A Public Portal Option for Content Management

January 25, 2023

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Abstract

Social media content moderation has stirred controversies for a number of years, resulting in calls for regulation. Proposals include reforming Section 230, regulating social media as public utilities or as common carriers, and imposing transparency standards. A proper regulatory framework should protect social media platforms' (SMP) First Amendment rights, allow users their freedom of speech, and protect business viability. A regulatory solution might be to offer an incentive or require an SMP to offer a public portal in addition to its moderated portal. Users could access all content that is allowable under the First Amendment, including content the SMP doesn't allow on its moderated portal. The public portal would allow users and SMPs freedom of speech and allow SMPs to retain current business models.

Keywords: platform, common carrier, free speech, regulation, social media, public portal

JEL codes: K24, L51, L86, L94

Introduction

Content moderation – the processes social media platforms (hereafter, SMP) use to manage

who can be a user, the content users post, and the content they view – has become increasingly

controversial. Almost 30 years ago former President Bill Clinton hailed the easy accessibility of content

on the internet as the "great equalizer" (McAllister, 1996). Today President Joe Biden (2023) holds that

SMPs, which are primary sources of internet content, "deepen extremism and polarization in our

country."

Numerous authors agree with the spirit of Biden's warning, arguing that SMPs are hijacking

democracy. Reasons for this view vary, but center around beliefs that users produce low-quality content

and SMPs augment bad actors' abilities to influence (Cook et al., 2014; Engesser et al., 2016; Center for

an Informed Public, 2021). SMPs respond to such criticisms in part by altering their content moderation

(Gorwa, 2019; Horwitz, Hagey, & Glazer, 2023; "What to Make?" 2022). But SMPs feel limited in what

they can do because managing content is central to how they differentiate themselves and provide

value (Cusumano, Gawer, & Yoffie, 2019; Stackpole, 2022). The concerns over the effects of SMPs also

prompt calls for government oversight (Biden, 2023; Simons & Ghosh, 2020; Trump, 2020).

The debate over content moderation generally centers on whether to modify Section 230,

originally part of the Communications Decency Act of 1996. It states in part that, "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."[1] This embodies the principle that a person or SMP should be

responsible for its own actions and statements, but generally not those of others.

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[1] 47 U.S.C. § 230(c)(1).

Some participants in the debate hold that Section 230 is effectively a restatement of the freedom of speech provision of the First Amendment. Samples (2019) and Lyons (2022) are reflective of this view, holding that there is little the U.S. government can do regarding content moderation as any regulatory restrictions beyond curbing illegal speech are likely to be unconstitutional. Dershowitz (2021a, 2021b) argues that Section 230 is broader than the First Amendment in that it exempts SMPs from liabilities for practices that are harmful to social and political debates.

The Center for an Informed Public (2021) recommends government involvement in content moderation regarding elections and suggests SMPs should ramp up their content moderation. Center proposals include federal agencies having clear roles for "identifying and countering election related mis- and disinformation" and SMPs providing "proactive information regarding anticipated election misinformation" and increasing "the amount and granularity of data regarding interventions, takedowns, and labeling to allow for independent analysis of the efficacy of these policies."

Many authors suggest mandating SMP transparency for content moderation so that users are more aware of rules and practices. MacCarthy (2022) argues that transparency is essential to any content moderation regulation and holds that transparency's success depends on a competent government regulator. Jhaver, Bruckman, & Gilbert (2019) and Suzor, West, Quodling, & York (2019) believe that transparency is important but add that only certain transparency regulations are helpful.

Other authors think in terms of imposing legal frameworks that restrict firms' abilities to discriminate. Supreme Court Justice Clarence Thomas (2020) believes that courts have misinterpreted Section 230 as providing more protections for SMPs than are required by the First Amendment. He further holds that there are plausible legal arguments for regulating platforms as common carriers or public accommodations (Thomas, 2021). As common carriers, SMPs would be required to serve all comers and faithfully transmit users' content. As public accommodations, SMPs would hold themselves out for use by the public at large. Epstein (2022) holds that SMPs should have common carrier

obligations if they have market power, and that imposing the obligations would likely be constitutional. Volokh (2021) supports a common carrier-like designation in a quid pro quo for Section 230 protections. Simons & Ghosh (2020) argue that SMPs should be regulated as public utilities. Public utility laws generally define the utility market in terms of services and geography and oblige any utility serving that market to obtain a government certificate, require utilities to serve anyone in that market that wants the service, and impose restrictions on pricing and terms of service. The utility requirements make at least some of the utility operations unprofitable, so utility laws generally protect certificated utilities from at least some competition.

