

A Power Analysis for Platforms: Expression, Equitable Governance, and Participation

Jasmine McNealy,
Associate Professor, Department of Media Production,
Management, and Technology, University of Florida

In October 2021, a whistleblower disclosed more revelations about the inner workings of the giant technology organization, Facebook. The former Facebook product manager, Frances Haugen, detailed how when there was a conflict between public good and the organizational logic of profit making, the company chose itself.¹ Claiming she wanted to prompt change at the social media organization, Haugen filed several complaints with federal securities regulators as well as providing the *Wall Street Journal* with thousands of pages of copied internal documents. The documents detail how the company's internal research findings showed the negative impact of several platform choices.²

In particular, the reports detailed how the platform had different rules for those considered “elite,” that the company intentionally hides information from regulators and the public, and that individuals, organizations, and governments use the platforms for illegal and often anti-democratic goals with Facebook's knowledge.³ Also concerning were revelations about the impact of Instagram on teenage girls. According to the internal research, Instagram use amplified young women's negative body image, increased suicidal thoughts, and worsened eating disorders.

This is not the first time Facebook, or any other large tech company has been found to influence individuals and communities. It is but the latest in a series of scandals related to issues like privacy, freedom of expression, and disinformation that have risen to public consciousness over the past several years. These issues arise in the course of conflict between organizational goals and societal needs. When organizations can choose, like Facebook (now a subsidiary of Meta), to place their goals above the needs of the public, it is an indication of a power imbalance.

Justice Thomas acknowledged the extreme concentrations of power in social media organizations in the recent US Supreme Court case *Biden v. Knight First Amendment Institute* in which the Court determined that a case—meant to decide whether the blocking of critics of the presidential administration from a Twitter account used by that administration for official business, was unconstitutional—was no longer worthy of discussion. The case had reached the Court on appeal from the Second Circuit, which had ruled that because then-President Trump had used his personal Twitter account for official White House business, it was a public forum.⁴ Therefore, his blocking of critics from seeing or replying to the tweets from that account was a violation of the critics' freedom of speech.

Although the Court itself ruled that because Trump was no longer in office, the issue was moot, Justice Thomas wrote a concurring opinion questioning the crux of the Court's rationale for finding the Twitter account to be a public forum.⁵ Public forums, according to Justice Thomas, indicate that the government is in control of property. This case differed in that, although the government had the ability to block users, it was ultimately Twitter that had control over the account and was able to even ban the government account, if it wanted. Social media accounts, then, were more like government-controlled spaces and not government property because even government accounts could be removed from the platforms.

Justice Thomas was especially concerned that there seemed to be no specific regulatory framework that could mitigate the enormous consequences of the concentration of power in tech organizations as it related to expression and governance. He noted that we could look to public accommodation and common carriage laws for routes toward regulation. But both areas of law fall short of being either applicable or resolving tech-specific issues. There must be a new route for more adequately regulating tech organizations.

This essay recommends using a power analysis in creating policy for tech firms, and in brief, offers a way of examining platform power dynamics and how we should proceed in regulating interactions in order to mitigate the consequences of unchecked power on expression, governance, and participation. The next section offers an example of the implications of unchecked power with the

platform TikTok. Following this, Section Three re-examines prior attempts at media regulation. Section Four offers a power analysis that can assist in re-imagining policy for platform companies. By policy for platform companies, I mean those policies that will seek to re-establish balance of power between users (and non-users) and the tech organizations whose products have become both ubiquitous and at times indispensable for communication, governance, and participation. By power, I mean the ability to control, structure, systematize, and regulate interactions on or through technology.

Tik Tok: A Case Study

To truly understand how the unbalanced concentration of power in tech organizations appears in the wild, it is important to examine recent instances of organizational decision making that have had significant ramifications. This is not difficult. But one recent controversy perhaps demonstrates how tech companies and social media platforms can greatly impact users and information.

In June 2020, the video-based social media platform, TikTok, released a statement apologizing to Black creators after a campaign of complaints of video suppression, blacklisting, theft, and safety concerns.⁶ The apology detailed how, in May 2020, during the height of protests against global anti-Blackness and the furor over the murder of George Floyd by a Minneapolis police officer, a platform glitch made it appear that videos hash-tagged with #BlackLivesMatter and #GeorgeFloyd did not receive any views. According to TikTok, this was an issue that affected all posts, and not only those focused on the worldwide protests. The company also noted that it was using content moderation technology and human moderators to ensure the removal of content that violated its guidelines, but that it knew that sometimes the system made errors.

