

Fix the system, not the symptoms

**BITS OF
FREEDOM**

Our democracies need an online communications landscape in which people are empowered to receive and impart information, free from undue government and corporate influence. The platforms and actors that service this digital information ecosystem should reflect the diversity of voices, people and communities that make up our societies.

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This paper describes some of the ways in which our digital information ecosystem fails to deliver the communications landscape needed to sustain our democracies. It does not aim to be a comprehensive overview, rather it describes some of the more prominent issues as a basis for further conversation. It wishes to contribute to shifting the discussion from how we can adapt to these businesses and fix their platforms, towards what a healthy communications landscape looks like in an increasingly digitalized world - and how to get there.

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1 The importance of freedom of expression to our democracies

- 1.1.1 Freedom of expression is a human right enshrined in law. It includes the right to seek, receive and impart information and ideas, without undue interference or fear of retaliation. It is indispensable for both the development of individuals as well as the protection and advancement of our democratic societies. It is essential for holding power to account.
- 1.1.2 For these rights to be exercised, our democracies need a digital information ecosystem in which all people, including vulnerable minorities, are empowered to engage in the creating and sharing of information.
- 1.1.3 Our current online communications landscape is far from what it needs to be. A few giant corporations dominate the ecosystem, leading to the obstruction of our communications, including that of journalists and civil society, undue control over our public debate, and extremely limited possibilities for market challengers.
- 1.1.4 Twitter aims to “show you what is happening in the world right now,” but its architecture directs and manipulates your gaze. While it is YouTube’s mission to “give everyone a voice,” the company frequently robs people of it, too. Facebook claims “to bring the world closer together”, but it only does so for people and conversations that fit the company’s financial interests. None of these platforms have given enough consideration to what it means to wield such power. Governments and civil society have given insufficient consideration to the desirability of this arrangement.

- 1.1.5 This paper illustrates the many ways the current digital information ecosystem impedes our communications. In the next chapter, we look at three defining characteristics of the current landscape: mediation, market dominance, and exploitative business models. In chapter 3, we analyse some of the difficulties of operating on a global scale with one single policy on speech regulation. Chapter 4 describes the conditions that have led to the giant platforms being so powerful and nearly immune to external forces. Chapter 5 discusses how this concentration of power negatively impacts our freedoms and endangers our societies. In chapter 6, we note how our correctional mechanisms are failing. Finally, in chapter 7, we outline what needs to be done next.

2 The digital information ecosystem

2.1 Much of what we do is mediated

- 2.1.1 Most of people’s interactions are increasingly mediated by online companies. This is the case for a wide range of interactions, from hosting educational content to entire marketplaces in offline areas such as the rental of holiday homes. The same is true for our online conversations.
- 2.1.2 This mediation is visible to varying degrees. Take Facebook. To many, it might be clear that the company mediates between two people chatting on the Facebook website. However, Facebook is simultaneously, and behind the screens, mediating between a person and third parties paying to reach that person with targeted messaging.

2.1.3 Facebook is also present outside its own websites, through for instance its embedded like- and share buttons and its advertising network. Similarly, we rely daily on code hosted by Google and computing services hosted by Amazon, even when we are never directly confronted with these companies.

2.2 A few big players dominate the market

2.2.1 Not only is most of what we do mediated, most of our communications are mediated by the same few service- and platform providers. In Europe, as in large parts of the world, the communications landscape is dominated by Alphabet (including Google and YouTube), Facebook (including Instagram, Messenger and WhatsApp) and Twitter.

2.3 Toxic business model

2.3.1 The dominant business model of most big actors in our online communications landscape relies on commodifying our attention and exploiting our data. It is a driving force behind the push to become bigger, create uniform services and policies, curate content in certain ways and mediate in more and more aspects of our lives. In different ways this model leads to a race to the bottom.

3 What it means to operate at scale

3.1 Facilitating all people and all ideas

An immense diversity of people

3.1.1 Many of these corporations operate on a massive scale, some of them serving up to a quarter of the world's population with a single service. Such a service has a more or less monolithic architecture, interface, speech regulation process and policy. All of those are

rather rigid and unable to adapt to the specific needs of individuals and groups. It is hard to imagine how you can host the immense diversity of the world's population with a highly uniform approach. Undoubtedly, these platforms work better for some than for others.

A wide range of topics and opinions

3.1.2 It's not just people who are highly diverse. The dominant companies facilitating online communications attempt to accommodate the entire range of opinions on all available topics. The topics discussed range from seemingly innocent ones like dying your hair or walking your dog, to topics that are far more controversial, such as equal rights, religion and politics. Opinions and ideologies are put forth from the entire political spectrum, from the far right to the far left and from conservative to progressive. These differing people and their beliefs are served as if they make up one homogeneous group.