This paper presents a regulatory framework that would allow SMPs to offer multiple content portals, with some following traditional content practices, and one dedicated to practices that mimic the First Amendment's speech protections for users. The objective is to enable freedom of speech for both users and SMPs, which implies that the regulatory framework should not damage the economics of providing SMPs. The viability of SMPs is critical because, despite any flaws they might have, today's SMPs have enabled Americans an unprecedented amount of free speech. Before SMPs were created, Americans relied upon computer bulletin boards, in-person meetings, hard copy newsletters, telephones, and the like for expressing their ideas and opinions. Americans largely obtained information via these mechanisms, plus broadcast media, newspapers, and books. These modes of communication, while impressive for their times, were too costly for many Americans to use for unabridged speech. The internet, and in particular SMPs, substantially democratized speech and other communications, as Clinton believed it would (McAllister, 1996).

People's negative reactions to content moderation appear to be a response to a perceived loss of freedom of speech, reflecting the lore and expectations from the dawning of the public internet, rather than an actual loss relative to pre-internet days. In 1994, then Vice President Al Gore announced that the Global Information Infrastructure "will allow us to share information, to connect, and to

communicate as a global community…. The Global Information Infrastructure will help educate our children and allow us to exchange ideas within a community and among nations. It will be a means by which families and friends will transcend the barriers of time and distance. It will make possible a global information marketplace, where consumers can buy or sell products." (Gore, 1994) This expectation has been largely fulfilled for people using the internet, but not completely because, as I explain later, it has been difficult to make a platform allowing unfiltered speech commercially viable.

To address the dual need of free speech and commercial viability, this paper suggests that SMPs be required to offer a public portal option in addition to their moderated portals, such as Facebook's and Twitter's home pages. Preferably, the requirement would be an option under which the SMP would benefit from additional legal protections if it offered the public portal in addition to its moderated portal. Such an option would result in the development of public portals only if the additional legal protections made the SMP better off than if it offered only its moderated portal. Given that legal scholars disagree on whether SMPs already have all of the legal content moderation rights than can be had, I will not venture to define what these additional rights might be.

Under the framework where an SMP offers a public portal and a moderated portal, a user might land on the SMP's moderated page and have as an option to go to the public portal. The public portal would provide access to all content that is allowed under the First Amendment, including content that the SMP does not permit on its moderated portal. The public portal option allows the SMP to continue to have the freedom of speech that it has today on its moderated portal, allows users on the public portal the freedom of speech allowed under the Constitution, and allows the SMP to continue with the business model that it has for its moderated portal.

This paper proceeds as follows. The next section explains the growing importance of SMPs and some of their challenges. The paper then addresses why freedom of speech is important. The next section describes business strategies that are important for SMP success and that could be impacted by

regulations on content moderation. The section following that describes how a public portal option

might work. The last section is the conclusion.

The Importance and Performance of Platforms

SMPs are growing in importance as means for communication. Shearer (2019) finds that U.S.

adults obtain news from multiple online sources. Sixty-eight percent obtain news at least sometimes

from news websites or apps, and 53% get news through SMPs. Liedke & Gottfried (2022) find that news

websites are generally considered trustworthy by U.S. adults, but their use and trust in the websites are

in decline: Trust in local and national news organizations declined at least 10% for all age groups from

2016 to 2022; trust in SMPs has remained basically unchanged, except for adults under 30, whose trust

in SMPs grew over 10%.

SMPs and the internet in general are growing in importance for political communications (Nott,

2020). SMPs facilitate targeted political advocacy, enable voters to become informed, are vehicles for

political debate, and make it easier for aspiring office holders to challenge incumbents (Petrova, Sen, &

Yildirim, 2020; Wike, et al., 2022). But social media companies have political and other biases that affect

their users. For example, Facebook allowed former President Barack Obama better access to its

resources than the company allowed his Republican rival during Obama's 2012 re-election campaign.

