

Corporate Social Responsibility in the Digital Age A Call for Transparency Requirements for Social Media Companies

Zeying Xing^{1,*}

¹*Department of Sociology, University of Michigan, Ann Arbor, USA*

^{*}*Corresponding author. Email: zyanax@umich.edu*

ABSTRACT

Corporate Social Responsibility is the idea that businesses should operate in ways that enhance the society and the environment around them, instead of solely maximizing profits. While CSR has become an increasingly prominent part of many corporate agendas, social media companies are operating explicitly at the cost of society. This is because Section 230 of the Communications Decency Act provides a legal shield for social media companies, while a lack of transparency regulations provides disincentives for social media companies to act responsibly. In response to the global concern, this paper recommends a shift to transparency requirements as the focus in the regulation framework for current social media companies including disclosure of content moderation program operations, increasing and enhancing operation reports and improvement in access to platform data for outside.

Keywords: *Corporate Social Responsibility, social media, Transparency, Regulations*

1. INTRODUCTION

The relationship between the corporation and the society has been discussed widely as an area of academic study and public policy. The debate regarding whether what responsibilities corporations should take on has been around since the 1970s. One prominent argument that was first introduced by Economist Milton Friedman states that the only social responsibility of a corporation is to make as much money as possible using its resources and to stay within the legal framework [1]. However, as society experiences more instances of harmful business activities, many began to debate about whether companies should only seek profit-maximization, or they should be responsible to the society beyond their economic roles in the market. Especially in recent decades as global challenges such as climate change catch the public's attention, many people now believe that corporations should go beyond their economic interests and legal compliance, pursuing pro-social objectives in addition to profit-maximization [2]. The broad perception has given rise to a theory known as Corporate Social Responsibility (CSR). This theory urges that businesses should operate in ways that enhance the society and the environment around them, even if this reduces profits. Traditionally, CSR refers to corporations' role in minimizing environmental

externalities, improving labor policies, and donating to charity [3].

Although CSR is not often pragmatically motivated, as some could counteract with the economic interests of the corporations, many have begun their corporate responsibility initiatives. For instance, Johnson & Johnson has been reducing their environmental impact for over three decades, reducing pollution by switching to renewable energy. The company has a goal of using 100% of renewable energy by 2025 [4]. On the other hand, Netflix and Spotify have been improving their labor policies such as offering more generous parental leaves [5].

However, up until this day, most corporations have addressed CSR in environmental protection and employee benefits. The recent rise of social media companies has led to global concern about the use of digital platforms for hate speech, terrorist material and disinformation campaigns. The recent Facebook Whistleblower scandal further reveals an additional, dire aspect of social media companies as it operates the platform knowing the negative consequences on its users.

Therefore, this paper aims to investigate why there is a general lack of CSR undertaken by social media companies. The paper first examines two areas of concern where social media companies have failed to

take corporate social responsibility. Then, the paper will explore the reasons why the companies currently do not promote CSR initiatives by looking at the current regulation framework of social media companies. Finally, the paper will recommend a set of regulatory actions that focus on effectively promoting CSR in social media companies.

2. CURRENT OUTLOOK

2.1 Lack of Corporate Social Responsibility for Social Media Companies Today

As the discussion of business ethics become prominent, an increasing number of companies begin to practice some form of corporate social responsibility that contributes to the wellbeing of the communities [6]. However, the majority of companies that practice CSR initiatives are in the consumer goods industries. As illustrated by a CSR ranking by CR RepTrak, out of the top 100 companies practicing CSR, the only technology companies are Google and Microsoft, not mentioning that they received the ranking primarily for their treatment of employees [7]. While many of the largest corporations in the United States today are social media companies, the ranking pattern clearly indicates a lack of CSR practices among those companies. Moreover, the scandals of big technology companies in recent years also suggest that CSR has been largely neglected by the technology companies. Specifically, social media companies have largely failed to practice CSR in their moderation of third-party content and assurance of transparency for the public.

To begin with, social media companies have not undertaken their CSR in moderating the harmful content posted on their platforms, which exerts enormous costs to society. For example, in 2018, Facebook was chastised for propagating hateful beliefs on the social media platform when it was used by Myanmar's Rohingya people to commit mass murder. The posts sparked a blaze of violence against Muslim Rohingyas, culminating in genocide [8]. As Wired magazine later determined, Facebook was knowledgeable of the event as early as 2014 but did not address how the platform was being used to foster hate speeches because of the economic benefits it would receive from the lucrative new market in Myanmar [9]. In response to the criticism, Facebook translated its user rules into Burmese, which was completed just 14 months later. Despite Facebook's announcement of a plan to monitor and coordinate inauthentic conduct in Myanmar by targeting thought leaders, the continued posts by regular Myanmar users, many of which contributed to the situation, were ignored.

