

Social Media Laws and Regulations: A Meta-Study

A Technical report submitted to the Department of Engineering and Society

Presented to the Faculty of the School of Engineering and Applied Science
University of Virginia • Charlottesville, Virginia

In Partial Fulfillment of the Requirements for the Degree
Bachelor of Science, School of Engineering

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Spring 2024

On my honor as a University Student, I have neither given nor received unauthorized aid on this assignment as defined by the Honor Guidelines for Thesis-Related Assignments

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CS4991 Capstone Report, 2024

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ABSTRACT

After social media-driven controversies regarding misinformation and content policies, public activists and governments have justifiably demanded new laws to regulate these services. However, in order to enact new regulations, one must first understand the laws currently in place. I have conducted a meta-study on implemented and suggested approaches for social media regulation, primarily focusing on American and European laws. New laws must be implemented to ensure that companies accept responsibility for the spread of misinformation and the abuse of digital content on their platforms. Additional work is needed to formulate frameworks to approach the construction of internationally applicable laws and standards.

1. INTRODUCTION

Innovation frequently outstrips policy and regulation. As social media companies like Twitter and Facebook began to grow, they experienced massive influxes of both users and data resulting in “far too much information for any one person” as former Facebook executive Mosseri put it (Mosseri, 2016). Since manual indexing and sorting had become obsolete, companies began turning to recommendation algorithms to help curate their content (Pariser, 2011). These algorithms now form the core of many companies’ services such as Google, Twitter, and Facebook (Google, n.d.; Mosseri, 2016;

Twitter, 2023). However, this reliance on algorithmic curation has been linked to an increased spread of misinformation and biased content (Del Vicario, et al., 2016; Edelson, et al., 2021). A study conducted jointly with Facebook also revealed the potential for mass emotional manipulation through social media (Kramer, et al., 2014). Malefactors can take advantage of these effects to further their own ends and to destabilize democratic processes.

In Myanmar, the Burmese regime exploited Facebook to spread misinformation against the Rohingya minority, resulting in riots, violence, and genocide (Mozur, 2018; Ortutay, 2022; The Social Atrocity, 2022). Nation-state actors utilized social media as a channel to interfere in elections across the globe (Grinberg, et al., 2019; Hargreaves, et al., 2018, 2020). These events reveal social media platforms’ unprecedented ability to spread both information and misinformation throughout their user bases. Despite the billions of people using social media—many of whom use the platforms for news—these services are not subject to the same laws and regulations as traditional information providers such as television and newspapers (Brand, 2023; Dixon, 2023; Koltay, 2022; Liedke & Wang, 2023).

2. RELATED WORKS

Within the context of American digital media regulation, perhaps the most important

legislation passed is Section 230 of the Communication Decency Act of 1996, which reads: “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.” This text grants a form of immunity to people and industries which provide platforms to distribute digital content. This places the legal burdens on the posters of content rather than the providers. A later part of the act also protects companies from litigation regarding their enforcement (or failure) of content moderation (Buckingham, 2023). The original intention behind this law was to promote innovation within the internet by providing a safe environment for companies to operate.

However, the expansiveness and permissibility of the law has been the object of numerous legal debates (Brand, 2023; Rice & Hayes-Deats, 2024). While upholding the law helps ensure freedom of speech by not forcing platforms to moderate their content, the law also protects companies from potential lawsuits regarding misinformation and abuse of their platforms (Codeanne, 2023). As McDermott, J.D., explains: “The current law[s] surrounding social media lacks a concrete foundation on which to construct legislation” (McDermott, 2023). With the act’s origins in the First Amendment and the now established legal precedents in case law resulting from its application, changing Section 230 becomes a significant legal task (McDermott, 2023). In its current form, Section 230 hinders the introduction of new regulatory policies on social media.

3. ALTERNATIVES: EUROPEAN LAW

The European Union defines a more comprehensive set of regulations for social media platforms. Together these laws provide fuller protections to consumers and their data. The resulting system provides a unified

approach to consumer safety standing in contrast to US laws which have been criticized for being patchwork, lacking, and narrow (Buckley, 2023; Hillman, 2023).

3.1 Digital Services Act

Passed in 2022, the Digital Services Act (DSA) aims to standardize the EU’s digital policies and provide a legal framework for restricting and monitoring internet services (Turillazzi et al., 2023; Zakrzewski, 2022). Enacting a landmark change, the law holds social media platforms liable for removing illegal or harmful content once the provider has been notified of its existence (European Commission, 2023). This stands in contrast to the self-regulatory nature of Section 230 which grants immunity to platforms. The change makes digital platforms safer and less prone to misinformation. Once a provider becomes aware of harmful content through either internal notification systems or an external source, they become legally obligated to remove it.

