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# Critical Appraisal of Social Media Regulations Across the World

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## Key Points:

- The concept of social media's self-regulation in its essence has failed. It is because of the fact that political ads have found their way into the targeted society pushed by either state or non-state actors.
- Whenever we talk about social media and its utility, it has two sides across its spectrum. On one side reside those who are the champions of free speech and open society. On the other hand, proponents of interest groups and state entities see unregulated social media as a threat to core interests or values.
- Different countries have made laws to regulate social media based upon their own understanding, political practices, societal norms, and usage of these platforms
- The social media platforms must collaborate with state agencies as well as business communities for a comprehensive mechanism for regulation of social media.
- The information age cannot undermine the role of social media platforms. Hence it should be reformed or regulated but not controlled.

## Introduction

“Social media” is a buzz word for everything happening in our social environment and its subsequent interaction and engagement taking place over the cyberspace. Arguably, some would disagree to the aforesaid statement. Nonetheless, the users on social media and the novelty of its research methods would argue otherwise.<sup>1</sup> According to Merriam-Webster dictionary, social media is defined as, “forms of electronic communication (such as websites for social networking and microblogging) through which users create online

communities to share information, ideas, personal messages, and other content (such as videos).”<sup>2</sup> Keeping this definition, the ‘buzz word’ argument becomes valid. Social media is also named as Web 2.0.<sup>3</sup> But Web 2.0 is not limited to social media, meaning that end users can also create their own content based upon their own choice when compared to its previous version i.e. Web 1.0 where content creation was not possible. This era has emerged in cyberspace since 2004 and continues to develop and manifest itself as the users generate content.<sup>4</sup> From just social interaction to communication, Web 2.0 has also witnessed an increase in its use by individuals amongst common population,

<sup>1</sup> Anabel Quan-Hasse and Luke Sloan, *The SAGE Handbook of Social Media Research Methods* (Thousand Oaks, CA: SAGE Publishing, 2017), 3.

<sup>2</sup> “social media,” The Merriam-Webster.com Dictionary, accessed January 21, 2020, <https://www.merriam-webster.com/dictionary/social%20media>.

<sup>3</sup> Mike Wolcott, “What is Web 2.0,” *CBS News*, last modified May 1, 2008, <https://www.cbsnews.com/news/what-is-web-20/>.

<sup>4</sup> *Ibid.*

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officials, and politicians alike. The individuals here come from all walks of life including non-state violent actors with intentions to spread disinformation, propagating narratives of violence and hatred, and stealing personal data to name a few. However, on the other side of the equation is the positive and constructive use of social media for communication, business, telemarketing, and e-learning among others.

Therefore, social media provides an ample space for readers and content creators to utilise it in whatever way they want without an overarching regulation. However, each social media platform has its own regulation mechanism to govern their applications under the garb of self-governance or self-regulation.<sup>5</sup> As far as the concept of self-regulation is concerned, Facebook largely focuses on four crucial areas of content that are harmful, disrupt the integrity of election, privacy as well as data portability (ability to move data among different application programmes, computing environments or cloud services).<sup>6</sup> Since Facebook enjoys a community of over two billion users, the community made by the said users also falls under some principles made by the platform as Community Standards.<sup>7</sup> These standards revolve around those concerns or complaints which are registered from users themselves. These include objectionable content, respecting intellectual property rights as well as safety, privacy, and dignity of the users or a particular community. Twitter also, to an extent, regulates itself along the same lines.<sup>8</sup> Likewise, YouTube also follows suit by maintaining the sanctity of the content of the YouTubers through a system of Content ID claims among other community guidelines.<sup>9</sup> This claim basically is about copyright claims if the content of one YouTuber is being used by another YouTuber without prior permission or if the content is royalty free.

The concept of social media's self-regulation in its essence has failed. It is because of the fact that political ads have found their way into the targeted society pushed by either state or non-state actors. Hence, the governments are taking initiatives into their own hands. One reason is the business side of the use of technology

<sup>5</sup> Kalev Leetaru, "History Tells Us Social Media Regulation Is Inevitable," *Forbes*, last modified April 22, 2019, <https://www.forbes.com/sites/kalevleetaru/2019/04/22/history-tells-us-social-media-regulation-is-inevitable/#7e074f2b21be>.