Another attack on social media companies for third-party content occurred in March 2019, when a gunman in

New Zealand live-streamed his murder of 50 people at two mosques on Facebook. Following that, Facebook allowed the two copies of the film to circulate on the Internet. Only five days later, Facebook issued a statement clarifying that it had received no reports about the video from any concerned users [10]. This case demonstrates Facebook's continued failure to address crucial ethical aspects of its role in the dissemination of horrendous videos.

The recent Facebook Whistleblower scandal reveals another important instance in which social media companies often disregard their corporate social responsibility. Frances Haugen, a former Facebook employee, testified in front of the US Congress that Facebook knew Instagram was harming teenagers' mental health and that its News Feed feature has made the platform more polarizing and divisive from its internal research [11]. Nonetheless, Facebook continues to hide the information and operate at the expense of the wellbeing of its users. The intentional hiding of important information from the public not only puts Facebook in the center of public criticism, but also alerts the public regarding the transparency that should be given by the social media companies to the society.

By the above framework of CSR, technology companies like Facebook clearly fail to act ethically as they operate at the cost of society. Their lack of moderation on harmful contents, including hate speeches and inciteful language, and their lack of transparency regarding important data to the public and regulatory agencies allow them to maximize profits while harming the communities in which they operate. The below section will examine why social media companies do not act in socially responsible ways when operating their platforms.

3. ANALYSIS

3.1 Legal Shield for Content Moderation: Section 230 of the Communications Decency Act

An important reason for social media companies to not undertake significant CSR in moderating third-party content is the availability of a legal shield provided by Section 230 of the Communications Decency Act. This law has been used by social media companies to avoid legal liability for third-party content posted on their platforms.

The understanding of the Act's legal implications requires a look at its history. The origin of Section 230 can be traced to 1994, when an investment firm called Stratton Oakmont sued Prodigy for an anonymous message published on its platform. Although Prodigy argued that the company was a platform that should not

be liable for any user-generated content, the Supreme Court of New York State ruled against it because Prodigy moderated posts, making it more like a publisher. Fearing that this ruling would discourage internet companies from monitoring pornography and other obscene content, Representatives Christopher Cox (R-CA) and Ron Wyden (D-OR) inserted the Section 230 amendment into the Communications Decency Act [12]. This amendment essentially specifies that no interactive computer service provider or user shall be considered the publisher or speaker of any information provided by another information content source [13]. Soon after its birth in 1997, a series of subsequent court decisions reinforced the broad liability immunity for internet companies, where they are allowed to not prescreen or take down defamatory messages [14], to deliver defamatory emails [15], or to not prescreen content that could cause international emotional distress [16].

The protection granted by Section 230 to internet companies essentially disincentivizes social media companies to moderate content posted on their platforms. For instance, in 2015, Andy Parker's daughter, Alison and her colleague were shot to death by a former colleague of Alison. Parker subsequently advocated for stricter gun control laws through social media platforms. However, Parker was harassed by gun rights advocates, who posted edited footage of his daughter's murder on YouTube and other social media platforms, where it went viral. Parker, whose life was directly impacted, pleaded with Google and Facebook repeatedly to monitor their sites for reposted clips [17]. From an ethical consideration, it is undoubted that the companies should remove the clips, but no actions were undertaken by the companies. The lack of action is partly due to a lack of legal enforcement for Google and Facebook to be more responsive, as Section 230 essentially shields them from any legal liability for third-party content.

The first legislative effort to curtail Section 230's protections came from the controversy surrounding a website called Backpage. Beginning in 2014, Backpage, a website that hosted posts facilitating child sex trafficking, continuously used Section 230 as a shield. The widespread criticism of Section 230 resulted in the enactment of the Fight Online Sex Trafficking Act (FOSTA) and the Stop Enabling Sex Traffickers Act (SESTA) in 2018. These acts essentially added an exception to Section 230's immunity protections in cases involving sex trafficking. While SESTA was obviously supported by anti-trafficking and victims' rights groups, it was also criticized by free speech advocates, believing that the law provides a template for further government-initiated online speech restrictions and censorship. Nonetheless, it appears that the passage of SESTA led courts to remove some other types of liability from Section 230's protection. For example, in 2016, Model Mayhem, an online employment site, was found responsible for failing to notify its users that,

notwithstanding Section 230's protections, possible sexual predators were utilizing its services to find victims. Mayhem was ruled liable by the court since it was aware of the situation. However, in 2019, a federal Circuit Court ruled that Facebook was not liable for terrorist posts on its platform, citing Section 230 as the reason [18].