Before concluding its letter with a statement of solidarity with Black creators and the Black community at large, and detailing plans to invest \$3 million into non-profits, the tech company detailed the steps it would be taking to ensure a more equitable platform environment, including:

- “Investing in our technology and moderation strategies to better handle potentially violative content, and designing a clearer, more user-friendly appeals process;
- Establishing a creator diversity council and impact-driven programs geared towards recognizing and uplifting the voices driving culture, creativity, and important conversations on the platform;
- Furthering the efforts of our internal diversity task force and engaging organizations and experts to analyze how our products and policies can better serve people of all backgrounds; and
- Developing a creator portal to expand communication channels with, and opportunities for, our broader creator community.”⁷

Since the publication of the organizational apology, Black TikTok creators have continued to detail what they allege is bias and unfairness in the ways that the company moderates content, trains its algorithm to allow content to be distributed, and how it chooses to ban users.

Moderation mishaps

In July 2021, a year after the statement and apology to Black creators, *Recode*, a section of *Vox*, reported that there were more issues with TikTok's hate speech detection tool that flagged as inappropriate the content of creators who put "Black Lives Matter" or "Black success" in their Marketplace bios. The TikTok Marketplace, launched in 2019, is an API platform that allows creators to connect with marketers.⁸ The system was purportedly created after users found themselves appearing in ads on the app without their permission or compensation.⁹ To join, TikTok users must file an application and pass an eligibility threshold based on followers, views, and content subject-matter. The Marketplace is a way for creators to monetize their videos by collaborating with brands. Therefore, if content is flagged as inappropriate, creators will not be able to earn money from the videos they create.

The issue arose after a TikTok user with the moniker @ziggytyler posted a video accusing the tech platform of flagging his content based on the phrases he attempted to use in his Marketplace bio. The original video, which was viewed over 1 million times, appears to show how the system flagged his "pro Black" content as inappropriate, but when he used phrases like "white supremacy" and "white privilege," his content was not flagged.¹⁰ After the video went viral, TikTok purported to take action to fix the error, claiming that the system did not take into account word order, and that for Tyler specifically, at issue was the word "audience," which included the word "die." According to a TikTok spokesperson, the use of "die" in connection with "Black" triggered the hate speech filtering system.¹¹

A few months prior to this incident, TikTok had again been accused by Black creators of banning and suppressing their content unrelated to the Marketplace program.¹² Black users claimed that their accounts were banned after massively coordinated harassment campaigns by other users or after being flagged by the content moderation system. A Black user reported, for instance, having his account permanently banned after his video joking about white people not using exfoliant in the shower went viral. According to the user, the ban happened only 30 minutes after he posted his video.¹³ Other users have reported similarly being removed from the app.

Dances and distribution

Some creators view TikTok's failure to protect Black users from concerted harassment, as well as internal mechanisms, as clear anti-Blackness and inconsistent with the promises from the apology the app issued in the summer of 2020.¹⁴ In addition to content flaggings and bans, Black creators have complained that their content was suppressed or listed below that of white creators with similar subject matter.¹⁵ In fact, Black creators have accused TikTok of promoting white creators that have copied the work of Black creators over the original videos. A campaign in summer 2021 had Black creators going on strike and refusing to create dances in connection to popular songs on the app because of the accusations of copying and the lack of protections from the platform.¹⁶

Perhaps the most well-known instance of a Black creator not being credited for their work is that of Jalaiah Harmon, the then-14-year-old who originally choreographed the viral Renegade dance for K Camp's "Lottery."¹⁷ Harmon claimed to have created the dance in September 2019 and uploaded the video to Instagram. Popular dancers from TikTok then recorded their version of the dance, which then went viral on the other platform without crediting Harmon as the creator. Popular TikTokers @Global.Jones and Charli D'Amelio were credited as creators of the dance, leading to brand collaborations and invitations to perform for celebrities. It was only after Harmon was put in contact with a reporter from the *New York Times*, which led to the publication of a widely read profile, did she begin receiving the credit she was due.¹⁸

Bias or business as usual?

Of course, TikTok is not the only platform company that has come under fire for alleged racial bias. Facebook, along with its connected company Instagram, as well as YouTube, have been accused of racial biases and systemic unfairness. Some of these allegations come in connection to the platforms' content moderation systems.¹⁹ Recent academic research has found that the content moderation systems used by the large platforms like TikTok are more likely to flag African American English as hate speech.²⁰ This could mean that the systems deployed that are supposed to keep members of marginalized communities safe from hate speech and harassment are instead being used to censor their expression and participation.