<sup>6</sup> Ted Kitterman, "Facebook launches multi-pronged push toward self-regulation," *PR Daily*, April 3, 2019, accessed January 23, 2020, <https://www.prdaily.com/facebook-launches-multi-pronged-push-toward-self-regulation/>.

<sup>7</sup> "Community Standards," *Facebook*, accessed January 23, 2020, <https://www.facebook.com/communitystandards/>.

<sup>8</sup> "The Twitter Rules," *Twitter Help Center*, accessed January 23, 2020, <https://help.twitter.com/en/rules-and-policies/twitter-rules>.

<sup>9</sup> "What is Content ID claim?," *YouTube Help*, accessed January 23, 2020, <https://support.google.com/youtube/answer/6013276?hl=en> and "Community Guideline," *YouTube*, accessed February 20, 2020. <https://www.youtube.com/about/policies/#community-guidelines>.

where it is almost impossible to tell the reality from falsehood, meaning fake news and disinformation. Hence, such platforms pave the way for external actors for instance Russia is said to have manipulated the 2016 United States (US) presidential election.<sup>10</sup> The statistics of the aforesaid political ads are staggering.<sup>11</sup> In 2008, American presidential candidates spent \$22.25 million on their campaigns and in 2016 the digital ads total around \$1.4 billion. If such is the state of affairs at social media platforms, it provides ample opportunities for those who want to distort the society by propagating lies. Therefore, there is an acute need at both national and international to regularise the usage of social media.

Whenever we talk about social media and its utility, it has two sides across its spectrum. On one side reside those who are the champions of free speech and open society. On the other hand, proponents of interest groups and state entities see unregulated social media as a threat to core interests or values. Either way, the regulation debate took place as a result of these two sides of spectrum. Both these sides will be discussed comprehensively and their arguments in favour or against the regulation of social media will be dissected thoroughly.

Similarly, different countries have made laws to regulate social media based upon their own understandings, political practices, societal norms, and usage of these platforms. These laws respond to digital ecosystem in a way to contain, manage or delete fake news, hate speech, politically motivated advertising among others.<sup>12</sup>

## Social Media Regulations

### United States

In the United States, Section 230 of the Communications Decency Act (CDA) provides a legal mechanism to regulate the content produced on social media platforms.<sup>13</sup> Simply put, it implies that websites like Facebook and Twitter cannot be sued for user posts appearing on their platforms. The provision of the law also provides an oversight to the practices carried out by these platforms in limiting the harmful or objectionable content that equally falls under the ambit of first amendment. Now it can be evident from

<sup>10</sup> Sue Halpern, "The Problem Of Political Advertising On Social Media," *The New Yorker*, October 24, 2019, <https://www.newyorker.com/tech/annals-of-technology/the-problem-of-political-advertising-on-social-media>.

<sup>11</sup> Julia Carrie Wong, "'It might work too well': the dark art of political advertising online," *The Guardian*, March 19, 2018, <https://www.theguardian.com/technology/2018/mar/19/facebook-political-ads-social-media-history-online-democracy>.

<sup>12</sup> Alex Rochefort, "Avoiding the Pitfalls of Social Media Regulation," *Freedom House*, last modified July 23, 2019, <https://freedomhouse.org/blog/avoiding-pitfalls-social-media-regulation>.