The judicial and legislative developments of Section 230 indicate the law's controversy and inconsistency in content moderation. The broad interpretations of Section 230 have ultimately made it a powerful excuse for social media companies to avoid discussions of any ethical responsibilities alleged with third-party content moderation. The law protects them from receiving legal liability when the platforms knowingly allow harmful content to be posted and transmitted. Without any legal accountability, social media companies naturally lack the incentives to undertake CSR in content moderation.

3.2 Lack of Regulation for Transparency

As discussed above, another issue concerning social media companies is the opacity of information that are crucial to the wellbeing of the public. Such lack of disclosure can be attributed to a general lack of transparency regulations among the social media companies in the United States.

While there is no federal law concerning transparency, some states have enacted new policies to require social media companies to disclose their activities mainly concerning user data privacy and political digital advertisements. For example, the "Online Electioneering Transparency and Accountability Act" of Maryland, which was enacted in July 2018, requires social media platforms to collect and keep track of organizations placing advertisements. In California, the Social Media DISCLOSE Act, which became effective in 2020, requires social media platforms to provide a publicly accessible database with all the advertisers they sold advertisements to [19]. While similar laws concerning the transparency of political advertisements exist in other states, including New York, Washington, Nevada, Louisiana and New Jersey [20]. each state's law has different requirements and has resulted in different responses from social media companies.

In addition to regulations around political advertisements, some states have addressed the issue of data privacy recently. In 2018, the state of California passed the California Consumer Privacy Act, which protects consumers' data privacy rights by allowing them to demand the information that social media companies have on them, as well as a complete list of all third parties with whom the companies shared the data. This law also allows consumers to sue the companies if any violations have happened [21]. More impressively, California passed a new California Privacy Rights Act

(CPRA) in 2020 as a revision of CCPA, which will become effective in 2023. This law established a data protection agency in the state which would enforce the privacy laws. The new law also adds additional data privacy requirements. For instance, it provides rights to consumers to request the company to delete stored information about them [22]. However, while California's privacy laws seem a promising legal framework for data privacy regulation, it is one of the only two states that currently have any relevant regulations in the United States. A lack of federal law disincentivize social media companies to continue respect for consumer data privacy.

More importantly, the current disclosure regulations on social media companies, as discussed above, all focus only on the spread of political advertisement and on the protection of consumer data privacy. While these two issues have also been at the forefront in the discussions of CSR for social media companies, recent scandals like the Facebook Whistleblower reveals the public's desire for transparency of the companies themselves. Specifically, no regulations currently require social media companies to disclose their algorithms in content moderation, nor do any regulations currently require the disclosure of internal research results. The lack of enforcement in this area has contributed to the negligence of CSR, as happened with Facebook's Whistleblower scandal.

4. RECOMMENDATIONS

In response to the lack of incentives and regulations of social media companies, the paper recommends two, complementary approaches. First, Section 230 of Communication Decency Act should be narrowed through a "good faith" requirement. Complementing this is a set a transparency requirement to ensure companies are held responsible for their own conduct.

4.1 Narrowing Section 230

As evidenced by Section 230, the lack of effective legal enforcement has enabled a "moral hazard", since the absence of future legal liability inhibits ethical considerations and accountable action. Existing rules don't give social media businesses enough incentive to keep their platforms free of harassment, hate speech, propaganda, politically biased ideas, and other offensive content. In fact, with the exception of Section 230, the United States currently has no strong legal requirements for content moderation on social networking networks. By explicitly indicating that companies do not have any liability as long as they do not monitor the content, Section 230 in turn encourages the avoidance of ethical responsibility. The increased scrutiny received by internet companies like Facebook in the recent decade

has incited calls to limit the immunity provided by Section 230 and to focus on content regulations.

To do this, the paper suggests adding a good faith provision to Section 230(c)(1), which is the clause that provides the legal shield. For instance, the government could revise the text to say: No provider or user of an interactive computer service [acting in good faith] shall be treated as the publisher or speaker of any information provided by another information content provider. There are two reasons why such a provision would serve the purpose of accounting social media companies.

Firstly, the openness of the good faith requirement would provide enough flexibility to the court to effectively limit the scope of Section 230 protections, minimizing the risk that social media companies benefit from Section 230's legal liability. For instance, an online platform that purposefully hosts and allows harmful third-party content would be treated differently by the courts using a good faith requirement.

