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This Title Has Not Been Removed

In an age where the youth say “literally 1984” without having read the work that they are referencing, potential censorship seems to be on the public mind. And with freedom of speech a cornerstone of our nation, the topic also prevails on the national stage of politics. Now, a sizable portion of our communication is digital, across privately owned platforms. The legal guideline for the content? Section 230 of the Communications Decency Act of 1996. Section 230 has shaped social media companies through its ‘Good Samaritan’ clause. It states they aren’t liable for limiting access to user content their judgement finds “objectionable”, as long as the actions of their moderation are “voluntarily taken in good faith” (United States, Congress Section 230(c)(2)(A)). It’s not very specific, but basically means if they legitimately think something is bad, they can’t be sued for taking it down or limiting its spread. Since 1996, though, the landscape of the World Wide Web has expanded dramatically, and we’re seeing that perhaps Section 230 is now giving the social media corporations too much power.

Lawmakers in 1996 may have predicted that we’d grow reliant on “interactive media” for information, but social media was just getting started; they could not have anticipated the scale. A 2024 Pew survey indicates that 80%-90% of users on X (formerly Twitter), Tiktok, Facebook, and Instagram see some sort of news content on those

platforms. In fact, on X, it's a reason why a majority of users use the site (Shearer et al. 1). But with our diverse and passionate beliefs in a heated political environment comes disagreement and disinformation. Section 230 allows platforms to moderate as long as they act in good faith, but what does that constitute? It's left vague. First, let's look at a case that is less so, even though it further ignited the debate on big tech's censorship:

The COVID-19 pandemic, as a public health crisis, had wide and high-stakes effects. Although some people wanted to downplay it and opposed restrictions, social media companies had an easy source: top medical professionals. Using those recommendations, Instagram wrote a lengthy and detailed policy page. The document includes that posts would be removed if they deny the existence or severity of COVID, promise cures, or discredit the vaccine approval process when health experts deem it credible, among others (Instagram).

And this was in good faith. Writing for a Supreme Court majority in the most recent social media first amendment case, *Murthy v. Missouri*, which looked at whether the government unfairly interfered with COVID misinformation online, Justice Amy Coney Barrett wrote for a 6-3 majority that decisions limiting the government would have had little effect. This would be because, as NPR's Nina Totenberg put it, "many of the actions taken by the social media platforms to modify content about COVID vaccines or other matters, were taken before any contacts with government officials took place" (Totenberg and Thomas). She asserted, for example, that Facebook had been combating COVID misinformation over a year before the government engaged. In fact it reached out to the CDC's experts to get the correct information for their platform and its

users (*Barrett Murthy v. Missouri* 2-3). This demonstrates the genuine interest of the social media companies to curate their space to be safer for the public, instead of relying on government control. It wasn't to satisfy the government, it was to do what they believed would save the most lives. Their faith was good, and their guidelines specific.

However, you will find that because of the broadness of Section 230, that level of detail is an exception. Looking at Meta's (Facebook's) general misinformation policy, there is instead an admission: "there is no way to articulate a comprehensive list of what is prohibited" (Meta). This is exacerbated by the fact that different people have different truths. As Meta put it, "The world is changing constantly, and what is true one minute may not be true the next minute. People also have different levels of information about the world around them, and may believe something is true when it is not" (Meta). While we must emphasize that this isn't a get-out-of-jail-free card, it encapsulates the fact that while some of us may live in a bubble that reflects our views back to us, the world is complicated. So, when we make demands of policy and moderation, they may not be built on truths as solid as we believe.

One such truth is the claim that social media companies target conservative voices, one that leads to calls to de-regulate social media. The editor-in-chief of magazine *The Federalist* has claimed on Fox that "You can not possibly have been alive in the last five years and think that social media companies do anything other than amplify left-wing insanity and crush anything from the right that hurts the left" (qtd. in Lanum). It's definitely possible to think so. Except for Meta's platforms, Americans from both parties actually feel free to talk politics about the same, and even on those

platforms, a majority of Republicans do feel free (McClain et al. 1), showing that even if there is a perceived skew, the platforms are still open for Americans to use confidently. Some examples used as evidence include issues that highlight the difference in truth that people have and would devolve into a did-not-did-too argument. However, Fox also points to COVID-19 misinformation policies, which as shown above, were the most concrete of the policies we've seen in a long time.