<sup>13</sup> Legal Information Institute "47 U.S Code 230. Protection for private blocking and screening of offensive material," *Cornell Law School*, accessed January 23, 2020, <https://www.law.cornell.edu/uscode/text/47/230>.

the example of Cambridge Analytica. It is a classic yet contemporary case witnessed never before. Facebook in this case is unanswerable to the American citizens. It possesses half a trillion dollars in market in tandem with its self-assumed monolithic role of consuming and producing information of the world.<sup>14</sup> Naturally, along with manipulating the behaviours of individuals for political purposes by targeting a specific belief-set provides ample opportunities for both interest groups and business corporations alike. A debate is also going on about revamping of the said law, particularly its Section 230 that provides “immunity from liability for providers and users of an interactive computer service who publish information provided by others.”<sup>15</sup> <sup>16</sup>

## Singapore

Regulations on social media have also seen the light of the day in South East Asia region. Here as well, the laws are pertaining to fake news and data localisation among others. In August 2019, two ethnic Indian Singaporeans through their social media accounts made a spoof music video.<sup>17</sup> The video contained very strong content based on harsh language used to accuse ethnic Chinese majority and government against harming the minorities. The police made an investigation and declared the video as “offensive content” thereby asking social media users not to share the video. Consequently, three social media and streaming platforms geo-blocked that content. Protection from Online Falsehoods and Manipulation Act 2019 is equally applied to traditional and social media as well as end-to-end encryption messaging applications.<sup>18</sup> However, both traditional and social media are different from each other in their outlook, news consumption, and functionality. The said law has attracted acute criticism from tech giants as well as activists who give government ministers power to issue warning to social media sites. In extreme cases, the platforms can be taken down as well. The companies could be hit with a fine up to \$1m in tandem with the possibility of sending individuals behind the bars for the

<sup>14</sup> Ryan Goodman and Justin Hendrix, “Facebook Users Have The Right To Know How They Were Exposed To Russian Propaganda,” *Just Security*, last modified October 23, 2017, <https://www.justsecurity.org/46171/facebook-users-right-to-know-exposed-russian-propaganda/>.

<sup>15</sup> “U.S. to discuss whether online platforms should be liable for users’ posts,” *Reuters*, January 31, 2020, <https://venturebeat.com/2020/01/31/u-s-to-discuss-whether-online-platforms-should-be-liable-for-users-posts/>.

<sup>16</sup> Legal Resource Center, “What is Section 230 of the Communication Decency Act (CDA)?,” *Minc Law*, accessed January 31, 2020, <https://www.minclaw.com/legal-resource-center/what-is-section-230-of-the-communication-decency-act-cda/>.

<sup>17</sup> “Social media regulation in South-East Asia,” *Control Risks*, last modified September 19, 2019, <https://www.controlrisks.com/our-thinking/insights/social-media-regulation-in-south-east-asia>.

<sup>18</sup> “Protection From Online Falsehoods And Manipulation Act 2019,” *Singapore Statutes Online*, last modified June 25, 2019, <https://sso.agc.gov.sg/Acts-Supp/18-2019/Published/20190625?DocDate=20190625>.

period of up to 10 years.<sup>19</sup> Google in response to the aforesaid law stated that the law would, “hurt innovation and the growth of digital information ecosystem”. Likewise, the rights activists have declared the law as “extremely worrying.”

## European Union

European Union (EU) is also raising concerns over falsehood, hate speech, and incitement to violence on the social media platforms.<sup>20</sup> Digital Services Act is due to be unveiled by the end 2020 by Brussels. This legislation will make tech companies remove illegal content or be under comprehensive sanctions.<sup>21</sup> Similarly, to keep the online users safe, the United Kingdom’s (UK) Online Harms White Paper sets the government strategies to deal with social media regulation. This white paper includes legislative and non-legislative measures for the tech company’s users and their online safety.<sup>22</sup> Moreover, it focuses on regulation and online harms which accounts for redress mechanism for online users and independent implantation body. EU has also established copyright laws for its online community. The Union approved the new Directive on Copyright in the Digital Single Market.<sup>23</sup> This directive revises as to how the third-party content is used online. Moreover, it also directs responsibility upon online platforms to regulate copyright violation by the individual users. For communication experts, they face a reality vis-à-vis this new law that social media outlets, internet service providers, and search engines must screen potentially infringing copyright material and filter it out.