A variety of norms and values

3.1.3 The same rigid approach is taken when it comes to the application of norms and values. The dominant platforms in Europe originate from, or are based in, the United States. Although they host conversations in countries across the globe, they hardly account for sensitive cultural differences between these countries. For instance, where nudity is considered to be sensitive in the United States, other cultures take a more liberal approach. Despite feeble attempts to respect local contexts, platforms continue to deploy a more or less uniform speech regulation policy to rule all public debates.

Many local jurisdictions

3.1.4 A platform needs to adhere to all jurisdictions of all of the countries in which it is active, no matter whether those jurisdictions are

governed by democratic governments or oppressive regimes. Companies operating across the globe may pick one of three flavours: the platform finds the lowest common denominator, it ignores local jurisdiction, or it operates dozens of “local” instances. In either case, there’s a severe impact on people’s human rights.

- 3.1.5 Even if one of these companies were the dominant player in a single jurisdiction only, its role would still be controversial. Within a single country or culture, there needs to be space for divergent ideas. When a society is served by one platform with one set of rules, this will necessarily mean some voices are drowned out, even though these voices are within the law. In other words, a public discourse in its entirety cannot be facilitated on a single communication channel.

3.2 Hosting all types of interactions

Platforms have a multitude of functions

- 3.2.1 The largest platforms have a multitude of functions. A single platform often acts simultaneously as an advertisement platform and as a host to private conversations. It facilitates legitimate file sharing in small groups, hosts communities of activists and minorities, and connects organisations with their customers and followers. It also facilitates some content creators, acts as an employer for others, and can itself take on the role of content producer.

Platforms host a wide range of actors

- 3.2.2 A single platform is home to actors in varying guises. It hosts individuals who are sometimes also teachers and employers. It is used by law enforcement, intelligence agencies, political

campaigners, by businesses, artists and self-employed influencers. Among others, an individual is varying and concurrently addressed, monitored and targeted as a family member, friend, student, employee, and as a citizen and consumer.

Platforms host a wide range of interactions

- 3.2.3 This single platform therefore hosts different types of interactions. Some interactions are private conversations, others contain public messages, and some are meant to empower or persuade. These different types of interactions require different interfaces, each with specific characteristics and functionalities. For instance, “trust” looks very different when designing for a support group for single fathers than when designing for a marketplace for re-selling event tickets. Different actors also have different, sometimes opposing, needs. Transparency about why a person is receiving a message will in many cases benefit an individual, but not necessarily the actor targeting that individual.

4 Conditions for unaccountable power

The scale at which these companies operate alone raises questions about the level of influence they have over our freedom of expression and public debate. In addition, we must consider other aspects of their functioning that contribute to an undesirable concentration of power. Not all of the issues we describe, are in themselves problematic. Some become a problem only because they occur in an environment dominated by only a few powerful companies, in which political, societal and consumer pressure are unable to weed out the most toxic practices.

4.1 Power of providing access

- 4.1.1 In some countries, for the majority of people, a single communications platform can be synonymous for the internet. This occurs, for example, in countries where net neutrality is not protected by law. In these situations, a platform can make a deal with a provider where people will not get charged for their data usage when they use that platform. In practice, this prevents people, especially those in precarious financial situations, from consulting differing sources of information or communicating with people outside of that one specific platform. This puts these platforms in an extremely powerful position, and makes citizens more vulnerable to misinformation, profiling and manipulation.
- 4.1.2 When the market is dominated by just one company, there is also a greater risk of government censorship and control. To control (access to) the public debate, a government needs only to convince a single company to intervene in online conversations, for instance by pressuring a company to apply a particular policy. We have also seen governments temporarily block access to platforms in an attempt to limit the spreading of information. In cases where this platform is more or less the only gateway to the internet, users are cut off from their primary communication channel and from their primary source of news. Finally, having a single point for accessing people's data lowers the costs and raises the ease of surveillance of people and their communications.

4.2 Power of data

Surveillance of people online

- 4.2.1 Because all platforms are intermediaries, they are in a position to closely monitor the use of their services by their customers. This enables these companies to build detailed profiles of people's (future) habits and behaviour. The staggering amount of information gathered and inferred by companies is mostly invisible to individuals. Most platforms' business models rely on the exploitation of this situation.
- 4.2.2 Companies that are able to monitor people's use of the internet outside their own platform(s), for instance by embedding tracking technology in other sites, or by prompting other companies to upload their customer data to the platform, have an even more pervasive presence and extensive understanding of people's behaviour across the web.

Monitoring competing services

- 4.2.3 It is not just interactions between people that platforms are able to monitor. Some platforms facilitate (part of) a market and mediate between different actors in that market, such as between an advertiser and an individual. These companies are able to tell which services are successful, and which competitors might become a threat.