But if these systems and complaints about their use continue to be used by TikTok and other social media platforms, what is the recourse for those harmed? What about the claims of suppression of speech and the lack of credit for creative products? It seems that platforms like TikTok get caught in cycles of complaints, then apologies and promises, attempts at fixes, then more complaints.²¹ For TikTok, this may mean that Black creators will begin leaving the app.

A problem for those who want to leave, however, is that they are met with a lack of opportunity.²² Although newer platforms are available, they may not have the population or the affordances of the larger or more well-known sites and apps. For a content creator or organization to be successful, they must find their audience; the large platforms assist with this. Social media in the United States is dominated by few large and popular platforms. Therefore, platforms have little incentive to put real effort into solving their bias problems.

Regulation for Platformization?

Since 1996, the conversation about the regulation of tech companies—platforms, in particular—has hinged on Section 230 of the Communications Decency Act (CDA). One of the surviving provisions of an attempt by Congress to prevent children from accessing sexually oriented content online, the law creates intermediary immunity for interactive computer services, defined as “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer service...” The idea was to offer a modest claim of immunity for Internet Service Providers that were taking action to moderate content on their platforms. This has been interpreted to protect platforms that publish or allow publication, but also a range of platform choices.

Section 230 is credited with allowing the development of the Internet as we know it, including major platform innovations. But before §230 became one of the catalysts of the social web, its parent legislation, the CDA, was challenged as an unconstitutional infringement of the First Amendment. In *Reno v. ACLU*, the US Supreme Court found that Congress’ attempt at regulating indecent and patently offensive materials on the Internet failed to be narrowly tailored, and therefore failed to pass strict scrutiny. Important also is how the Court conceptualized the Internet.²³

The Court found that the Internet was different from broadcast, the communications medium with the most limited First Amendment protection. Therefore, the Internet was deserving of a different level of First Amendment protection. The Internet had not, at the time, been the subject of government interventions or regulations. More importantly, the Court spent a substantial part of its opinion distinguishing the Internet from broadcast, in three important ways:

1. Unlike broadcast, the Internet had never been thought of as a scarce resource. There was no danger that because one individual or organization was using the Internet, another individual or organization would not be able to use it at the same time.
2. Unlike broadcast, the Internet was not pervasive; if a user came upon certain kinds of content, it was by no accident. Instead, the use of the Internet and the retrieval of content required a particular level of sophistication, according to the Court.
3. Unlike broadcast, the risk of a child encountering indecent materials accidentally was extremely low.

Instead of broadcast, the Court analogized the then-new medium as more akin to a technology that allowed anyone to “become a pamphleteer.” Consequently, the Internet is regulated more like print media, in contrast to how broadcast is regulated. Therefore, it may be instructive to examine the attempts at regulating broadcast.

Broadcast regulations in brief

In the U.S., communications regulation is meted out by the Federal Communications Commission (FCC), responsible for enforcing legislation as well as creating policy for the communications industries. In regulating broadcast licensees, the Commission seeks to ensure that broadcasters act for the common good, which has been defined as broadcasting in the service of “public interest, convenience and necessity.”²⁴ What this once meant was that the Commission and Congress would enforce and pass legislation and policy meant to result in a diversity of voices, issues covered, and information available on the various broadcast channels.²⁵

This resulted in now-defunct policies like, for instance, the Fairness Doctrine, a set of rules designed to ensure that the public was informed about important and controversial issues.²⁶ Because broadcast was a scarce medium, meaning that the demand for use and licenses was much more than the spectrum space allotted, the FCC was charged with enforcing rules that ensured a post-World War II broadcast television universe dominated by three large networks—*ABC*, *CBS*, and *NBC*—would include time for differing views. The US Supreme Court upheld the doctrine in a First Amendment challenge from a radio station over the FCC’s enforcement of the personal

attack and political editorializing rules.²⁷ According to the *Red Lion* Court, the rights of the people to have a broadcast system that functions “consistently with the ends and purposes of the First Amendment... is paramount,”²⁸ trumping the right of the licensees. This did not, of course, mean that broadcasters were without First Amendment rights. This instead meant that the Courts, Congress, and the Commission had recognized the imbalance created by a scarce technology and the power that came with having a license—or the ability to use that limited technology—which could shape agendas.

