Truth Trust & Technology

A commission by **LSE** ■

Platform responsibility workshop

Friday 2 March 2018

Report

The workshop was held as part of the evidence-gathering stage of the Truth, Trust and Technology Commission. It was designed to feed in to the Commission's report, which is due to be published by LSE in November 2018.

The workshop was held under the Chatham House rule. Participants included a range of experts from academia, civil society and the public and private sectors, and included senior journalists and editors, policymakers and industry representatives. This report was prepared by the LSE Truth, Trust and Technology team as a record of points raised in the discussion. It is not a verbatim summary, nor is it a statement of a consensus position.

Background

The workshop addressed the central question of the Platform Responsibility strand: what would a healthy platform ecosystem look like? Is there a crisis – and if there is, will the market self-correct in time? Do platforms have certain responsibilities, what are they, and would regulation be able to instil them?

Introduction

Prof Robin Mansell introduced the themes of the workshop, and referred to a recent example of a state-led effort to combat misinformation, the Czech Republic's Centre Against Terrorism and Hybrid Threats, whose efforts to expose 'fake news' have angered the country's president. She offered the principle of 'minimal legislative reform' as a starting-point for the discussion.

Lisa Felton (Head of Services Regulation at Vodafone) joining the event remotely, gave a brief explanation of why Vodafone had introduced a 'whitelist', which means the company's advertising does not appear on outlets deemed to be responsible for 'fake news' or hate speech. The whitelist is not public, but is checked by an outside agency. She added that the policy did not affect freedom of expression because it did not block access to the boycotted outlets.

Mark Bunting (Visiting Associate, Oxford Internet Institute) gave a presentation setting out regulatory strategies for online content, their advantages, drawbacks and risks. He added that online content is already regulated under the E-commerce Directive 2000, and

increasingly by the platforms themselves in the form of terms and conditions, algorithmic curation and commercial policies. Bunting elaborated five potential regulatory strategies:

- Notice-and-action
- Proactive obligations
- Multi-stakeholder initiatives
- Procedural accountability
- Competitive regulation

All have challenges. Any strategy should set clear goals, be necessary, proportionate and subject to evaluation. It is important to engage platforms intelligently rather than imposing new regulations from the top down.

Germany's new NetzDG law was described as an 'interesting blend' of notice-and-action, procedural accountability and competitive regulation.

Participants then joined break-out sessions on People (led by **Dr Alison Powell**), Power (**Dr Monica Horten**) or Regulation (Prof Mansell). The Power and Regulation sessions ran twice.

What is the justification for intervention?

In the first Commission workshop on journalism credibility, participants identified the 'attention-based economy' fostered by platforms as key to the problem of misinformation. This point was made again: platforms had rewarded low-cost outlets that lacked editorial integrity, including vloggers. They also provided a home for content that traditional broadcasters could never run (such as ISIS beheading videos) and conspiracy theories (which gained legitimacy from 'trending' status and viewing numbers). One participant noted that the drive for traffic created a feedback loop in which mainstream outlets picked up and amplified trending topics. It was also noted that the way people think about their actions on platforms is changing as they imagine how platforms are operating and how this can contribute to or suppress political action.

Furthermore, behaviour that would be unacceptable in the outside world because of normative pressure (such as anti-Islamic abuse) had found a means of expression online. (It was noted, though, that platforms had enabled women and minorities to find an audience denied to them by mainstream outlets.) 'Performance crime' was committed and filmed to be shared on platforms. On the other hand, for some users – again, often women and minorities - platforms have had a chilling effect on self-expression because they fear abuse.

With the rise of semi-private communication (Facebook Groups, Snapchat) it will become more difficult to track and replay harmful content. One participant pointed out that 'people have always plotted in dark rooms' and unless there is illegality, they should be able to talk privately online too. Yet some activity (the Russian Internet Research Agency's efforts to smear Hillary Clinton during the 2016 US presidential campaign, for example), while not illegal, was problematic.