Facilitating a market and being active on that market

- 4.2.4 On top of that, some companies not only facilitate the marketplace, but are active in this marketplace themselves. These companies are able to tell which products of other businesses are successful, and use this information as a basis for their own business.

Data and data-driven services, a vicious circle

4.2.5 Because large intermediaries are able to obtain a wealth of data, they are able to continuously improve the quality of their service. For instance, the larger the search engine, the better it will be at providing people with results that reflect their expectations. This increases the search engine's market share, which in turn increases their access to people's data. This additional data enables the search engine to further improve its service, and makes it easier to develop new services. It will be hard, if not outright impossible, for a competitor to break this vicious circle. Effectively, entrepreneurs are discouraged to create innovative services, other than with the aim of being bought by one of the giants.

4.3 Power of network

A network of users

4.3.1 These days, the big communication platforms are built as walled gardens, making it impossible to use the platform, or communicate with people on that platform, by other means than the platform itself. This limits consumers' freedom of choice, as they must go where the majority of their peers are. Migrating as a group to another platform is not in itself an antidote to the dominance of the current platform, as it will only mean that one monopolist is replaced by another. Enforcing interoperability, among other interventions, will be key to solving this issue.

A network of buyers and sellers

4.3.2 This is true not just for platforms that facilitate communication between individuals. It is also true for marketplaces.

4.4 Power of size

4.4.1 The big platforms are nearly immune to consumer pressure. Even when people aren't comfortable with the policies or happy about the terms, they have nowhere to go. Because people have little leverage, companies are in a position to ignore or only partially answer calls for more transparency or changes to their policies or architecture.

4.4.2 In imbalanced power relationships like these, it is of vital importance that companies have clear policies and can be held accountable. Currently, however, the big platforms continue to undermine consumer power with long, unclear and ever-changing policies and faulty redress mechanisms, and resist independent oversight.

4.5 Power of money

4.5.1 The powerful companies have huge financial leverage. Whenever a competing service pops up that is deemed threatening, the service is acquired by one of the existing platforms for an irresistible price. In other cases, the company has the financial means to simply copy the features into its own product, discouraging people from switching to the competing service.

4.5.2 As some of these platforms are active in a wide range of markets, they can afford to run some of their operations without making a profit, or even at a loss, in order to maintain or increase their market share in these fields. Competitors that are active in a single market only are at a disadvantage.

4.5.3 Their financial power also enables these companies to hire a large contingent of best-in-class lawyers. Critics may take these companies to court, but will have a hard time balancing legal power

or staying in business long enough to survive multiple court cases and appeals..

- 4.5.4 Similarly, their nearly unlimited financial resources make it possible for the companies operating the big platforms to wield incredible power in media, academia and policy discussions, by sponsoring research and journalism and employing extensive lobbying staff.

5 Negative impact on our freedoms, endangering democratic societies

Just as many of the before-mentioned problems become a problem only because they manifest in a monolithic ecosystem, many of the issues our societies are currently dealing with, such as disinformation and the influencing of elections by foreign actors, are not new, but have become particularly pertinent due to the dynamics of the attention economy, the opportunities offered by platforms with regards to targeted messaging, and, again, the scale at which these platforms operate.

5.1 Curtailing the freedom of expression

Regulating speech

- 5.1.1 Numerous factors, such as a lack of competition and a lack of transparency and oversight, combine to create a situation of undue corporate influence over our freedom of expression. This has a negative impact on the freedoms of individuals as well as on our societies as a whole.

- 5.1.2 Because of their scale, these platforms rely on automated systems for recognizing violations of their terms of service. These systems are notorious for the misinterpretation of information.

- 5.1.3 Besides needing to recognize information correctly, an automated speech regulation system also needs to interpret the context of an upload. We have seen cases where a victim describing an act of harassment is censored because their post contains the slur words used in that harassment. Similarly, these automated tools cannot recognize when copyrighted information is used in an exception that is legally provided for, or differentiate between archival footage documenting war crimes, and footage commending war crimes.

- 5.1.4 Human moderators are also prone to making mistakes. Free speech questions are notoriously complex, often requiring the intervention of an independent court. Platforms demand their human moderators make these complex decisions, often with far-reaching consequences, in just a few seconds.

Failure to provide meaningful redress

- 5.1.5 Platforms usually have some redress mechanism in place to allow people to appeal content deletion decisions. Redress mechanisms are often hard to find, complex and time insensitive. Even when a person successfully appeals a decision, content may be repeatedly taken down, requiring the person to go through this process over and over again in order to protect a single piece of content.