Obama, who is credited with being the first politician to make extensive use of social media (Issenberg,

2012), accessed Facebook's whole social graph, i.e., everything the company had that showed people's

connections, including their friends, photos, events, internet pages visited, who they listened to, etc.

This access violated Facebook's policies and the company was initially unaware that the campaign had it.

But once Facebook realized this was happening, it didn't stop the Obama campaign because, according

to one campaign official, the company was siding with Obama in the election (Davidson, 2015 and 2018;

Dickinson, 2012).

By definition, content moderation makes the biases of a SMP's management part of its ecosystem. Each SMP chooses its own rules, which reflect the provider's preferences on topics that can be discussed, users' tone and words, and who the users are, as well as the providers' beliefs about truth and opinion and about user ethics and character. Meta removes user content if it goes against the company's standards (Meta, 2023). It also removes user accounts after repeated violations of Facebook Community Standards or Instagram Community Guidelines, or after a single severe violation (Meta, 2022). Twitter's traditional content moderation practices included demoting or removing user content to which Twitter employees objected, sometimes simply for political or ideological reasons, but also if the employees thought the content was false or misleading ("What to Make?" 2022).

Content moderation has become increasingly political. The most prominent triggering event was the Cambridge Analytica revelation in 2018 that the political advisory company had used data on Facebook users beyond what Facebook allowed and beyond what users expected (Meredith, 2018). Numerous congressional hearings followed, and content moderation became a common topic in political news stories. Most recently, the Capitol riot in 2021 prompted Facebook to demote political content that the company thought might excessively stir passions (Horwitz, Hagey, & Glazer, 2023). Demoting content means decreasing the probability that users will see the content by making it harder to find.

Some researchers are concerned about the influence SMPs have on society. Cook et al. (2014) argue that "fake tweets, sock puppets, and a range of force multipliers such as botnets" manipulate social media metrics "away from authentic discrete usage so that the trustworthiness of identity, narrative, and authority are constantly uncertain." Engesser et al. (2016) hold that social media enables fragmented political views more than coherent perspectives, and that it favors populism. Olaniran & Williams (2020) believe that social media enables people to "overstate an agenda and dominate the conversation … because social media do not subscribe to the same established journalistic rules of

vetting and reporting news." Investigating the lead-up to the 2021 Capitol riot, the Center for an

Informed Public (2021) concluded that "the 2020 election demonstrated that actors—both foreign and

domestic—remain committed to weaponizing viral false and misleading narratives to undermine

confidence in the US electoral system and erode Americans' faith in our democracy." It attributed the

violence to a false narrative formulated and spread by "right-leaning 'blue-check' influencers."

The concerns expressed in the previous paragraph are about SMP technology. Some users and

commentators have grown in the view that SMPs themselves are politically biased. Weber, Garimella, &

Borra (2012) showed for Yahoo, in a period spanning 2011–12, "that the more right-leaning a query it is,

the more negative sentiments can be found in its search results." Bakshy, Messing, & Adamic (2015)

found that conservatives on Facebook were more likely to see liberal-oriented items in their newsfeeds

than liberals were to see conservative-oriented items. Kulshrestha, Eslami, Messias, et al. (2019) find

that search engines have political bias, but it appears to be less impactful than the biases of SMPs. An

exception might be YouTube whose search algorithms appear to have a small political biased towards

Democrats (Lutz, Gadaginmath, Vairavan, & Mui, 2021).

Twitter appears to have a history of political bias. Kulshrestha, Eslami, Messias, et al. (2017)

examined search results on Twitter. Regarding the 2016 presidential race between Secretary Hillary

Clinton and then-candidate Donald Trump, most tweets had negative tones because Republicans

tweeted about Clinton more than Democrats did, and Democrats tweeted about Trump more than

Republicans did. But when users searched for tweets about candidates, Twitter's "ranking system

directed the search results for Hillary Clinton towards the perspective of her own party. For Donald

Trump the situation is the opposite. . . . So, while the ranking system mitigated the opposite bias in the

search results for Hillary Clinton, it enhanced it for Donald Trump."