The fact that several platforms now enjoy a monopolistic position with their users, who sometimes rely on them for their livelihoods, was also seen as a problem. It is not possible to transfer one's data from Facebook ('a virtual monopoly') to a rival, or easily re-establish the same social connections. Should we break up dominant platform companies, as has happened in the past with public utilities? Are the main platforms just too big – or are the economies of scale and scope inevitable? Given their social importance, how can we stop them from abusing their power? (Current regulatory structures, it was pointed out, were drawn up with earlier industry structures and business models in mind: 'Anti-trust laws come from the Rockefeller era', said one attendee. 'The framework doesn't deal with data.')

The possibility that Facebook is enjoying too light a touch because it has so rapidly come to be seen as vital to the *agora* was raised. However, although in this instance a perceived public benefit has been acting as a disincentive to regulation, it might be helpful to keep separate discussions of the role of competition law and the role of other potential approaches to platform regulation. The challenge is how to 'embed public values in platforms' and how to hold them accountable.

What would be the aims of a new regulatory regime?

A more positive justification for intervention would be the desire to create a healthier platform ecosystem in which meaningful democratic deliberation can take place. Onora O'Neill has discussed the 'ethical and epistemic norms and disciplines' that allow truth-seeking to take place in a journalistic context ([Regulating for Communication](#), 2012). As platforms start to play a part in elections and everyday political deliberation, should the same principles apply? 'Platforms do not understand their social impact', said one participant, particularly during elections.

'What is good governance of the internet?' asked one participant. Rather than taking the harms caused by platforms as a starting-point, as the notice-and-action regime does, a holistic regulatory structure would focus on how they can demonstrate their benefit to society – as charities have to do. The BBC, for instance, is regulated on the basis of its [public purposes](#) rather than specific actions. Some of the platforms have already moved in this direction:

- [Facebook's Community Leadership Program](#)
- [Google NewsLab](#)

'Small, smart interventions' could help give clarity and contribute to the overall ecology of the sector, said one participant.

Any regulation should have the aim of supporting media plurality, said some attendees. It should 'maximise diversity – including the nasty stuff'). It should also encourage as much competition in the platform market as possible. Although the extent and effects of the information 'filter bubbles' are disputed, a requirement that they foster plurality might be the best way to tackle them.

Users are not well served by the lack of transparency around platform's processes, and any regulatory structure should aim to shed light on these processes. ('Who will scrutinise Facebook's clean-up efforts?')

While it is harder to identify and remove harmful (as opposed to straightforwardly illegal) content, any regulator would face a great deal of pressure to force platforms to do so. In this context the issue of censorship was raised, as was the question of who should have the authority to act and how far should they go. But the ingenious technical solutions that help platforms follow their notice-and-action policies don't lend themselves to creative, 'big-picture thinking', said one attendee. For instance, should platforms have a duty to provide good-quality content for children, as Ofcom requires the BBC, ITV and Channels 4 and 5 to do?

Which platforms would be regulated?

Ofcom studies have established the platforms where the public get much of their news, and it was suggested that any regulator could target the biggest of these. Participants pointed out that incumbents would be able to afford the cost of compliance, but this could be an obstacle to new entrants. It would be important to differentiate between platforms – 'Facebook and Google are different' – and possibly between active and passive hosts of content. It was observed that the incentive for companies to comply is the avoidance of appearing as a 'toxic brand'.

What information would a regulator be able to obtain?

Attendees identified two types of information a regulator might seek in the interests of achieving 'meaningful transparency':

- **Platforms' processes and policies** (such as takedown policies, algorithms affecting who sees what, and internal managerial responsibilities). For example, Facebook's content moderation document, which was leaked to the Guardian, was profoundly different from its terms and conditions. One attendee pointed out, however, that flexibility and the ability to update policies without outside approval could be valuable
- **Information about what users are doing and saying on the platform.**

Both of these can be further divided into

- **Information the platforms make publicly available.** Much of this is not contextualised and the data are not comparable, making it hard or impossible to study. Even statements of intent from the same company may be contradictory. ('If Facebook says it's blocked 10m pieces of extremist content, who says whether that's enough?') These data are particularly important for journalists and academic researchers
- **Data a regulator could request** (for example, statistics on reports of cyber-bullying).

