



# The First Amendment and Covid-19: Strategies for How to Control the Spread of Misinformation

Ike Ejikeme\*

Professional Security Studies  
Department New Jersey City University

## Abstract

Misinformation campaigns that are prevalent today have challenged how Americans interpret the first amendment, specifically regarding freedom of speech and freedom of the press. Research shows that there may be a correlation between the challenges of identifying credible information and the increase in Covid-19 positive tests. Despite attempts to mitigate the spread of misinformation, the Supreme Court has taken the approach of following the preferred position-balancing theory which states that free speech is at the foundation of a free society and therefore must be protected. However, existing literature indicates that the marketplace of ideas theory is a method that can be used to combat misinformation. In conclusion, this manuscript takes a global approach and highlights strategies countries such as Amsterdam, Spain, and the Europe Union have implemented to combat the spread of false information.

**Keywords:** Covid-19, Marketplace of Ideas Theory, Preferred Position Balancing Theory

## \*Corresponding author:

Ike Ejikeme

✉ iejikeme@njcu.edu

Professional Security Studies Department  
New Jersey City University

**Citation:** Ejikeme I (2022) The First Amendment and Covid-19: Strategies for How to Control the Spread of Misinformation. Global Media Journal, 20:57.

**Received:** 22-Oct-2022, Manuscript No. gmj-22-78018; **Editor assigned:** 25-Oct-2022, Preqc No. gmj-22-78018; **Reviewed:** 08-Nov-2022, QC No. gmj-22-78018; **Revised:** 14-Nov-2022, Manuscript No. gmj-22-78018 (R); **Published:** 21-Nov-2022, DOI: 10.36648/1550-7521.20.57.337

## Case Report

In the United States today, the media has a major influence on public opinion. Misinformation campaigns have increased over the years and have become exacerbated during the Covid-19 pandemic. As a result, scholars have actively discussed the effects of misinformation, and whether policies can be implemented to combat the spread of false information. A recent study by Mello (2022) examined the role of freedom of speech and freedom of the press in the spread of vaccine misinformation, and whether the U.S. government can criminalize false statements. While the Supreme Court acknowledged the harm that false statements have on society, the courts were unwilling to endorse any significant changes that may alter first amendment rights. According to Mello (2022), in 2012 the Supreme Court heard a case, "invalidating a law that criminalized lying about receiving military medals, the Supreme Court refused to hold that false statements lie wholly outside First Amendment protection" (p. 1). Ultimately, the Supreme Court stated that false claims have value in that they allow people to challenge widespread consensus without fear of retaliation. During decision-making, the Supreme Court followed the preferred position balancing theory [1]. The premise behind this theory is that the freedoms granted under

the first amendment are at the foundation of a free society and therefore need to be protected. As Covid-19 continues, scholars should examine the role freedom of speech and freedom of the press plays in the government's ability to respond to Covid-19.

Bursztyn et al. (2020) examined how misinformation from news media affected the public's perception of Covid-19 to see if there was a correlation between misinformation broadcasted through media outlets during the beginning of Covid-19 and the health outcomes for those infected with the virus. Bursztyn et al. (2020) focused on two of the most popular cable news shows – Tucker Carlson Tonight and Hannity. During the height of the pandemic, transcripts showed that Hannity dismissed ideas about the risks of the virus and insisted that Covid was a ploy used by the Democratic Party to undermine former president, Donald Trump. Furthermore, in the first quarter of 2020, Fox News averaged 3.4 million total primetime viewers, compared to 1.9 million for MSNBC and 1.4 million for CNN. Because the average age for a Fox News viewer is over 65, and the network averages the largest viewership of all news outlets, the Centers for Disease Control and Prevention (CDC) believed that Fox News' messaging may have left its audience at a higher risk of contracting Covid-19. Bursztyn et al.'s (2020) assessment provided an analysis of how

the media's messaging on critical issues may influence public opinion.

To test the theory on whether media messaging affects public opinion, Bursztyn et al. (2020) asked 1,045 participants about the frequency at which they watch either CNN, Fox News, or MSNBC in the span of one week. The researchers then asked participants if any of their behavior had changed in direct response to the Coronavirus outbreaks. Changes in behavior ranged from cancelling travel plans, socially distancing, or the frequency at which they washed their hands. The findings showed that those who downplayed Covid-19 were more likely to test positive for Covid or die from exposure to Covid-19. This data suggests that the media can sway public opinion in a way that causes viewers to be more susceptible to contracting Covid-19.

