



S. Social Impact

Epistemic responsibility: a missing dimension of corporate social responsibility

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Abstract

Corporate social responsibility covers a wide range of social, environmental and ethical concerns, but the epistemic dimension of this social responsibility, which concerns the reliability of the information disseminated, is generally ignored. Yet, if material pollution is a threat to the environment, epistemic pollution - fake-news, "business bullshit", misinformation, and so on - is a threat to society and the economy, and reflections on sustainability should also address this topic. By drawing on the current debates concerning Section 230 of the Communications Decency Act ("230 CDA") in the United States, which allows Internet service providers not to be liable for the possible falsity of the information they diffuse, we will show why this epistemic dimension should be taken into account, and how it could be.

Keywords: Epistemic responsibility, Corporate social responsibility, 230 CDA, Social networks, fake news

Epistemic responsibility: a missing dimension of corporate social responsibility

The missing dimension of CSR.

CSR literature is "highly fragmented" (Aguinis and Glavas 2012, p. 933) and full of numerous definitions (Dahlsrud 2008). However, CSR usually revolves around the "triple bottom line of economic, social, and environmental performance" (Aguinis and Glavas 2012, p. 933). To be socially responsible is to be concerned about the environmental consequences of the company's activities, and to worry that its employees or the employees of its subsidiaries are treated properly. The concept of CSR was thus developed to make companies aware of problems that market incentives fail to correct: environmental and social problems, pollution and mistreatment. But there is a whole class of problems which have been forgotten by the thinkers of this notion: the "epistemic" problems, which have to do with the reliability of the information circulating in society.

These epistemic issues have always existed, but only became a hot topic because of internet and social media, which made it much easier to spread false or questionable information. The epistemic problems are the "fake-news", the "bullshit", the "post-truth", the "alternative facts", and so on. This 'epistemic pollution' threatens our societies and our democracies just as much as physical pollution threatens the environment. It also threatens the proper functioning of businesses and organizations, which cannot enter the economic game properly without being able to count on reliable information. André Spicer (2017) talks about "Business Bullshit". These epistemic disorders are not always intrinsically harmful, in the same way that polluting products are not all intrinsically toxic (carbon dioxide, for example, has an ecological role). It is their accumulation that makes them dangerous, and which calls for regulation. It is all the more important to regulate these epistemic disorders in that they interact with social and environmental disturbances. For instance, causing environmental damage becomes easier when companies are not required to produce reliable information about their polluting activities.

The aim of the concept of CSR has never been to regulate these types of problems, which are nevertheless just as crucial as environmental or social issues. With the current concept of CSR, being socially responsible never means worrying about the truth or reliability of the information we produce or use. A company can be held socially responsible, irreproachable in terms of its environmental and social conduct, while completely neglecting its responsibility to produce reliable information. It can be "epistemically" irresponsible, while being socially responsible. Such a notion of epistemic responsibility is not included in the definitions of CSR proposed by academic literature (Carroll 1991, 1999; Carroll and Brown 2018; Dahlsrud 2008; Devinney 2009; Malik 2015), nor in the definitions found in the institutional literature (Commission européenne 2001, 2011; Ministère de la Transition écologique et solidaire 2018). CSR is measured through the notion of corporate social performance (CSP). Various models of CSP characterize the dimensions that should be taken into account in order to evaluate the performance of companies towards their stakeholders. Carroll's model (1979) takes into account the economic, legal and ethical aspects of CSR. Epistemic responsibility should therefore have its place, but CSR literature actually fails to deal with the epistemic dimension of corporate responsibility. It is never clearly presented as an important dimension of CSR.

With the law of March 27, 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 a series of clever references from one text to another, which result

in the creation of a reinforced obligation of means. 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 favor of more binding European legislation that would include this duty of care for companies. At the request of NGOs, the European Commission must establish a "clear and precise civil liability regime that corresponds to the reality of the complex value chains of multinationals". An epistemic responsibility could be included along these same lines.

Corporate epistemic responsibility.