In general, the power of the broadcast technology made it entirely different from print. Therefore, it had to be treated differently with respect to the regulation of expression. The distinction in regulation is illustrated in a comparison between how the Court decided *Red Lion* and its opinion in *Miami Herald Publishing Co. v. Tornillo*,²⁹ decided only five years later. The state of Florida had a political right of reply statute, not unlike that of the Fairness Doctrine, which applied to newspapers. When a newspaper refused to allow a candidate for office to use editorial space to reply, the candidate sued. The *Miami Herald* argued that the statute constituted an infringement of the First Amendment. The US Supreme Court agreed. Although recognizing that newspapers were big business, competing newspapers had been eliminated in many large cities causing a “concentration of control of outlets to inform the public,” the Court remained unpersuaded that statute did not violate the First Amendment. Instead, the Court saw the statute as a content-based penalty on the newspaper that might result in a chilling effect—newspapers might censor themselves so as not to have to publish replies. Finally, the law infringed on editorial discretion by taking away space in the form of column inches. Therefore, although scarcity, in the form of print space, was an issue for newspapers, it was not in the public interest to regulate content in the same way that it was for broadcast. The *Miami Herald* Court, in essence, said that print was different; *Red Lion* is never mentioned.

Of course, *Red Lion* is not the end of the Fairness Doctrine story. Many were critical of the doctrine, and the Commission abandoned the Doctrine in 1987; the related rules were repealed in late 2000. What has remained are content-based rules related to children’s television, public access, and indecency. The impetus for these rules, again, is the nature of the broadcast medium. For the Commission’s indecency-related rules, the Court enumerated the characteristics that made broadcast regulation important: (1) broadcast was a “uniquely pervasive presence in the lives of all Americans;”³⁰ and (2) “broadcasting is uniquely accessible to children.”³¹

Equally, if not more important than communications policy related to fairness in discussing controversial issues and protecting audiences, are the FCCs ownership rules. These rules place a limit on the number of broadcast stations one organization can own.³² Additionally, the four largest networks—CBS, Fox, ABC, and NBC—are prohibited from merging. Ownership of local radio

and television stations is based on market area. For local television, one organization may own up to two stations in the same market area, subject to rules about geographic overlap as well as audience share. For radio, ownership limitations are based on a sliding scale. On the national level, there is no limit to the number of stations one organization may own so long as its collective reach is no greater than 39 percent of all households. In 2017, the FCC abolished its cross-ownership rules, now allowing one organization to own a broadcast station and daily newspaper, or a radio and a television station in the same local market. These rules, including the recently eliminated cross-ownership rules, had been created to ensure a limitation on the ability of one organization to set the agenda using broadcast technology. In addition, the rules were put in place to cultivate a diversity of voices. These rules recognized the great amount of power inherent in controlling a communications medium that had become ubiquitous.

Of course, these and other policies are not without their criticisms, many of which acknowledge the issues in attempting to reach goals of promoting open debate and to inform the public, while at the same time allowing for organizations to reach their target markets. The various challenges to these policies and the criticisms demonstrate the complexities of attempting to balance the interests of the public, the government, and organizations.³³ At the same time, it is important to recognize the practical significance of these attempts at policy. At the most basic level, the government is concerned about the public interest, and has framed this public interest as in lessening the ability of one organization to shape the agenda surrounding “political” debates and controversies. For broadcast, the government has encouraged the public interest by targeting characteristics of the technology that make it powerful. This could possibly be a strategy for platforms.

Pitfalls of Platformization

Although the *Reno* Court characterized the Internet as fundamentally different from broadcast, it is important to note the date of this opinion. In 1997, the Internet was a different space and the modes and methods of communication in cyberspace were more open. Now, with the *platformization* of the Internet, methods and audiences for communication are funneled into specific spaces where the power dynamics between the user and platform weighs overwhelmingly in favor of the organization. By platformization, I mean “the rise of corporate and state-controlled platform ecosystems has upended the once popular ideal of a universal and neutral Internet that connects the world.”³⁴ Gone are the days of social networking sites and bulletin boards as the major players in online communications. Instead, platforms are the dominant communications infrastructure and economic model.³⁵ Platforms provide the scaffolding for the building of other applications and systems while at the same time providing much more. According to Gillespie:

[A] use of “platform” leans on all of the term’s connotations: computational, something to build upon and innovate from; political, a place from which to speak and be heard; figurative, in that the opportunity is an abstract promise as much as a practical one; and architectural, in that YouTube is designed as an open-armed, egalitarian facilitation of expression, not an elitist gatekeeper with normative and technical restrictions.³⁶