Secondly, this provision does not fully erode the original purpose of Section 230. While a good faith provision could help ensure social media platforms are held responsible for their own activities, it still protects them from liability to their users. For example, a court may rule that a social media platform that intentionally fails to enforce its terms of service prohibiting unlawful content is not acting in good faith and thus not protected under Section 230.

Ultimately, a good faith provision would allow Section 230 to maintain the core premise that content creators should be responsible for their work while still encouraging content moderation, avoiding targeting lawful speech and retaining a national norm for online intermediary responsibility.

4.2 Transparency Requirements for Internet Companies

However, a concern with the addition of a good faith provision is that it would make it more difficult for defendants to have nuisance claims dismissed by the courts. Instead of merely demonstrating that they are immune from liability under Section 230, they would also have to meet the higher burden of proving that they acted in good faith, increasing the cost of defending against lawsuits and the risk that organizations will limit third-party content to avoid liability. The openness of the good faith provision also transfers the interpretation power entirely to the court.

To address the relevant concerns, the paper urges policymakers to complementarily enforce transparency requirements. Transparency is key to enforcing accountability onto internet companies. By enabling the public to be aware of what is happening, transparency empowers both the platforms and platform users to

protect themselves in courts, as it helps the judges to decide if an act should be considered “good faith”. Transparency also brings the pressure of public opinion to bear on internet companies. The power of public opinion could not only pressure the companies to operate in a socially responsible way and but also at the same time urge government officials to place more vigorous enforcement onto the companies.

Collecting from what had happened in recent decades, a set of transparency requirements in three critical aspects will be suggested. First, there should be an increased and improved public disclosure of platform content moderation program operations, such as content rules in terms of services, methods for aggrieved individuals reporting rule violations, and content moderation procedures. This would restore the trust between users and their platform while establishing grounds for making companies legally liable when brought in front of the courts. Second, there should be increased, and enhanced reports submitted to the government agencies and public with aggregate statistics accurately reflecting the operation of the content moderation programs. In addition to this, there should be more revelations about the workings of the algorithms in content moderation, prioritization, and recommendation. Making these kinds of information publicly available would help empower the public in bringing pressure to the internet companies with accurate and open data, while helping government agencies to make internet companies more accountable. Finally, there should be an improvement in access to platform data for outside, independent researchers in the form of regular and ongoing audits of these companies. This would allow third party checks on internet companies. These transparency requirements could be achieved through a set of laws enforced onto the companies,

Ultimately, these strong transparency practices aim to restore public trust in internet companies and assure that they are operating in the public’s interests.

5. CONCLUSIONS

Corporate social responsibility has always been a topic for businesses who wish to enact positive changes to society with their operation. It has also been a topic of public concern, as consumers increasingly want to see companies undertake more corporate social responsibility. As discussed above, corporate social responsibility reflects a society’s expectation towards the company, which could shift due to changing trends in public concerns.

The age of social media gives rise to concerns about the use of online platforms by social media companies. The scandals faced by Facebook are just some of the many instances of how social media companies ignore their corporate social responsibility, pursuing their profits

at the cost of society. Specifically, the paper has identified two aspects in which social media companies forgo their societal expectation. Firstly, social media companies do not take responsibility for regulating third party content on its platform. While the spread of harmful content such as hate speech and violence have allowed the companies to gain economic advantages through greater user exposure, the content has resulted in real-life violence. Secondly, social media companies purposefully hide information regarding the impacts of their platforms on society because such disclosure would negatively impact their economic activities. By examining current laws and policies, it is found that the legal shield provided by Section 230 and the general lack of disclosure requirements disincentivize social media companies to undertake corporate social responsibility such as moderating harmful content and sharing information with the public.

Ultimately, the paper advocates for an addition of a good faith provision to Section 230, complemented with a set of transparency requirements in promoting corporate social responsibility among social media companies. While the paper provides general suggestions in terms of the area’s policymakers should focus on when considering regulations of the social media companies, it does not discuss specific ways of implementation and enforcement that would make these focuses ultimately effective. The form of regulation projected in this paper could be achieved through an establishment of a regulatory agency with authority that will supervise the platforms. The desired effects could also be achieved through public discourse, which ultimately pressures the companies to take voluntary action. Nonetheless, this paper suggests a new way to approach the concerns over social media companies, shedding light on potential policies that could incorporate corporate social responsibility to the companies in the new age of information technology.

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