In Germany, the Parliament approved Network Enforcement Act also known as NetzDG in 2017 which came into effect in 2018.<sup>24</sup> This law aims at removing content related to hate speech as well as fake news. Human Rights Watch (HRW) has criticised the law in terms of Germany’s obligation to respect for freedom

<sup>19</sup> “‘Chilling’: Singapore’s ‘fake news’ law comes into effect,” *The Guardian*, last modified October 2, 2019, <https://www.theguardian.com/world/2019/oct/02/chilling-singapore-fake-news-law-comes-into-effect>.

<sup>20</sup> James Andrew Lewis, “European Union to Social Media: Regulate or Be Regulated,” *Center for Strategic & International Studies*, last modified November 1, 2017, <https://www.csis.org/analysis/european-union-social-media-regulate-or-be-regulated>.

<sup>21</sup> Patrick Burkholder, “The Digital Services Act Will Stop Illegal Content,” *Digital Business News*, last modified September 18, 2019, <https://www.digital-business-news.com/business/cyber-law/1320-digital-services-act>.

<sup>22</sup> “Online Harms White Paper,” *United Kingdom Government*, last modified April 8, 2019, <https://www.gov.uk/government/consultations/online-harms-white-paper>.

<sup>23</sup> Cayce Myers, “E.U. Copyright Changes And Its Effect On Social Media,” *Institute for Public Relations*, last modified July 9, 2019, <https://instituteforpr.org/e-u-copyright-changes-and-its-effect-on-social-media/>.

<sup>24</sup> “Network Enforcement Act,” Federal Ministry of Justice and Consumer Protection last modified July 12, 2017, [https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG\\_engl.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG_engl.pdf?__blob=publicationFile&v=2).

of speech.<sup>25</sup> The Germany director at HRW, Wenzel Michalski, argued that government's concerns over illegal and abusive content are genuine but the law is flawed in a way that it provides no judicial oversight or right of appeal for individuals in the court of law.<sup>26</sup> Hate speech in Germany has always remained a sensitive issue since the Nazi era. It is also pertinent to note here that suspension or blocking of the user's account by violation of company's user agreement is one thing and speech censor under NetzDG is another thing. United Nations' Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, said that the law is at odds with international human rights standards.<sup>27</sup>

## Russia

Russia has also passed the law that imposes punishment on individuals and online media entities related to fake news. It also encompasses information which falls under the umbrella of "disrespects" for the state.<sup>28</sup> Those who would not obey it would be fined up to \$23,000. The serial offenders could also spend time in jail. This legal instrument has two separate documents. The first document deals with the fake news that poses a threat to life or health of any citizen including their property or massive violation of public order.<sup>29</sup> The second document refers to that offensive information which derogates the society as well as human dignity.<sup>30</sup> Moreover, the document also includes offensive information against the state, symbols of the state as well as the constitution and its authorities. However, the President of Human Rights Council Mikhail Fedotov opposed the documents and sent them to President Putin for further revision.<sup>31</sup> The Kremlin has also passed sovereign internet law.

<sup>25</sup> "Germany: Flawed Social Media Law," *Human Rights Watch*, last modified February 14, 2018, <https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law>.

<sup>26</sup> Alice Cuddy, "German law under fire for turning social media companies into 'overzealous censors'," *Euro News*, last modified February 14, 2018, <https://www.euronews.com/2018/02/14/german-law-under-fire-for-turning-social-media-companies-into-overzealous-censors>

<sup>27</sup> "Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression," Office of High Commissioner for Human Rights, last modified June 1, 2017, <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-DEU-1-2017.pdf>.

<sup>28</sup> Shannon Vas Sant, "Russia Criminalizes the Spread of Online News Which 'Disrespects' The Government," *National Public Radio*, last modified March 18, 2019, <https://www.npr.org/2019/03/18/704600310/russia-criminalizes-the-spread-of-online-news-which-disrespects-the-government>.

<sup>29</sup> "On Amending Article 15-3 of the Federal Law on Information, Information Technologies and the Protection of Information," *Official Internet Portal Legal Information*, last modified March 18, 2019, <http://publication.pravo.gov.ru/Document/View/0001201903180031>.

<sup>30</sup> "On Amending Article the Federal Law on Information, Information Technologies and the Protection of Information," *Official Internet Portal Legal Information*, last modified March 18, 2019, <http://publication.pravo.gov.ru/Document/View/0001201903180022?index=0&rangeSize=1>.