3.2 Digital Markets Act

While the DSA affects what content digital services can provide, the Digital Markets Act (DMA) regulates how digital services operate. Ratified shortly before the DSA, the DMA aims to promote competition within the digital economy by enforcing interoperability and transparency of products (Satariano, 2022a). Provisions within the law also limit companies’ ability to apply targeted advertising and personalization to users unless given explicit permission (Zard & Sears, 2023, p. 29). Although the act primarily focuses on increasing competition among technology companies, restricting social media’s ability to personalize content may prove beneficial in combating misinformation. The humanitarian organization, Amnesty International, launched an investigative report into Facebook after the Rohingya genocide in

Myanmar. Using leaked internal documents, the report found evidence that Facebook's systems artificially increase the circulation of misinformation because of the platform's reliance on virality and engagement metrics (The Social Atrocity, 2022). As modern neural networks and machine-learning techniques require immense quantities of data to train (Van Der Ploeg, et al., 2014), disallowing social media companies from collecting user data without their permission may force them to move away from potentially harmful recommendation metrics.

3.3 General Data Protection Regulation

The General Data Protection Regulation (GDPR) defines an expansive set of measures which protect consumer data while simultaneously allowing its safe transferal and use. It forces companies to define and share how they use collected data and for what purposes. Additionally, the law grants several rights to users such as the right to erasure, the right to be forgotten, and the right to data access (Buckley, 2023; Satariano, 2018). The right to erasure and the right to be forgotten allow users to request their data to be deleted from relevant holders' databases. Upon receiving this request, companies must notify other parties who received the data through a transfer. This protects data throughout its lifecycle rather than just at a particular company. The right to data access serves a similar purpose to the DMA. It allows the user to request their data in a commonly used, machine readable format (Peeples, 2023). This forces companies to support interoperability and frees users from relying solely on one provider. Additionally, this interoperability forces companies to reveal what data they collect from users in order to ensure proper transferal of information.

3.4 Artificial Intelligence Act

The Artificial Intelligence Act (AIA) categorizes and restricts AI systems based upon their calculated level of risk. The act bans any AI deemed too dangerous to society such as systems implementing behavioral manipulation, social scoring, or biometric identification (European Parliament, 2023). These regulations represent the first comprehensive legislation aimed at addressing the rapid growth and integration of AI within society's services. Many social media platforms rely on curative algorithms to rank their content (Google, n.d.; Lada et al., 2021; Twitter, 2023). By providing a risk-centered framework with concrete criteria, the act enables regulators to evaluate the costs and benefits of these AI systems and to determine the relevant policies and restrictions.

3.5 Problems

Although the EU provides a fuller legislative framework for regulating social media, the laws have issues regarding their enforcement. Law professors Gentile and Lynskey outline several problems which arise in applying the GDPR in transnational contexts. They note that regulators may apply the GDPR inconsistently across nations' borders saying that "the current application of cooperation and consistency mechanisms appears challenging from the angle of the equal application of the law and risks stretching the limits of compliance" (Gentile & Lynskey, 2022, p. 20). If nations handle data according to their own interpretations of the law, this could result in legal loopholes which results in data being improperly managed and maintained by companies. Other critics note that recent laws such as the DSA and DMA lack enforcement personnel. At the time of their implementation, only 230 people held the task of maintaining the regulations for the entire bloc (Satariano, 2022b). Compared with the resources available at disposal of

Meta, Google, Facebook, and Microsoft, privacy activists worry that the limited staffing may affect the quality of enforcement and nullify the potential benefits of the legislation.

4. RESULTS

Current regulations within the US are patchwork and lacking. Despite headquartering the majority of global tech firms (Oracle, Google, Meta, Twitter, Netflix, etc.), the US falls behind the EU in terms of most relevant legislation (Hillman, 2023). Because of First Amendment issues, government enforced content regulation on social media platforms have proven problematic to implement or pass (Brannon, 2019).

This leaves Section 230's contested immunity provisions untouched by legislation. The US Department of Justice has attempted to address this issue by suggesting clarifications and changes to Section 230 which would bring the act closer to the content of the EU's DSA and DMA (U.S. Department of Justice, 2020). However, these resolutions have not been implemented.

Although the EU's laws provide fuller protections to consumers and its citizens, problems arise when attempting to realize the regulations. Critics worry that policies such as the GDPR become "toothless" when pressured by tech-company lobbyists (Weinstein, 2020, 6:10-6:25). Additionally, transnational enforcement of these regulations proves difficult due to varying governmental structures. The content of the EU's policies enables the regulation of digital services; however, the laws' enforcement has been lacking.

5. CONCLUSION

Social media left unregulated presents significant risks to society. Tim Sparapani—the former Facebook Director of Policy—

explained in an interview with Frontline PBS that "Silicon Valley has always been in the position of self-regulating. It's always been multiple steps ahead of not only the U.S. government actors, but those around the world" (Sparapani, 2018, Writing the Rules for Facebook). Relying on companies to self-regulate increases the risk of malpractice, misinformation, and abuse of their digital systems. However, Section 230 hinders digital media regulation in its current form within the US and prevents any comprehensive legal framework from being implemented. The EU's legislation, while well-formulated, suffers from lax enforcement. Due to the risks of misinformation and election interference, new laws and frameworks must be instituted to better protect the world's citizens.

6. FUTURE WORK

This study presents an overview of policies and issues for regulating social media companies within the US and the EU. Future work is needed to document how other nations undertake social media regulation and to observe the strengths and weakness of their approaches. Legal experts and scholars may use this information to construct new frameworks addressing the problems found here and in future works. In particular, a framework for transnational enforcement of laws seems necessary given the global reach of social media companies.

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