What kind of structure would foster procedural accountability?

Participants debated whether any regulatory body should be new, or (at least initially) form part of Ofcom. While the regulator in the UK is 'evidence-based' and in a 'good position' it was also described as 'not proactive, not a safe space for a dialogue of trust' and 'less comfortable with philosophical questions around content'. It was noted that Ofcom had been 'invited to move further into the online space. They have always refused' and that it was better suited to deploying 'hard' rather than 'soft' regulation and incentives, which companies would need to be involved in designing.

One participant proposed a 'broadly self-regulatory structure' with the threat of regulation as a back-stop. The Financial Conduct Authority, which adjudicates on how banks operate and funds itself by levying fees on the firms it regulates, was mentioned as a possible model, as was the Advertising Standards Authority. Alternatively, companies might be 'part of it, but not in control of it'.

The fact that platforms operate internationally was seen as representing another challenge to any governance structure – not just in terms of enforcement, but when drawing up aims and defining contested values, such as privacy.

How could platforms be encouraged to comply?

- Continued political and public pressure
- Participation in the design of any regulatory body
- Tax-related incentives (such as the threat of a tax on revenues rather than profits for companies that failed to comply – though the European Commission seems to be moving towards this model). Participants noted that relatively little thought had been given to this area, partly because the international reach of the platforms makes it difficult, and because of potential opposition from customers (Uber was able to muster significant support from the public when Transport for London announced it intended to withdraw its licence).

Who would pay for any regulatory initiative?

Suggestions included

- Levies on the platforms ('they have deep regulatory roots')
- Co-funded equally by government, industry and civil society
- Funded by government (though not affiliated to it)

Any model should be 'set up by statute so it's not a thinktank funded by Google', said one participant. It was also noted that the costs of meeting information requests could be high, and a proportionality test should be applied, with a right to appeal. Should companies not comply with information requests, for example, the consequences (fines, for example) should be made clear.

Is the time to act now?
There was little appetite among participants for a 'wait-and-see' approach, for the following reasons:

- The public mood is shifting. The 2018 doteveryone [Digital Attitudes Report](#) suggests the public do now want more transparency and accountability of platforms.
- Lawmakers are under increasing pressure to introduce regulation
- The changes being made by platforms to comply with the [General Data Protection Requirement](#) are a good time to consider what information ought to be available to consumers, to a possible regulator and to independent researchers
- Platforms are already making hasty interventions as the users and governments drive calls for more transparency
- The risk of 'regulation by outrage' needs to be balanced by the need for government and civil society to be involved in deciding on these interventions

But:

- 'Do we know what we want to know? Do the platforms know what we want to know?' asked one participant. Politicians, who lack historical data for comparison, are often unclear what they mean when they talk about transparency.

Key points

- Procedural accountability may offer a way to respond to public concerns about platform dominance, lack of transparency, extremism and harmful content
- The wider policy aims of any intervention should be clear, and may not be confined to the avoidance of harm
- Given the pace of developments, the need for co-ordinated action is urgent
- Platform users are citizens as well as consumers (see Peter Lunt and Sonia Livingstone, [Media Regulation: Governance and the interest of citizens and consumers](#), 2012), and any regulatory body should consider how well they serve the public interest, and perhaps act to improve public life.

Questions to take forward to the next Online Political Communications workshop:

- What (If any) special responsibilities do platforms have during election periods?
- What responsibility do they have to foster balanced political debate, particularly as the notion of 'the centre' is in flux?
- Should the UK impose a levy on the platforms to fund good-quality journalism?
- Should the platforms adopt a 'whitelist' of approved publishers, or another system for conveying how credible a news brand is?

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