- 5.1.6 Because of the burdensomeness of redress- and complaint processes, people are effectively discouraged to appeal speech

regulation decisions. This will eventually lead to people leaving wrongful take downs uncontested and to self-censorship.

- 5.1.7 Current complaints- and redress mechanisms are also known to be weaponized by people wanting to silence voices expressing opposing views or by people looking for financial gain.

5.2 Obstructing the public debate

Influencing the discussion

- 5.2.1 Traditional web hosting companies provide people with the space for their speech, and are not involved in the way people's speech is rendered to others. Platforms, however, have a huge say in when, how, and which speech is shown. Because of the lack of diversity in the communications landscape, this means a few parties to a large extent control which voices and which views will be seen, and which will not. This in turn dictates what we do and do not talk about, and leads to an uneven distribution of opportunity.
- 5.2.2 The most common way for a platform to intervene, is by prioritizing one piece of speech over another, for instance through highlighting or recommending certain pieces of content.
- 5.2.3 Another way in which platforms can exert their influence over content, is by categorizing content. Placing speech in a "sensitive" category (e.g. mature or not family-friendly), might mean this piece of content is only visible to people over a certain age or to people who have explicitly enabled the visibility of this category of content. Again this results in the platform making certain types of content easier, and others harder to find. Sometimes this pushes already marginalized groups further into the fringes.

- 5.2.4 Finally, platforms can exert influence by making some, but not all, content eligible for monetisation. This again encourages some conversations and some voices, and discourages others.

Precluding voices

- 5.2.5 The past years platforms have given people many valid reasons for not wanting, or being able, to participate on these platforms. A person can be put at risk either by (organized) abuse from other people, or by the platforms' own policies, such as Facebook's real-name policy. People can fear for their privacy, and wish to not be exposed to surveillance by advertisers, political opponents or governments, or have their data leaked. Finally, users can suffer a lack of control and degrading of their autonomy both by a lack of tools to control what content and accounts they see, as well as insufficient transparency into how they are being manipulated. With our communications ecosystem dominated by a few companies, a person's absence from one of the big platforms often-times means they are excluded from (a substantial part of) social life and the public debate.

6 Our correctional mechanisms are failing

- 6.1.1 The companies behind these platforms have all the incentives to maintain their dominance, and no incentives to give up power. It is therefore extremely unlikely solutions will come from self-regulation.
- 6.1.2 The platforms' extremely powerful position, down to a combination of, among other things, being an access provider, offering free services, having a data advantage, network effects and financial

leverage, makes it very hard for competitors to have a correctional impact.

- 6.1.3 In order to increase time spent – and therefore data gathered – on their platforms, companies make use of dark patterns to create highly addictive interfaces. Dark patterns are design implementations that prompt people to do things they would not otherwise have done. The addictive quality of these services, combined with a lack of user control and interoperability, make it hard for people to leave the service or use the service on their terms.
- 6.1.4 The fragmentary approach taken by many policy makers is not helpful. For example, in Europe separate pieces of legislation have been proposed for fighting possible terrorist content online, for tackling fake news and hate speech, rather than recognizing the common characteristics that underlie each of these topics. None of the recent legislative proposals addresses the core structural issues. There may be reasons for this approach, but it will result at best in partial solutions.
- 6.1.5 This fragmented approach leads to increased risks to our freedoms and therefore to a big stress on civil society. To make matters worse, civil society has to “compete” with the lobbying budgets of big tech. In combination with a lack of consumer power, this is a further cost to citizens’ interests.

7 We need to fix the system, not the symptoms

- 7.1.1 The freedom of expression is indispensable in a democratic society. At this moment, a few dominant platforms control our online

communications ecosystem and are undermining the freedoms of individuals and our democratic societies as a whole.

- 7.1.2 These dominant platforms and the businesses that provide them have become so omnipresent and seem so untouchable, that it is hard to imagine we can change course. We can. It is of utmost importance that we continue, if not begin, to shift the discussion from how we can adapt to these businesses and fix their platforms, towards what a healthy communications landscape looks like in an increasingly digitalized world.
- 7.1.3 We will not be able to solve these issues by addressing individual symptoms. Forcing changes to moderation policies, for example, may (may!) solve one specific issue, but will create or enhance others. Instead, we need to take a holistic view to analyse the system underlying the problems we’re currently faced with. This paper is just a first step. Without a doubt, we have overlooked certain aspects, and provided insufficient nuance when it comes to others.
- 7.1.4 In parallel, we need to re-think how our online environment as a whole is designed and shaped. We need to determine what the characteristics are of an online ecosystem that serves our democracies and upholds human rights.
- 7.1.5 These analyses and vision will be able to inform the intervention mix needed in order to fix our communications landscape.