

Reason for Decision¹

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Resolved: Internet sites should be required to remove fake news.

Introduction

While many of my Coach's Notes include an analysis of the round, this is the first time we've presented the decisions of each of the judges from a final round. If you debated on February 4 and are familiar with the topic, I believe there is enough in each Reason for Decision (RFD) to understand the analysis. If not, you can find my flow of the round through the [Training Materials](#) page on the [CDA web site](#) where you found this article. There is also an edition of *A Coach's Notes* discussing other aspects of the topic and this particular debate.

These Notes are intended for your benefit in coaching your teams and for the students to use directly. I hope that you will find them useful. Please feel free to make copies and distribute them to your debaters. If you have any feedback, email me and I will forward it to the judges.

RFD's

Even experienced judges do not always agree on the outcome of a debate. In the final round at Daniel Hand between Hamden and Warde the decision was 2-1 in favor of the Negative. The three judges discussed their reasoning after the awards ceremony, and discovered that each had a different basis for their decision, so I asked each to write up their reason for decision.

Evan Streams: Vote Negative

The Affirmative gave us a plan which was very detailed but conspicuously missing any mention of government action. I figured that this was a strategic choice; it's easy for Neg to say that the resolution violates the First Amendment and gives the government undue powers of censorship, so I thought Aff was leaving the government out altogether to avoid these arguments. In cross-examination, Neg immediately seized on this and asked what was requiring social media companies to comply with this plan. The First Affirmative Speaker pointedly didn't say the government, and instead made a brief appeal

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to fiat power by saying, "From what I know about debate, I think we can assume that companies would be willing to do this."

By leaving out a mandate, Aff created an opening and the First Neg Speaker took it, arguing that the resolution says companies should be required to take down fake news, and with no government mandate, Aff was not requiring anything, and hence not really defending the resolution. In the same speech, Neg made a second important argument: social media companies have already begun voluntarily taking down fake news. This was crucial. If companies are already doing basically the thing that Affirmative wants, why do we need to vote Affirmative?

Aff saw the threat posed by the first of these arguments, and opened their Second Constructive by making it clear that their policy was backed by a government mandate. Aff's response to the second argument (inherency) was that editorial boards are better than algorithms. Negative challenged this, but even if they hadn't, I would struggle to vote for Aff just to replace algorithms with editorial boards, given how little support Aff gave this claim of superiority.

Aff's original failure to mention a government mandate was protecting them from some strong Negative arguments. Once Aff clarified that they wanted the government to mandate compliance, Negative did what all good teams do: they listened to their opponents and shifted their attack. In cross examination, they asked whether the government would take any action if a website was doing a bad job of taking down fake news. Aff said yes, which is the only smart answer, but that answer set Negative up for an attack.

In rebuttals, Neg made two winning moves: they reiterated their inherency argument that the resolution was unnecessary because companies are already moving in the direction of the resolution on their own. They added to this that the resolution gives the government an easily-abused power of censorship, which I think is accurate and was borne out by their cross-examination: if the government decides whether a website is or isn't doing enough to take down fake news, and gets to take control or dole out punishment based on that decision, then the government can identify websites which it dislikes, and interfere in their operations or punish them.

In their final speech, the Affirmative team argued that there would be no government interference because the editorial decision power is in the hands of the websites, not the government. But Affirmative was trying to have their cake and eat it too: if the government gets to decide whether the review boards' efforts are good enough, then true power is in the hands of the government. And if the government isn't, then websites aren't really required to take down fake news, so affirmative's plan is neither topical nor effective.

This, by itself, was reason enough to vote for Neg. Separately, Aff still hadn't overcome Neg's point that reforms happening in the status quo were already sufficient, and this, too, was independently a good enough reason to vote for Negative. Aff's whole case was about the benefits of fighting fake news. This is a reasonable thing to do, but since Neg showed me that it happens without voting Aff, those contentions were no longer decisive. As for the censorship issue, neither side gave me an analytical framework as to why

either fake news or censorship is a bigger problem, so I went with my own judgement: that censorship is worse.

Despite my sustained criticism of Aff, I realize that Neg made mistakes as well, but those mistakes happened in connection to arguments that didn't decide the debate. And despite my focus on mistakes, both teams were brilliant and this debate was as good as any I have seen this year. There's never time to talk about everything, so the omissions I discuss were probably difficult, conscious choices made by very good debaters.

Everett Rutan: Vote Negative

Negative wins because they convince me that the status quo is already solving the problem of fake news. The Affirmative successfully argues that fake news is bad—a point Negative says it fully agrees with—and driven by financial incentives. But Neg counters by noting that social media companies are aware that fake news is damaging to their business and so already have a financial incentive to do something about the problem. Aff agrees that this incentive exists in cross-ex and never provides a strong argument that additional incentive or compulsion is needed.