We propose to correct and complete the notion of CSR by introducing a specific notion of epistemic corporate responsibility. To be epistemically responsible is not only to care about the reliability of the information the organization produces, it is to be disposed to account for any possible epistemic faults. This absolutely does not imply a duty to always tell the truth, or even to always try to approach the truth. Such an imperative would be untenable, and would lead to self-censorship on the part of organizations. It does mean doing everything possible to verify the reliability of the information the company disseminates, while remaining fallible. A company that commits an epistemic fault (for example by disseminating false information unintentionally) can still be epistemically responsible if it is willing to provide explanations for this fault. Epistemic responsibility defined in this way implies an obligation of means, and not of results. We will see that this characteristic is of fundamental importance.

We can introduce this concept of CER by examining the attitude of the heads of ratings agencies at the time of the 2008 economic crisis. Deven Sharma, Stephen Joynt and Raymond McDaniel were the heads of ratings agencies Fitch, Moody's and Standard & Poor's, which assessed, and still assess, the risks associated with certain financial products. These are the firms that gave maximum scores to the infamous CDOs (a type of Asset-Backed Security) that would soon be shown to be much less reliable than was thought in 2008. The three chief executives were summoned to explain their actions before the US Congress. During these hearings, Raymond McDaniel explained that the ratings awarded were "just opinions" (United States Congress 2008, p. 174), in other words, he could not be held responsible for them. In the same vein, Deven Sharma stated that these opinions "[did] not speak to the market value for [asset-backed] securities, the volatility of their prices, or their suitability as an investment" (United States Congress 2008, p. 142). Stephen Joynt adopted a similar defence: he could not be held responsible for the use of his "opinions".

The attitudes of these three CEOs clearly illustrate the idea of CER, or in this case, corporate epistemic irresponsibility. What they say is not wrong. The ratings attributed are, by definition, opinions, but by presenting them as "just opinions", and by quite clearly seeking to reduce their 'epistemic value', they are trying to wriggle out of the responsibility that should accompany the issuance of a properly substantiated recommendation; they are shirking their epistemic responsibility.

Mark Zuckerberg offers a more recent illustration of such irresponsibility. On October 23, 2019, when he was summoned by a committee of the United States Congress, the CEO of Facebook found himself embarrassed when he was answering questions from Democratic congresswoman Alexandria Ocasio-Cortez and had to explain Facebook's lax policy on political ads.

When Alexandria Ocasio-Cortez asked him if it would be possible to broadcast false advertisements on Facebook, for instance an ad falsely claiming that Republican elected officials had voted in favor of the Green New Deal (the great ecological investment plan defended by Alexandra Ocasio-Cortez, and hated by Republicans), Mark Zuckerberg was

only able to make the following answer: "I think lying is bad. [But] I believe that people should be able to see for themselves what politicians, that they may or may not vote for, are saying" (Friedman 2019),

In other words, Mark Zuckerberg considers that the fake news disseminated by Facebook is not his responsibility, and that he is not accountable for his epistemic behavior. And indeed, nothing compels him to be accountable on these matters. The situation would have been different if Alexandra Ocasio-Cortez had been in a position to demand that the CEO of Facebook be epistemically responsible.

Facebook is far from being the only irresponsible internet company. It is in fact the entire internet information economy that is affected by this problem, as illustrated by a recent news item reported by The New York Times.

In September 2018, an unfortunate software engineer discovered that despicable lies were circulating on internet, about him and his family (Hill 2021). He and several other members of his family were accused of being thieves, crooks and pedophiles. Most of these defamatory messages were posted on a site, the Ripoff Report, which presents itself as a platform to denounce "complaints, reviews, scams, lawsuits, frauds." The Ripoff Report offers an "arbitration process" that allows those targeted by these false accusations to be cleared, but this service has a cost: \$2,000. Rather than being extorted, the victim of this blackmail began to investigate the origin of these accusations, and eventually discovered their probable perpetrator: a former employee dismissed in the 1990s and suffering from serious personality disorders.

Anyone can be the victim of a mentally deranged person. The problem here is the existence of sites like the Ripoff Report which can relay the rantings of a lunatic without having to account for anything, and without ever having to worry about the veracity of the information they disseminate. The Ripoff Report is just one of hundreds of "complaint sites" that offer anyone the opportunity to post anything, including baseless and vile accusations. Not only are these sites perfectly legal in the USA, they are in fact protected by US law, more specifically by Section 230 of the Communications Decency Act ("230 CDA"), which de facto establishes generalized epistemic irresponsibility. The Ripoff Report's website clearly states, for instance, 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.