Platformization, then, recognizes both external and internal characteristics of a platform’s extension into other sites as well as the integration of external systems into the main body.³⁷ Along with platformization comes re-centralization, or the control of access to the platform. Although many platforms allow developers and external parties the ability to connect and create apps and services with permission, they are still subject to the platform policies.³⁸

Platformization is credited with disrupting traditional industries, infrastructure, and cultural production. Further, the rise in platforms, instead of allowing the fulfillment of the promises of the Internet, has been marked with less freedom for individuals to connect and engage with each other. And the firms behind these platforms have repeatedly been embroiled in controversy in related areas of hiring, taxes, and conflicts with local economics and ordinances.³⁹

A Power Analysis for Platforms

Platforms and how they behave, then, demand a re-evaluation of current policy. Of course, there are calls for revisions to, or even abolition of, §230. More than this, there must be a concerted effort to recognize that our ideas about the openness and expressive opportunities of the Internet do not hold up to scrutiny when users are subject to a limited number of platforms and their policies. Therefore, it may be useful to build on the attempts at creating fairness, access, and limitations on agenda-setting from broadcast by focusing on power imbalances. To do this it is necessary to answer three primary questions:

1. Who are the players?
2. What are their relationships?
3. What are the impacts of these relationships?

These questions are borne from the enumerated differentiating characteristics broadcast and the Internet. The first question identifies the individuals (and organizations) whose interests we are protecting. The second question examines the nature of control a platform has. That is, who

controls access to the platform and the creation and enforcement of policies? It also considers the control of the flow of information and interactions between parties. The final question examines the outcomes from these interactions. TikTok will continue to be the platform of focus for our brief power analysis.

The players

The ongoing controversies surrounding TikTok demonstrate the need to protect the interests of the individuals using the platform. User complaints that their benign expression, though possibly political, has been censored or punished indicates that the ability to publish information is at issue. Further, the allegations that the platform does not allow accounts with a particular perspective, in this case those that promote equity for Black people, to earn money means that there are also economic interests at stake. Both claims are bolstered by the allegations that TikTok suppresses certain speech, or speech from certain accounts, which also may affect the users' ability to be credited for their creative works.

Relationships

Far from being a space of participation where an individual can become the lone pamphleteer or the person standing on the soapbox in the public square, TikTok users are subject to sometimes vague content policies enforced by often-erroneous systems. News reports indicate that users do not know TikTok's formal policies or, if written, the policies are vague. In addition, the platform has implemented algorithmic enforcement of policies with what seems to be human *post hoc* review if a user complains. Therefore, the platform controls access, information flows, and user interactions.

Impacts

TikTok's platform power means, then, that users are left subject to the platform's terms of service and how those terms are interpreted by the algorithmic systems chosen to enforce them. This can mean that a user's opportunities to reach a large audience are truncated by algorithmic models of what is popular or valuable content. This kind of system supports Justice Thomas' critique of our traditional ideas of where the centers of power lie on social media. If platforms can circumscribe the kinds of content and individuals who can create content, social media is far from the public square it was once mythologized to be. And the remedy is not as simple as moving to another platform or app. Many of the would-be competitors to established platforms do not have the market, reach, and audience of the top systems. This leaves users without many alternatives.

Power is overwhelmingly, then, in the hands of platforms and there are not many other ways for users to actively participate in the online environment with them. Justice Thomas's proposed remedy for this concentration of power was to examine the historic common carriage and public accommodations laws. These legislative schemes, and the court cases that have set their boundaries, work in the analogue, non-digital context, but fail in the attempt to be analogized to digital platforms. More analogous within the current context is broadcast. The Internet is no longer characterized by the openness of 1997. Instead, platforms, and their associated apps, have taken the place of sites and the characteristic free and open net. In certain places, platforms are what constitute the Internet; they are the only way for individuals in particular geographic areas to connect with the traditional internet. In addition, platforms have become the way that many apps and services allow users to connect or create an account. Platformization may have, then, created the pervasiveness and scarcity that characterizes broadcast and is deserving of a similar power analysis.

This is not to say that a remedy for online power imbalances is simple. The power analysis above was brief and does not examine the more technical aspects of platforms. Further, the creation of good policy is complex and necessitates extensive investigation and consideration. That said, to leave users (and non-users) to the mercy of platforms under the guise of private ownership and the safe harbor §230 is far afield from the goals of meeting the public interest and having an informed citizenry. This is so even if those goals are usually connected to another kind of technology.