Although Bursztyn et al. (2020) found that the media can effectively sway public opinion, the marketplace of ideas theory [1] is a strategy that may be used to combat the effects of misinformation. The First Amendment promotes the marketplace of ideas theory which welcomes differing opinions and an uninhibited marketplace of ideas [1]. The premise behind the theory is that if fact-based information is disseminated into the marketplace, people can decide for themselves what to believe. As articulated in Bursztyn et al.'s analysis (2020), major news conglomerates can influence public opinion in a way that leads to an increase in vaccine hesitancy and the spread of Covid-19. However, news outlets can also disseminate fact-based information to viewers, giving them the chance to discern what information is legitimate. Yousuf et al.'s study (2021) is an example of the effective implementation of the marketplace of ideas theory.

A recent study conducted in the Netherlands [2] examined ways to combat misinformation to improve patient trust in the Covid-19 vaccine. This study is pertinent because it reflects on first amendment rights and provides a strategy the United States can use to attempt to combat the spread of false information. The target population of the study was elderly people who were at high risk of contracting Covid-19. The goal was to use the media to convince the public that the vaccine was safe. The participants of the study were 980 elderly citizens from a daily news show on Dutch television. Split into two groups, the first group was shown a video debunking misconceptions and conspiracies about vaccines, and the other group was given a general video that provided viewers with broad information on the social norms of getting a vaccination. To maintain ethical standards under the Institutional Review Board, the study was cleared by the Medical

Ethical Review Board (METC) of the Amsterdam University Medical Centers (UMC) and VU University Medical Center in Amsterdam Netherlands. Findings [2] showed that participants who saw the video with additional information debunking misconceptions and myths about vaccines strongly rejected misconceptions and false information about getting vaccinated. The study showed that patients who were given fact-based information were more confident in the vaccine. Conspiracies and misconceptions were debunked by showing patients the positive outcomes of being vaccinated and providing patients with information that dispelled existing myths about Covid-19.

Like Yousuf et al. (2021), Marco-Franco et al.'s study (2021) focused on the role the media and misinformation played in the European Union's ability to mitigate the spread of Covid-19. Much like in the United States, citizens of the European Union did not trust the information that came from the media about Covid-19. Marco-Franco et al.'s study (2021) differed because respondents of their survey believed that they could distinguish between real and fake news. As a result of the circulation of fake news (FN), the most frequent complaint about getting vaccinated against Covid-19 was the fear of experiencing side effects; this led people to question the safety and effectiveness of the vaccine. Statistically, 80% of European respondents reported encountering fake news several times a month if not more. To combat the spread of fake news, Marco-Franco et al.'s study [3] recommended punitive actions be taken. However, before this, the researchers recommend additional scientific data be gathered, more training conducted, and more evidence-based education be administered to professionals in the medical field and scholars in academia. Overall, Marco-Franco et al.'s study (2021) showed that citizens believed that the best way to combat Covid-19 misinformation was through educative actions and collaborations between the government, media outlets, and non-government organizations [4, 5].

## Conclusion

The presented research has shown that misinformation from the media can shape public perception during times of crisis. However, the marketplace of ideas theory (Broom & Seshadrinathan, 2013) presents a viable strategy for combating the spread of misinformation. Information can be shared in the marketplace through fact-checking, evidenced-based education, and the collaboration of governments and organizations. With this information, the public can make better decisions on how to protect themselves against Covid-19.

## References

- 1 Broom GM, Sha BL, Seshadrinathan S, Center AH, Cutlip SM (2013) Communication Theories and Contexts. In Cutlip and Center's Effective Public Relations 176.
- 2 Bursztyn L, Rao A, Roth C, Yanagizawa-Drott D (2020) Misinformation during a pandemic. University of Chicago, Becker Friedman Institute for Economics.
- 3 Marco-Franco JE, Pita-Barros P, Vivas-Orts D, Gonzalez-de-Julian S, amp Vivas-Consuelo D (2021) Covid-19, fake news, and vaccines: Should regulation be implemented? *Int J Environ Res Public Health* 18: 744.
- 4 Mello MM (2022) Vaccine misinformation and the first amendment—the price of free speech. *JAMA Health Forum* 3.
- 5 Yousuf H, van der Linden S, Bredius L, (Ted) van Essen GA, Sweep G et al. (2021) a media intervention applying debunking versus non-debunking content to combat vaccine misinformation in elderly in the Netherlands: A digital randomized trial. *E Clinical Medicine* 35: 1-11.