<sup>31</sup> "Putin signed laws on fake news and disrespect for power," *Vedomosti*, last modified March 18, 2019, <https://www.vedomosti.ru/politics/news/2019/03/18/796652-putin-feiknyus-neuvazhenii>.

This law acts a security measure to protect Russia in response to an event in the form of an emergency or a threat in cyberspace and cyber-attack as well.<sup>32</sup> The said law also allows Russia to tighten control over the internet by routing web traffic through state-controlled infrastructure.

## China

To regulate internet domestically, a combination of legislations and technologies has been passed by China called as the Great Firewall (GFW). China's State Council Information Office (SCIO) published its first white paper on internet policy in 2010.<sup>33</sup> It includes list of those topics which are prohibited by the state government. The disruption of social order and stability as well as damaging the state interests falls under the said category. Also, to manage internet related issues, the Cyberspace Administration of China was established in 2014.<sup>34</sup> The internet companies in China have invested in increasing their manpower as well as technologies in order to monitor the flow of information on their social media platforms. Censorship in China is a mixture of human reviews and machine filtering, a kind of an automated programme, which helps in regulating the content online and its removal. Hence, China finds itself caught in between appealing to international users for their openness and free flow of information and for those who are staying back home. A research at the University of Toronto's Citizen Lab shows that WeChat implements a 'One App, Two Systems' mechanism.<sup>35</sup> It refers to censoring only the specific targeted accounts registered to a mainland Chinese phone number and vice versa.

## Conclusion

By analysing some of the prominent approaches to social media regulations, it is evident that self-governance concept of social media platforms falls short of regulation. All of the social media platforms while regulating itself would also account for the business side of the applications. Since, we are living in an information age where the world has become a global village as

<sup>32</sup> Elizabeth Schulze, "Russia just brought in a law to try to disconnect its internet from the rest of the world," *CNBC*, last modified November 1, 2019, <https://www.cnn.com/2019/11/01/russia-controversial-sovereign-internet-law-goes-into-force.html>.

<sup>33</sup> Lotus Ruan, "Regulation of the internet in China: An explainer," *The Asian Dialogue*, last modified October 7, 2019, <https://theasiadialogue.com/2019/10/07/regulation-of-the-internet-in-china-an-explainer/>.

<sup>34</sup> "Xi Jinping: Build China from a Powerful Network Power to a Powerful Network Power," *XinhuaNet*, last modified February 27, 2014, accessed January 23, 2020, [http://www.xinhuanet.com/politics/2014-02/27/c\\_119538788.htm](http://www.xinhuanet.com/politics/2014-02/27/c_119538788.htm).

<sup>35</sup> Lotus Ruan, Jeffrey Knockel, Jason Q. Ng, and Masashi Crete-Nishihata, "One App, Two Systems How WeChat uses one censorship policy in China and another internationally," *The Citizen Lab*, last modified November 30, 2016, <https://citizenlab.ca/2016/11/wechat-china-censorship-one-app-two-systems/>.

the result of technological advancements, much of information being consumed today is communicated and disseminated through such platforms. Big data and information has surpassed the oil economy which was once considered as the wealthiest sectors of the world's industry. The free speech proponents will always vouch in favour of social media usage without overarching regulation from interest groups and governments. It is actually the type of social media usage, currently dubbed as weaponisation of social media, which forces the governments to regulate. The use of social media itself is regulated under the company's rules and regulations. But governments intervene only when their interests or state's interests are at stake. Following recommendations can be taken up as an approach towards regulating social media platforms.

The concept of self-regulation may it be social media industry or any other, cannot be sustained.

The social media platforms must collaborate with state agencies as well as business communities for a comprehensive mechanism for regulation of social media.

The four stakeholders of social media - the end users, the owners of the platform, the government and the business community - must present their respective reservations in order to develop a comprehensive mechanism for regulation.

The information age cannot undermine the role of social media platforms. Hence it should be reformed or regulated but not controlled.