With Elon Musk's acquisition of Twitter in 2022, he began a process of allowing selected journalists access to the company's internal files and communications. As *The Economist* observed ("What to Make?" 2022):

> The journalists to whom [Musk] has given access [claim] that the files offer damning evidence of Twitter's institutional bias against Republicans, driven by a staff who wanted to censor ideas and people who made them uncomfortable. Perhaps the most important thing the Files do is demolish the notion that a centrally controlled entity can write down a set of rules to facilitate the control of a public digital space in which hundreds of millions of users send billions of messages a day.

In contrast to the above studies and reports, Barrett & Sims (2021) hold that "the claim of anti-conservative animus is itself a form of disinformation: a falsehood with no reliable evidence to support it."

Government officials have become involved in SMPs' content moderation. Bhole (2022) reports that the Federal Bureau of Investigation (FBI) has maintained constant contact with almost every major tech firm regarding content and users that the agency wanted flag as questionable. She notes regarding Twitter, "in approaching the 2020 election, the [FBI] 'overwhelmed' Twitter with requests sending hundreds of problem accounts, some adorned with Excel attachments… There were so many government requests, Twitter employees had to improvise a system for prioritizing and triaging them." In another process, the Attorneys General of Missouri and Louisiana have released internal Facebook and Twitter documents showing the Biden White House pressuring them to demote content with which the White House disagreed (Bailey, 2023).

Importance of Free Speech

The SMPs' and government officials' opaque intrusions into people's exchange of ideas, as well as people's interests in government control of the SMPs' speech, are problematic because freedom of

speech is fundamental for a healthy society: It enables a marketplace of ideas, supports mental and

cultural development, and allows freedom of thought, which is necessary for democratic systems. In one

sense, the marketplace of ideas provides a constant competition between truth and falsehood. For this

competition to occur on the merits, truth and falsehood need equal footing. Benjamin Franklin (1731)

argues for this when holding that truth overmatches error when both are equally heard. Thomas

Jefferson (1801) agreed, arguing that reason prevails when people are allowed to explore competing

ideas. Mill (1859) explains that absent free speech, government officials will arise that limit speech to

suit their own purposes. The temptation is hard to overcome, as is seen with White House and FBI

involvements with SMPs. Restrictions on free speech stunt the study and spread of truth.

The marketplace also helps shape how people think, which matters because people often use

pattern recognition for understanding their situations and for making decisions. Camerer, Loewenstein,

& Prelec (2005) explain that humans think using combinations of reason and patterns, and the interplay

is dynamic and depends upon context. Reasoning is needed to understand unfamiliar situations. Pattern

recognition allows minds to respond instantly to seemingly familiar circumstances and provides a

structure within which reasoning can occur. Reasoning also updates pattern recognition when new

experiences show the existing set of known patterns is inadequate (Camerer, Loewenstein, & Prelec,

2005). Competition in the marketplace of ideas makes people feel uncomfortable in these situations,

but the experience provides learning, i.e., the mental evolution of creating new conceptual frameworks

(Camerer, Loewenstein, & Prelec, 2005; Heifetz, 1994; Simmons, 2001). Restrictions on free speech

stunt people's learning and adaptation.

Societies also encounter such adaptive challenges (Heifetz, 1994). North (2005) explains that

cultures are comprised of norms, some formal and some informal. The existing norms become

inadequate for the society to flourish when circumstances change. According to Heifetz (1994), the

society needs to undergo adaptive learning, which people naturally resist because they instinctively

value and trust the status quo. People providing adaptive leadership (using Heifetz's vernacular) need

the freedom to challenge traditions and speak truth as they understand it, especially when it makes

people uncomfortable. Consistent with Mill's (1859) perspective, the person providing leadership will

often experience resistance from those in authority, as the authority figures instinctively try to maintain

norms. Restrictions on free speech stunt societal advancement.

Freedom of speech is also necessary for democratic systems to function properly. The U.S.