Conclusion

In early October 2021, Facebook and its associated platforms like Instagram and WhatsApp, experienced a global outage.⁴⁰ Although lasting only around six hours, the implications of this outage, and others like it, are immense. Communication between families, friends, and even coworkers stalled. In addition, those using the platforms to earn a living were unable to do so. More than this, there was a dearth of alternative forms of communication available, even though the current commercial web is touted as offering myriad opportunities. While there is no doubt that opportunity exists on the Internet, platformization has created a power vacuum, which places users at the mercy of a few major players. It is important, then, to examine the concentration of power in platforms, and what it means for expression and participation, to create better policy.

Endnotes

- 1 Allyn, “Here Are 4 Key Points from the Facebook Whistleblower’s Testimony on Capitol Hill”; Horwitz, “The Facebook Whistleblower, Frances Haugen, Says She Wants to Fix the Company, Not Harm It”; Bauder and Liedtke, “Whistleblower.”
- 2 Horwitz, “The Facebook Whistleblower, Frances Haugen, Says She Wants to Fix the Company, Not Harm It.”
- 3 Allyn, “Here Are 4 Key Points from the Facebook Whistleblower’s Testimony on Capitol Hill.”
- 4 Knight First Amendment Inst. *Columbia v. Trump*, 928 F. 3d.
- 5 *Biden v. Knight First Amendment Institute at Columbia Univ.*
- 6 Pappas and Chikumbu, “A Message to Our Black Community.”
- 7 *Ibid.*
- 8 “Creator Marketplace.”
- 9 “TikTok Users Are Surprised to Find Themselves in Ads for the App.”
- 10 Chan and Chan, “TikTok Fixes ‘Significant Error’ in Creator Marketplace After Phrases ‘Erroneously’ Flagged as Hate Speech”; Ghaffary, “How TikTok’s Hate Speech Detection Tool Set off a Debate about Racial Bias on the App.”
- 11 Chan and Chan, “TikTok Fixes ‘Significant Error’ in Creator Marketplace After Phrases ‘Erroneously’ Flagged as Hate Speech.”
- 12 Chen, “Black Creators On TikTok Say Their Accounts Are Being Banned For Strange And Unjust Reasons.”
- 13 *Ibid.*
- 14 Mitchell, “Black Creators Say TikTok’s Algorithm Fosters a ‘consistent Undertone of Anti-Blackness.’ Here’s How the App Has Responded.”
- 15 Rosenblatt, “Months after TikTok Apologized to Black Creators, Many Say Little Has Changed.”
- 16 Mitchell, “Black Creators Say TikTok’s Algorithm Fosters a ‘consistent Undertone of Anti-Blackness.’ Here’s How the App Has Responded.”
- 17 Lorenz, “The Original Renegade”; Wicker, “Renegade Creator Jalaiah Harmon on Reclaiming the Viral Dance.”
- 18 Wicker, “Renegade Creator Jalaiah Harmon on Reclaiming the Viral Dance.”
- 19 Ghaffary, “How TikTok’s Hate Speech Detection Tool Set off a Debate about Racial Bias on the App”; Ghaffary, “The Algorithms That Detect Hate Speech Online Are Biased against Black People.”
- 20 Sap et al., “The Risk of Racial Bias in Hate Speech Detection”; Davidson, Bhattacharya, and Weber, “Racial Bias in Hate Speech and Abusive Language Detection Datasets.”
- 21 Contreras and Martinez, “Fed up with TikTok, Black Creators Are Moving On”; Ohlheiser, “Welcome to TikTok’s Endless Cycle of Censorship and Mistakes.”
- 22 Contreras and Martinez, “Fed up with TikTok, Black Creators Are Moving On.”
- 23 *Reno v. ACLU*, 521 US.
- 24 Communications Act of 1934, 47 U.S.C. §§ 309 (a), 312 (a) (2).
- 25 Krattenmaker and Powe, “The Fairness Doctrine Today.”
- 26 Houser, “Fairness Doctrine—An Historical Perspective.”
- 27 *Red Lion Broadcasting Co. v. FCC*, 395 US.
- 28 *Ibid.*, 395:390.
- 29 *Miami Herald Publishing Co. v. Tornillo*, 418 US.
- 30 *FCC v. Pacifica Foundation*, 438 US at 748–49.
- 31 *Ibid.*, 438:749–50.
- 32 “FCC Broadcast Ownership Rules.”
- 33 Napoli, “Back from the Dead (Again).”¹plainCitation”:”Napoli, “Back from the Dead (Again
- 34 Van Dijck, “Seeing the Forest for the Trees.”
- 35 Helmond, “The Platformization of the Web.”
- 36 Gillespie, “The Politics of ‘Platforms,’” 352.
- 37 Nieborg and Helmond, “The Political Economy of Facebook’s Platformization in the Mobile Ecosystem.”
- 38 Helmond, “The Platformization of the Web.”
- 39 de Kloet et al., “The Platformization of Chinese Society.”
- 40 Isaac and Frenkel, “Gone in Minutes, Out for Hours”; Lawler, “Facebook Is Back Online after a Massive Outage That Also Took down Instagram, WhatsApp, Messenger, and Oculus.”