Meanwhile, law student Leni Morales has raised the alarm about a Texas bill navigating the courts right now which looks to remove social media providers' ability to moderate beyond the law. She says removing Section 230 from the companies it was made for is dangerous. Even after Elon Musk's takeover of Twitter (now X), she argues, the individual known for championing free speech uses his sense of reason permitted under Section 230 to censor Alex Jones. Morales claims this is important because the law prohibiting censorship of the likes of Jones with his conspiracy theories would grant "more protections for their words than the people who are mentally and physically harmed by them" (Morales 3). I agree here because such a broad bill, as broad (if not unambiguous anymore) as the current law, sets the processes for public safety and national security up for failure. Even if the likes of Jones do illegal things, our government doesn't have the resources to moderate them. That's why the social media companies have their rights.

On the extent of these rights, Section 230 creates tension with the first amendment. The conservative media and lawmakers feel like their speech rights are being violated when they're censored. This is despite the fact that since social media

platforms are private, good faith can still apply “whether or not such material is constitutionally protected” (United States, Congress Section 230(c)(2)(A)). As such, there’s a desire to expand personal rights. Meanwhile, Morales, as well as the social media companies themselves, argue that since corporations have precedent in court to show they have first amendment rights, forcing them to distribute a message they do not wish to (Morales 14). This to me, however, implies a stronger connection between host and content than the law really does, because Section 230 states that the social media companies can’t “be treated as the publisher or speaker of any information” from anyone else, even their users (United States, Congress Section 230(c)(1)). This leaves a gap. If nobody’s speech is really protected, where does the power go? Lately, the courts have shifted toward the corporations, but with the ambiguity of Section 230, these companies have been allowed to roam free with very little check.

Yet despite the flaws of Section 230, this issue has become dangerously partisan. The arguments for stripping away moderation, justified or not, are explicitly self-serving. Not better at all are the opposite arguments that also only see conservative censorship on their most passionate issues. The *Murthy* ruling from June can be seen as a liberal victory. But as Jameel Jaffer, director of the Knight Center First Amendment Institute at Columbia University, told NPR,

‘It’s important for Democrats . . . sympathetic to the Biden administration’s efforts’ to prevent COVID misinformation or Russian election interference, to consider whether they would be comfortable with these same rules if the Trump administration ‘were to pressure social media companies to take down speech

related to MeToo or Black Lives Matter or pro-Palestinian speech.’ (qtd. in Totenberg and Thomas)

Jaffer, while using pre-existing examples, is emphasizing the shifting nature of what issues are most contentious. With his hypothetical future scenario, he aims to remind the left to think long-term. And I think this is something everyone needs to consider, or else we’ll entrench ourselves in a new system that’s equally unbalanced in a new way.

I think the issue is best stated by the Fox article itself. Its subtitle reads, “Debate over Big Tech regulation remains pressing issue for both political parties” (Lanum). It’s not the people who are fighting over this, it’s the parties, but as long as they’re pressing in opposite directions from each other, there won’t be any change. Perhaps unintentionally, Fox has pinpointed one of the major factors preventing us from reaching a solution. But as an American concern that the people have, we ought to take the political emotion out of the equation and push for a common solution together as one country.

It’s important to get transparency. A major part of Fox’s complaint on the right is that some bans are more unspecified under ‘hate’, or don’t specify violating posts (Lanum). Meanwhile, frustrating the left, it was found that TikTok’s algorithm was suppressing creators such as those with disabilities or in other minorities under the blanket of vulnerability to bullying (Köver and Reuter). I believe the most productive path forward is getting the companies to most clearly clarify what they limit and how often, and with effects on people across the political spectrum, we ought to work together. It’s a good thing to have your concerns about our social media algorithms, but

we need to frame them in a way that considers multiple perspectives. Social media companies are still entitled to setting their own terms without a government chokehold either way, but with higher scrutiny on what they're really doing, we can direct our efforts productively to a fairer, more transparent process that will provide more lasting benefits than if we just focus on 'us'.

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