Declaration of Independence (1776) described the foundation of a legitimate government as being one

that derives its "just powers from the consent of the governed." Former President Abraham Lincoln

(1863) elaborated, describing the democratic republic practiced in the United States as being

"government of the people, by the people, for the people." Freedom of speech serves at least two roles

in such a democratic-based system. Strossen (2018) explains that free speech is necessary for individual

autonomy, which is in turn needed for democratic self-government. Free speech is also necessary for

voting to be legitimate: A government cannot be representative of the people unless they have the

freedom to vote. Voting is not free without freedom of thought. And thought is not free unless there is

freedom to speak as that enables an informed populace to test ideas.

There is also a time dimension with respect to political speech. Thomas (2022) and Vlamis

(2022) report on the thought processes of Facebook and Twitter officials in 2020 regarding the Hunter

Biden laptop story. Hunter Biden, the son of then-presidential-candidate Joe Biden, apparently

abandoned his laptop at a computer repair shop and on the computer were files with potentially

damaging information about his business dealings and other aspects of his life. As Vlamis explains, "In

October 2020, less than a month before the election, the New York Post published a story that claimed

to contain emails retrieved from a laptop that belonged to President Joe Biden's son Hunter. Twitter

initially suppressed distribution of the story, citing concerns that it could be the result of a foreign

disinformation campaign." Facebook initially demoted news about the laptop. Both platforms changed

their decisions after about a week and have publicly stated that the initial decisions were mistakes.

Regardless of whether these decisions impacted the election, the situation demonstrates how the

timing of content moderation impacts what voters know when it comes time to vote. The timeliness of

political speech affects its impact.

Platform Business Imperatives

There are certain strategies that are important to platforms' business success. Needle (2022)

examines SMPs that have closed or remained in the margins, and the reasons for their lack of success.

The SMPs examined were Vine, MySpace, Friendster, Google+, Open Diary, Ping, Orkut, and Eons.

Common reasons for failure include not creating features and an ecosystem that align with the interests

of the target audience, not differentiating from existing successful platforms, and not developing

network effects. Content moderation affects each of these.

Ball (2022), Cusumano, Gawer, and Yoffie (2019), Shapiro & Varian (1999), and Utterman (1996)

provide excellent examinations of essential business strategies for online businesses. I rely on them for

this section but will not cite them in each instance. These key strategies include creating and leveraging

network effects, ecosystems, lock-in, connectivity, and innovation. There are other strategies that are

important, but the ones listed are those most directly related to content moderation. Ideally, a

regulatory policy on content moderation should not negatively impact a firm's abilities to use these

strategies, to the extent the strategies do not create harmful competitive advantages (Jamison, 2023).

This holding back from over regulation enables dynamic market forces to continue creating new

opportunities for businesses and customers. This ideal may not be achievable, but it should remain the

target. This section summarizes these business strategies. Readers interested in deeper studies are

referred to the references.

Creating and leveraging network effects are primary business strategies. Positive network

effects are present when a platform user benefits from the presence or activities of other users.

Examples include sharing personal events on Facebook, opinions and news links on Twitter, and entertainment on Sandbox. Positive network effects are necessary for a SMP to have value, and a SMP must achieve a critical mass of users to be viable.

Negative network effects are essentially the opposite and their presence decreases platform value. Examples of platforms addressing negative network effects include eBay's removal of counterfeiters and Facebook removing content that users find objectionable. The SMPs Secret and Yik Yak failed in part because they did not address the negative network effects created by cyberbullying and harassment.

Managing positive and negative network effects are aspects of how SMPs manage their ecosystems. Ecosystem management answers the question: Who is allowed to do what? Answering this question creates SMP value, which has several dimensions, including who participates, the number of participants that a user values, the number of participants that a user disfavors, how information is found and presented, the transactions that can occur, and the ease and attractiveness of the interface. Facebook increased its ecosystem value when it created News Feed, which decreased the amount of effort required by users to find information most valuable to them. However, news feed also increased Facebook's content management controls, which have become problematic. YouTube increased its ecosystem value by adding super chat, which allows viewers to financially reward content creators. Apple and Alphabet increase their mobile ecosystem values by verifying apps and providing payment systems.