Bibliography

- Ad Age. "TikTok Users Are Surprised to Find Themselves in Ads for the App," October 7, 2019. <https://adage.com/article/digital/tiktok-users-are-surprised-find-themselves-ads-app/2204996>.
- Allyn, Bobby. "Here Are 4 Key Points from the Facebook Whistleblower's Testimony on Capitol Hill." *NPR*, October 5, 2021, sec. Technology. <https://www.npr.org/2021/10/05/1043377310/facebook-whistleblower-frances-haugen-congress>.
- Bauder, David, and Michael Liedtke. "Whistleblower: Facebook Chose Profit over Public Safety." Associated Press, October 4, 2021. <https://apnews.com/article/facebook-whistleblower-frances-haugen-4a3640440769d9a241c47670facac213>.
- Biden v. Knight First Amendment Institute at Columbia Univ. (US Supreme Court 2021).
- Chan, J. Clara, and J. Clara Chan. "TikTok Fixes 'Significant Error' in Creator Marketplace After Phrases 'Erroneously' Flagged as Hate Speech." *The Hollywood Reporter* (blog), July 8, 2021. <https://www.hollywoodreporter.com/business/digital/tiktok-creator-marketplace-ziggi-tyler-1234979570/>.
- Chen, Tanya. "Black Creators On TikTok Say Their Accounts Are Being Banned For Strange And Unjust Reasons." BuzzFeed News, January 28, 2021. <https://www.buzzfeednews.com/article/tanyachen/black-creators-on-tiktok-say-their-accounts-are-being-banned>.
- Communications Decency Act §§ 151 et seq.
- Contreras, Brian, and Marisa Martinez. "Fed up with TikTok, Black Creators Are Moving On." *Los Angeles Times*, September 16, 2021, sec. Technology. <https://www.latimes.com/business/technology/story/2021-09-16/fed-up-with-tiktok-black-users-are-moving-on>.
- Davidson, Thomas, Debasmita Bhattacharya, and Ingmar Weber. "Racial Bias in Hate Speech and Abusive Language Detection Datasets." *ArXiv:1905.12516 [Cs]*, May 29, 2019. <http://arxiv.org/abs/1905.12516>.
- De Kloet, Jeroen, Thomas Poell, Zeng Guohua, and Chow Yiu Fai. "The Platformization of Chinese Society: Infrastructure, Governance, and Practice." *Chinese Journal of Communication* 12, no. 3 (July 3, 2019): 249–56. <https://doi.org/10.1080/17544750.2019.1644008>.
- Federal Communications Commission. "FCC Broadcast Ownership Rules," February 10, 2011. <https://www.fcc.gov/consumers/guides/fccs-review-broadcast-ownership-rules>.
- FCC v. Pacifica Foundation, 438 US 726 (Supreme Court 1978).
- Ghaffary, Shirin. "How TikTok's Hate Speech Detection Tool Set off a Debate about Racial Bias on the App." *Vox*, July 7, 2021. <https://www.vox.com/recode/2021/7/7/22566017/tiktok-black-creators-ziggi-tyler-debate-about-black-lives-matter-racial-bias-social>
- . "The Algorithms That Detect Hate Speech Online Are Biased against Black People." *Vox*, August 15, 2019. <https://www.vox.com/recode/2019/8/15/20806384/social-media-hate-speech-bias-black-african-american-facebook-twitter>.
- Gillespie, Tarleton. "The Politics of 'Platforms.'" *New Media & Society* 12, no. 3 (2010): 347–64. <https://doi.org/10.1177/1461444809342738>.
- Helmond, Anne. "The Platformization of the Web: Making Web Data Platform Ready." *Social Media + Society* 1, no. 2 (July 1, 2015): 2056305115603080. <https://doi.org/10.1177/2056305115603080>.
- Horwitz, Jeff. "The Facebook Whistleblower, Frances Haugen, Says She Wants to Fix the Company, Not Harm It." *Wall Street Journal*, October 3, 2021, sec. Business. <https://www.wsj.com/articles/facebook-whistleblower-frances-haugen-says-she-wants-to-fix-the-company-not-harm-it-11633304122>.
- Houser, Thomas J. "Fairness Doctrine—An Historical Perspective" 47, no. 3 (1972): 550–70.
- Isaac, Mike, and Sheera Frenkel. "Gone in Minutes, Out for Hours: Outage Shakes Facebook." *The New York Times*, October 4, 2021, sec. Technology. <https://www.nytimes.com/2021/10/04/technology/facebook-down.html>.
- Knight First Amendment Inst. *Columbia v. Trump*, 928 F. 3d 226 (Court of Appeals, 2nd Circuit 2019).
- Krattenmaker, Thomas G., and L. A. Powe. "The Fairness Doctrine Today: A Constitutional Curiosity and an Impossible Dream." *Duke Law Journal* 1985, no. 1 (February 1985): 151. <https://doi.org/10.2307/1372437>