Neg initially confuses the issue by introducing it as a definitional argument, that Aff never defined the word “required” and did not include a mandate in their plan. In my opinion it was clear the Aff plan would require some compulsion, and that compulsion would have disadvantages that Neg could and eventually did raise. But this is secondary to the main point.

There is also some back and forth over whether editorial boards, favored by the Aff, are superior to algorithms, which Neg claims are being implemented by social media providers. Neither side is particularly knowledgeable or persuasive, but a tie goes to the Negative. Note Neg did not but could have argued that if algorithms prove ineffective, the financial incentive remains and would spur social media companies to explore other solutions, which might include editorial boards or new methods yet to be developed. The internet is still evolving rapidly. The central issue of the resolution, and hence the debate, is whether compulsion is required, and that is the only issue Neg needs to win.

This decision does not reflect how well fought the debate was. Reviewing the flow both sides are clearly listening to their opponents. Speeches refer often and directly to the contentions and cross-ex. Great clash, and an excellent debate.

Eliza Posner: Vote Affirmative

The first main issue in the round was the plan. 1NC argues that since 1AC did not state that there would be a law forcing social media companies to implement their ideas the plan has no mechanism for implementation. 2AC argues that although there was no specific mechanism laid out in 1AC the plan will be implemented through government action and there will be consequences for not obeying. This is consistent with the cross examination after 1AC where the speaker clearly tells the Negative Team that there will be some sort of penalty for noncompliance. 2NC does not expand on this at all but simply argues that this was not part of the 1AC speech. I buy the Affirmative argument that there will be a reasonable enforcement mechanism.

The plan based debate then turns to whether government involvement is a good idea. Negative argues that it is not, citing potential government bias. This argument fails due to a misunderstanding of who is carrying out the plan. Affirmative clearly states in constructives that the government will be the enforcing body, but that social media users and company committees will be the ones deciding what is fake news. This detail, which is reinforced in rebuttals, takes the government bias argument off the table. It still leaves the Affirmative vulnerable to the argument Negative makes about the social media companies committees being biased, but Affirmative clears this up with their user involvement portion of the plan that was not refuted.

Ultimately, I think this was a debate about solvency and, though Negative phrased their attacks on Affirmative's plan in several different ways, all their lines of argumentation could fall under the heading of solvency. There are a few reasons I think Affirmative won this issue.

First, Negative never specifically addressed important parts of the plan. In the 1AC, the speaker says that the plan will consist of a few measures. One of these measures was a system through which social media users could flag fake news. If enough users flagged, the social media's committee would then review the source and decide whether to remove it. In 2AC, when responding to the Negative's second contention, the speaker notes that this user engagement portion of the plan will address the issue of distrust in government or company interference when deciding what is fake news. While Negative goes to great lengths to prove that the government interference and company control involved in Affirmative's plan could lead to several potential harms they never address this aspect of the plan. Affirmative however, brings it up in both of their rebuttal speeches to counter the idea that it is just the government making decisions about what is "fake news."

The second reason I think Affirmative won the solvency debate is that Negative never does enough legwork on Affirmative's second contention. The Negative response to this in 2NC was to argue that these committees will have no accountability and will ultimately be biased. Negative's arguments on this failed because their alternatives did not win. If Negative had not presented alternatives, I probably would have voted for them, but because they did, I evaluated solvency in the round by comparing the two sides' solutions.

Negative states several times that they do not need to solve to win the round, they simply need to prove that Affirmative does not have the correct solution. This is technically true, but misleading in context because Negative does attempt (at least in some capacity) to solve the issue. Negative's second contention states that the status quo will solve itself, but this is a misleading tagline. 1NC argues that Facebook is already losing money over the issue and is therefore using an algorithm to attack the fake news problem. This is tricky because it becomes clear in the next few speeches that what Negative is advocating is not the status quo. Instead, they use statistics about a Google algorithm (2NC cites an NPR study saying this algorithm is 99% effective) and then argue that social media companies will adopt algorithms like this. This is not the status quo because they are arguing for a solution that does not currently exist. Therefore, they assume some burden of proof in the round when they go on to pit their idea (algorithms) against affirmative's idea (committees).

Affirmative wins this algorithms vs committees debate. In 2AC the speaker argues that algorithms can be biased just like people, an argument which is never adequately responded to and makes the “bias” debate a wash for me. Also in 2AC, the speaker argues that algorithms are not equipped with artificial intelligence good enough to make the correct call on eliminating fake news. Here, she uses the example of creationism as something an algorithm would probably delete but that is generally considered an acceptable religious opinion in the US. This is not responded to. Therefore, I buy the argument that Affirmative identifies and deletes fake news in a way that Negative (and their extension of the status quo argument) cannot. So, even if you buy the argument that the status quo will solve itself, Affirmative still wins by proving that the way in which they solve is better than the way in which the social media companies would independently solve (namely by using algorithms).