Ecosystem value is also affected by lock-in and connectivity. Lock-in occurs when, once a user has chosen a SMP, it is costly for the user to switch to another. Lock-in helps SMPs profit from innovations that attract customers and decreases costs of customer churn. Customers have negative feelings about lock-in, so successful SMPs give up some lock-in for brand management. An example of lock-in is YouTube's presence as an app on some smart televisions: YouTube viewers would need to go

to extra effort to use a streaming service that is not an app on the smart televisions. Likewise, people

using Linked-In for business communications and that want to switch must convince their professional

contacts to open accounts on an alternative SMP. Users can decrease the effects of lock-in by

multihoming, which is the user strategy of holding accounts on more than one SMP. Multihoming

diminishes lock-in by allowing users to test alternative SMPs without fully committing. It also provides

time for migrations to new SMPs, and it allows users to choose specific platforms for specific

functionalities and community interests. Software systems like Hootsuite enable multihoming by

providing users a single interface for accessing multiple SMPs. Multihoming is common: the average

American has eight social media accounts.

Connectivity between SMPs is another strategy that can be complex for businesses to balance.

Connectivity determines the ease or complexity of communication across SMPs. For example, a person

posting on LinkedIn has an option of simultaneously posting the content on Twitter. This is nearly

seamless. Facebook allows users to transport their information off of Facebook so that it can be placed

on another platform. This is not seamless in that the user must manage the data acquisition and

reposting and will lose some of the social graph that the data had on Facebook. It may be impossible for

some connectivity to be seamless as SMPs differ in their functionality and user bases. Greater

connectivity decreases lock-in. A smaller SMP values connectivity to larger ones, more than the larger

values connectivity with the smaller, as the smaller SMP benefits from the larger SMP's network effects

and perhaps other aspects of its ecosystem value. For example, a video content provider could produce

content live on one SMP that has high-quality super chat and audience management features, but then

allow the content to be viewed later on another SMP that has better opportunities for advertising-based

income.

Innovation in products and process is important for SMPs to maintain success. Product

innovation is when the provider creates new features or an entirely new ecosystem that provides a net

benefit to users. Computer bulletin boards, first launched in 1978, were valuable and predated social media. Bolt and Six Degrees are credited with being the first social media sites (Hines, 2022) and their launch in 1997 began the decline of bulletin boards as well as the creation of entirely new ecosystems. As is normal in product innovation, numerous other firms launched SMPs. These new platforms had improved features, sufficiently so that they looked like new products to users. Feature improvement occurs in both large and small increments. Instagram was a sufficiently large improvement over Facebook for a particular type of audience that the two have remained separate SMPs from a user perspective, even though both are owned by Meta. Discord began as a chat platform for video game players, but through incremental improvements has become a popular SMP for social interaction.

Process innovation lowers costs and, once the key features of a product have reached the market, is the key for SMPs to develop and maintain financial viability. When a product line has reached this point in its development, new firms must either develop superior features, as TikTok did for video sharing, or significantly lower costs if they are to capture users' time and attention.

Creating a Public Portal Option

A regulatory framework affecting content moderation for SMPs should enable free speech and enhance or at least not hinder the business strategies that platforms need for success. Requiring or developing incentives for a public portal option appears to meet these criteria. The public portal allows a user to access all submitted content that is legal under the first amendment and to submit any legal content. A provider would be free to continue to offer its moderated portal, but would be required to offer the public option. A SMP might fulfill this obligation by, for example, having users initially land on the provider's moderated portal, but with the click of a button, a user could move to the public portal. And with another click of a button, return to the moderated portal.

A public portal would be a channel where users could choose to access legal content of their own and of other users. Functionalities for this portal would enable a user to (1) post legal content, (2)

choose who can view his or her content per the SMP's policies for its moderated portal(s), (3) easily find content that the user has the poster's permission to view, and (4) restrict the type of content he or she sees. Portal features would also enable users to create groups that (1) accept all content designated by members of the group for group viewing, (2) restrict who can be members of the group, and (3) police rules that the members create regarding the group's content moderation practices.