Lawler, Richard. "Facebook Is Back Online after a Massive Outage That Also Took Down Instagram, WhatsApp, Messenger, and Oculus." *The Verge*, October 4, 2021. <https://www.theverge.com/2021/10/4/22708989/instagram-facebook-outage-messenger-whatsapp-error>.

Lorenz, Taylor. "The Original Renegade." *The New York Times*, February 13, 2020, sec. Style. <https://www.nytimes.com/2020/02/13/style/the-original-renegade.html>.

Miami Herald Publishing Co. v. Tornillo, 418 US 241 (Supreme Court 1974).

Mitchell, Taiyler Simone. "Black Creators Say TikTok's Algorithm Fosters a 'consistent Undertone of Anti-Blackness.' Here's How the App Has Responded." *Insider*. Accessed October 9, 2021. <https://www.insider.com/a-timeline-of-allegations-that-tiktok-censor>.

Napoli, Philip. "Back from the dead (again): The specter of the Fairness Doctrine and its lesson for social media regulation." *Policy @ Internet* 13, no. 2 (2021): 300-314.

Nieborg, David B, and Anne Helmond. "The Political Economy of Facebook's Platformization in the Mobile Ecosystem: Facebook Messenger as a Platform Instance." *Media, Culture @ Society* 41, no. 2 (March 1, 2019): 196-218. <https://doi.org/10.1177/0163443718818384>.

Ohlheiser, Abby. "Welcome to TikTok's Endless Cycle of Censorship and Mistakes." *MIT Technology Review*, July 13, 2021. <https://www.technologyreview.com/2021/07/13/1028401/tiktok-censorship-mistakes-glitches-apologies-endless-cycle/>.

Pappas, Vanessa, and Kudzi Chikumbu. "A Message to Our Black Community." *TikTok | Newsroom*, June 1, 2020. <https://newsroom.tiktok.com/en-us/a-message-to-our-black-community>.

Red Lion Broadcasting Co. v. FCC, 395 US 367 (Supreme Court 1969).

Reno v. American Civil Liberties Union, 521 US 844 (Supreme Court 1997).

Rosenblatt, Kalhan. "Months after TikTok Apologized to Black Creators, Many Say Little Has Changed." *NBC News*, February 9, 2021. <https://www.nbcnews.com/pop-culture/pop-culture-news/months-after-tiktok-apologized-black-creators-many-say-little-has-n125672>

Sap, Maarten, Dallas Card, Saadia Gabriel, Yejin Choi, and Noah A. Smith. "The Risk of Racial Bias in Hate Speech Detection." In *Proceedings of the 57th Annual Meeting of the Association for Computational Linguistics*, 1668-78. Florence, Italy: Association for Computational Linguistics, 2019. <https://doi.org/10.18653/v1/P19-1163>.

TikTok Creator Portal. "Creator Marketplace," December 30, 2020. <https://www.tiktok.com/creators/creator-portal/en-us/getting-paid-to-create/creator-marketplace/>.

Van Dijck, José. "Seeing the Forest for the Trees: Visualizing Platformization and Its Governance." *New Media @ Society* 23, no. 9 (September 2021): 2801-19. <https://doi.org/10.1177/1461444820940293>.

Wicker, Jewel. "Renegade Creator Jalaiah Harmon on Reclaiming the Viral Dance." *Teen Vogue*, April 15, 2020. <https://www.teenvogue.com/story/jalaiah-harmon-renegade-creator-viral-dance>.