, if the companies allowing the spread of misinformation take no action, the government should intervene if the misinformation harms society more than it helps. Governments have the right to censor information based on the application of free speech consequentialism. The judgment to censor or at least add advisories is ethically sound as platforms have a responsibility to give creator's a voice, but not a voice that consistently spouts baseless information aimed at turning the public against science and government agencies whose role is to keep people safe.

### **Conclusion**

These competing criteria must be weighed next to one another, not entirely against each other. Freedom of speech is a constitutionally held right for people living in America. The case study examination does not aim to vilify all acts of free speech and creative expression, but

rather limit harmful language that collectively attempts to create distrust in science and prolong the deadly pandemic society is facing. It is important to be aware that the restriction of speech in this case study and ethical analysis is based on containing the spread of misinformation and ensuring that the health of the public is not jeopardized further. Adding advisories, correcting, and even censoring misinformation dispersed on media platforms is to benefit the health and safety of the general public. The consequences of fear and distrust from misinformation outweigh the creator's right to freely speak. It is also important to highlight again that creator's platforms will not be removed or disabled totally; they are freely allowed to express as long as they do not profess purposely false information aimed at debilitating societies advancement in vaccines and suppressing viruses. After diving into the plethora of evidence and research indicating the grasp misinformation has on individuals, Spotify has the duty to intervene and place advisories on misinformation in order to protect public health and to maintain its reputation as a creative, honest, and safe platform.



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