The idea behind the public portal is to emulate how people communicate absent a content moderator, such as in the pre-internet world. For example, with telephone service, subscribers could call anyone else connected to the network and that would accept the call. Either party to the call could hang up at any time, and any illegal discussions would be addressed through legal means, not at the discretion of the telephone company. Likewise, a postal service faithfully delivers legal materials to postal addressees. Newspapers control their own content and distribute the content to anyone who is willing to view it, and no one who finds the newspaper untrustworthy, troubling, or both has to see it. Civic organizations are free to conduct legal activities, define their own rules of conduct, and control who is allowed to speak and listen, and people uninterested in the activities are free to not participate.

In a sense, the public portal mirrors the moderated portal, but with features that enhance freedom of speech for users. One possible design would be for a user to post content in either portal, which then is available in the public portal if it is legal and available in the moderated portal if it is both legal and meets the SMP's content moderation policies. Some SMPs have features in their moderated portal that allow users to define who can see their content. These features would be mirrored in the public portal, and perhaps augmented by determining who among users that are banned from the moderated portal can view the content.

The public portal would also mirror the group features of the moderated portal. Ideally, from a freedom of speech perspective, the public portal would enable users to create and moderate their own groups. Not all SMPs have this feature and it could be problematic to impose it because of the

importance of respecting business models. Self-governing groups are emerging in the metaverse. These

are called decentralized autonomous organization (DAOs). The users of the group comprise the DAO and

determine content moderation policies and practices, as well as other platform functions. If DAOs prove

viable, they are likely to become prevalent on SMPs as the legacy social media spaces innovate to hold

users.

The public portal design allows SMPs to retain the business strategies that are keys to success.

They retain all network effects created and leveraged in their traditional portals, plus gain any network

effects that might emerge from value created by the public portal. The value SMPs create in their

moderated ecosystems remain, as users who stay only in that portal continue to receive that value, and

users that also engage in the public portal do so only if it adds value for them. This is important as

control of ecosystem value is critical to SMPs' abilities to differentiate their services. If utility or common

carrier business models were imposed on SMPs, their portals would become almost identical. This

homogeneity plus economies of scale would result in the industry tending towards a single SMP.

SMPs lose no lock-in opportunities. Indeed, to the extent that users have data that is available

only in the public portal, that additional data adds to user switching costs. All SMP connectivity strategic

options remain because the only additional connectivity is between the moderated portal and the public

portal. In reality, this represents only a weak connectivity as both portals draw from the same content

database. Finally, SMPs would be free to innovate in both portal spaces as enhancements in the

moderated portal would not adversely affect the public portal.

Preferably, the regulatory framework would provide SMPs with incentives to provide public

portals rather than mandate them. Incentives might be additional legal protections if an SMP offered

the public portal in addition to its moderated portal. Such an option would result in the development of

public portals only if the additional legal protections made the SMP better off than if it offered only its

moderated portal. This might be hard to design and the legal parameters are beyond the scope of this

paper: Legal scholars disagree on whether SMPs already have all of the legal content moderation rights than can be had.

Conclusion

Social media content moderation has stirred controversies for a number of years. These concerns have resulted in calls for regulation. Biden and Trump have both called for reforms of Section 230 protections. Other observers advocate regulating social media as public utilities or as common carriers. Some people suggest imposing transparency standards on content moderation practices. In contrast to these calls for regulation, Lyons (2022) explains that any government regulation of content moderation could run afoul of social media companies' first amendment rights.

The regulations proposed to date have problems. One problem is the potential constitutional issue of not allowing the social media companies to decide what content can be on their sites. Indeed, as controversial as content moderation is, the success of moderated sites demonstrates their value. The other problems center on the business models that would be imposed. Common carrier and utility business models are untested in the social media space and may not be commercially viable, and would almost certainly stifle innovation. Even if the business models are viable, the regulations force an artificial sameness across the social media sites. This sameness would likely lead to there being only one social media site, which is what happens when there are economies of scale for providing a product that is the same for all providers.

A possible solution is a regulation that incentives or requires a SMP to offer users a public portal. The social media company could keep its moderated portal, and allow users to click to the SMP's public portal where users could access all content that is allowable under the First Amendment, including content the company doesn't allow on its moderated portal.

