

# Reducing Climate Disinformation Through Administrative Action

## *Immediate actions for the administration to hold social media companies accountable*

Disinformation on climate change and many other issues has become a critical problem in need of urgent reform. While a full response to these harms requires changes to our fundamental laws—such as those the European Digital Services Act has pursued—there are many steps the administration can and should immediately take to curtail this problem. This memo lays out near-term opportunities that can bring the existing authority and duties of the administration of the U.S. government to bear in the fight against climate disinformation, through methods that require little or no action from Congress. Six different executive branch and independent agencies have the power to help mitigate climate disinformation harm. Their potential actions are described below, along with an assessment of the feasibility and impact of each.

### **1. Federal Trade Commission (FTC)**

- **FTC-6(b):** The FTC could conduct a [6\(b\) study](#) to seek confidential information from platforms regarding their approach to climate change disinformation and then use this information to prepare a report within a couple of years of commencement of the study. The resulting report could potentially include public information on climate disinformation policies, practices, and results, of comparable value to the disclosure obligations proposed in pending legislation. [feasibility: high; impact: medium]
- **FTC-ads:** The FTC has broad authority designed to ensure truth in advertising; however, this authority bans false advertising associated with deception only in the context of purchasing products, a more tenuous tie to climate disinformation. A short, simple law could be passed to extend this authority to climate-related false ads, as was done [in the context of COVID](#). While it would require a new law and thus time for Congress to confer the authority and then more time for the FTC to bring enforcement actions, such a law could be easier to pass than a more general disinformation or climate-related statute, resulting in powerful new enforcement authority in the context of ads (a powerful vector for disinformation campaigns). [feasibility: low; impact: high]
- **FTC-MagMoss:** The FTC has fairly limited rulemaking authority compared to some other independent federal agencies such as the Federal Communications Commission, but a broad, flexible source of authority known as Magnuson-Moss (or “Mag-Moss”) authority could in theory be used to adopt rules to mitigate climate disinformation harm. In practice, however, Mag-Moss authority is rarely used, as it involves [substantial procedural hurdles](#), and execution would take substantial time and agency resources. [feasibility: low; impact: medium]

## 2. Commerce Department

- NTIA: The National Telecommunications and Information Administration, part of the Commerce Department, could convene multistakeholder working groups over the next few months to discuss practices by platforms to reduce climate change disinformation. Such a practice is standard for NTIA, and in her confirmation hearing, Commerce Secretary Raimondo [supported convening stakeholders on content policy](#) issues such as disinformation. A multistakeholder process creates opportunities for civil society to make asks of platforms and puts companies on the spot to explain why they aren't doing more or disclosing more. However, there are no binding obligations. [feasibility: high; impact: low]

## 3. White House

- WH-ODCP: The White House could conduct high-profile climate-disinformation-specific convenings through the [Office of Domestic Climate Policy](#). Although this could raise awareness of the problem and encourage companies to make public their efforts to mitigate harm, it could not compel participation or impose binding obligations to improve upon the current state of affairs. [feasibility: high; impact: low]
- WH-CEQ: The [Council on Environmental Quality](#) plays an important role coordinating on environmental policy with other executive branch agencies and therefore can support many of the other proposals in this memo. Additionally, the chair has [indicated a priority](#) of making heard the voices of low-income people and people of color and could potentially convene stakeholders to discuss climate crisis preparedness for affected communities, including climate disinformation as a contributing factor. Similar to ODCP, compelled participation and outcomes are likely beyond scope; however, the optics are valuable. [feasibility: medium; impact: low]

## 4. Department of Justice

- DOJ: The Department of Justice has on multiple occasions requested budget funds specifically for [environmental justice](#) programs and, in the White House's [proposed FY2023 budget](#), is slated to receive \$1.4 million for a new Office for Environmental Justice. This office could embrace disinformation as a specific angle of interest and take actions such as supporting (through legal briefs) lawsuits brought by individuals against tech companies for poor climate change information practices, giving such lawsuits significantly added weight and visibility, though not guaranteeing success. [feasibility: medium; impact: medium]

## 5. Securities and Exchange Commission (SEC)

- SEC-complaints: Frances Haugen has filed an [SEC complaint](#) against Facebook specific to climate change, arguing that the continued presence of climate change misinfo belies the company's promise to investors that it is fighting to combat climate change misinfo, which the company feels obligated to say as a mitigation of potential harm to its reputation (which in turn would affect the company's stock price). The SEC could take action on this complaint, forcing behavioral changes including but not limited to greater disclosure from Facebook. Similar complaints could then be filed against other companies, or companies could make similar changes voluntarily, as they would be at risk. [feasibility: low; impact: high]

- SEC-rules: In general, companies work to improve any practices that risk reputational harm and consequences for investors, typically using internal A/B testing to tweak specific parameters of product/service operation, measuring the resulting benefit in mitigating harm as well as the cost to engagement or other performance indicators. Pushing the SEC to request disclosure of details of such tests and internal changes that result from them, under the theory that such information is necessary to understand the company's risk/benefit profile, could lead to improved awareness and practices, although it would take substantial time and process. [feasibility: low; impact: medium]

## 6. Federal Communications Commission

- FCC: The FCC's [anti-hoax rules](#) for broadcast could be applied to a radio or television broadcast licensee that promulgates climate change disinformation over traditional radio or television broadcast services (not internet services). The rules are scoped for information regarding "crime or catastrophe," and climate change likely could be characterized as a catastrophe in this context, given scientific showings that climate change kills more people than guns in the U.S. each year. Such an action would have limited scope over distribution channels and would take time, process, and resources, including actual and political capital, but success would amplify climate harm visibility significantly and could result in some changed practices. [feasibility: low; impact: medium]
- Addendum: The FCC has powerful statutory authority over broadband access service providers under the Communications Act and, in theory, could have authority over internet edge services such as social media under Section 230. Although [some advocates have called for the FCC to step up](#) and go after Big Tech, the current FCC is extremely unlikely to take any form of regulatory brush to the tech sector.