The story reported by the New York Times (Hill 2021), and more generally the attitude of most internet platforms, suggests that 230 CDA should be repealed. It is not that simple, however, because this legislation is at the heart of a very difficult dilemma. Before showing how a notion of epistemic corporate responsibility could help advance this issue, we must explain the content of this law in a little more detail.

Section 230 of the Communications Decency Act (CDA), hereafter "230 CDA" says that "no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider". It means that Internet service providers are not liable for the possible falsity of the information they diffuse. It was drafted in 1996 following a 1995 New York State Supreme Court decision. This decision raised concerns about the risk, for "provider or user of an interactive computer service", of becoming liable for what is published on their platforms, which could threaten "the vibrant and competitive free market that presently exists for the Internet". Thanks to 230 CDA, if private companies act only as a platform, displaying content developed by users, they are not obliged to respect the first amendment protecting freedom of expression and

can define their own rules (terms and conditions) that users of social media platforms must accept before they can use them.

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. True or false, legal or illegal, it is the same immunity.

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 favors the emergence of fake news. For this reason, 230 CDA faces many criticisms. But to overturn this regulation would raise the same issue as the *ex ante* situation. The risk run would be a massive suppression of publications that would discourage publication and limit freedom of expression. This is the dilemma of 230 CDA: to deter fake news while limiting free speech, or to free speech while not deterring fake news.

As it is defined today, the corporate social responsibility (CSR) is unable to cope with this issue. The inclusion of the notion of epistemic responsibility could help to solve the 230 CDA dilemma.

If 230 CDA presents a dilemma, it is because the debates focus on the sole question of truth. 230 CDA allows platforms not to be held to account for the possible false information they disseminate, as they cannot verify the truth of every message they disseminate. Without 230 CDA, organizations would be required to produce true information, and could be criticized for disseminating false information, which would be untenable. But we have seen that epistemic responsibility does not imply an obligation to tell the truth. It implies the obligation to conduct our epistemic work correctly. This epistemic responsibility, as the basis for implementation of civil liability, gives rise not to an obligation of results, but to an obligation of means. It thus offers a way to resolve the dilemma by focusing attention on the epistemic work (the means) and no longer on the result (the truth),

Let us assume that the notion of epistemic responsibility is clearly explained, that it is considered to be a dimension of CSR in its own right, and that firms can therefore be expected to be willing to be held accountable for their epistemic faults. In the event of the absence of liability for false statements, if CDA 230 were not repealed, the firms would still be deterred from committing epistemic faults because they would be expected to answer for their epistemic fault. Mark Zuckerberg could no longer merely pass on deceptive political advertisements or any other false information to his users, and would be required to do his utmost to avoid disseminating them, in the name of his social and therefore epistemic responsibility. A company like Ripoff Report could not be held to be a socially responsible company, even if it fulfills its commitments regarding its environmental impact or the treatment of its employees.

Epistemic responsibility in practice: a proposal for CSR extension.

We have to specify how CSR could be concretely complemented with a notion of epistemic responsibility. Such an extension could rely on the ISO 26000 standard, adopted in 2010, which defines CSR 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". CSR emphasizes the responsibility of companies for the effects they have on society. 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.

Thus, epistemic responsibility could be implemented in the context of CSR through compliance. Compliance is defined as all the 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 internalized 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 (social networks, rating agencies in our study) 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). Epistemic responsibility would thus be the proof of a "conduct of business" specific to each company, testifying to a particular relationship to ethics and in line with "good corporate citizenship". A company like Facebook or Ripoff Report would not be obliged to disseminate only true information, but would be held to account for its epistemic conduct.

Conclusion

We thus see how the notion of epistemic responsibility can help resolve the dilemma of CDA 230. It would not be necessary to repeal this law ; it would suffice to complete the notion of social responsibility by adding an epistemic dimension to it, and to create a genuine concept of epistemic responsibility. In general, this notion of epistemic responsibility could be an instrument in the fight against the epistemic disorders which threaten both democratic societies and their economies.

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