A public portal allows users to experience the freedom of speech that the constitution requires the government to permit. Freedom of speech is important because it allows an open competition

between ideas, enables the mental development that comes when a person engages with ideas that are

contrary to the person's accepted wisdoms, empowers democracy, and allows societies to enhance their

adaptability, cohesion, and resiliency as members engage with their differences.

Providing a public portal should not affect a social media company's profitability because the

moderated portal remains intact. Indeed, if users like the public portal, they might spend more time

with the social media site, which could increase profits. The public option does not hinder a business's

ability to innovate as the business retains its permissionless innovation rights. And it might be that the

business learns from the public portal and then innovates even more.

One potential challenge to the public portal option is that courts might find that it in effect

compels speech for the SMP, even though the company is allowed to maintain its freedom of speech on

its moderated portal. Perhaps such a finding could be averted by allowing the business to not put its

brand on the public portal. This would allow the business to disassociate with the content that it does

not want on its moderated portal.

As policy makers debate rules for content moderation, they should be mindful of the

importance of freedom of speech for both the social media companies and their users, and of the

importance of business viability. If new policies create user options rather than impose controls, we can

have both greater freedom and more economic value.

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Table 1

*Means and Standard Deviations for Response Rates (Course Delivery Method by Evaluation Year)*

Administration year	Face-to-face course		Online course	
	M	*SD*	*M*	*SD*
Year 1: 2012	71.72	16.42	32.93	15.73
Year 2: 2013	72.31	14.93	32.55	15.96
Year 3: 2014	47.18	20.11	41.60	18.23

Note. Student evaluations of teaching (SETs) were administered in two modalities in Years 1 and 2:

paper based for face-to-face courses and online for online courses. SETs were administered online for all

courses in Year 3.

Figure 1

Scatterplot Depicting the Correlation Between Response Rates and Evaluation Ratings
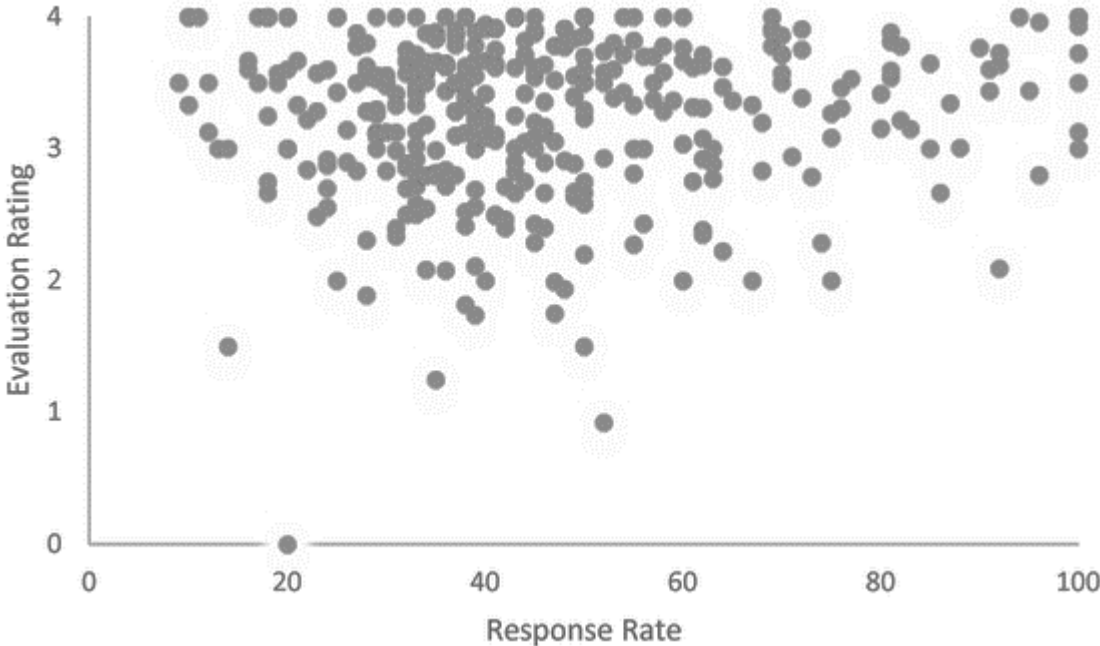
Note. Evaluation ratings were made during the 2014 fall academic term.