



Beyond the Christchurch Call: A Scoping Framework for Developing Regulation & Policy for Social Media & Digital Intermediaries

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Introduction

This is an initial discussion paper intended to scope out the shape of potential regulatory/policy responses to the social media issues that have arisen in the wake of the March 2019 Christchurch Mosque terrorist attacks, which were live-streamed via Facebook and other social media sites. The analysis presented does not, at this stage, provide definitive recommendations. However, it does set out a range of issues pertinent to the development of policy and regulatory measures for social media and digital intermediaries and online platform operators. These include identification of different potential points of regulatory intervention, the relevant actors/agents, and some of the possible mechanisms that might be considered in future policy deliberations.

This paper arises in the context of the imminent 'Christchurch Call²', the international summit being held in Paris on 15 May 2019, initiated and chaired by New Zealand prime minister, Jacinda Ardern, and French president, Emmanuel Macron. The aim of the Christchurch Call is for governments to engage technology companies and identify ways to eliminate terrorist and other extremist content from online media. Placing the issue of social media regulation on the discussion table at a multilateral government forum represents a significant opportunity. Although gaining support in principle for measures to prevent live-streaming terrorism should not be controversial, there is no expectation that any binding agreement will be forthcoming, given the short time-frame and the complexity of aligning diverse state and industry interests³.

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² See <https://www.beehive.govt.nz/release/nz-and-france-seek-end-use-social-media-acts-terrorism>

³ See <https://www.radionz.co.nz/national/programmes/first-up/audio/2018694924/pm-in-paris-for-christchurch-call-summit>

The context of supra-national media policy deliberations

The history of international initiatives to re-shape international communication practices to serve the public interest has often followed a narrative of noble intentions and proclamations followed by compromises and fractious collapses of initial consensus as vested interests deflect and dilute measures which do not align with their political or economic objectives. For example, the efforts to promote more equitable social development through a New World Information and Communication Order (NWICO) at UNESCO in the late 1970s culminated in the 1980 MacBride Report (Many Voices, One World)⁴ which called for radical reforms of international media regulations. Backed by many developing countries and the Non-Aligned Movement along with sympathetic academics, the proposals were vehemently opposed by corporate media interests and several western governments⁵, including the USA and UK which walked away from the NWICO discussion table and, indeed, UNESCO itself.

Meanwhile, the ITU-facilitated World Summit on the Information Society (WSIS)⁶ in 2003-5 was intended to provide an inclusive multi-stakeholder forum to address digital divide issues. Although it expressly intended to include civic voices, the interests of government and industry actors dominated discussions. Civil society representatives felt their concerns were being marginalized, and eventually they issued an alternative WSIS declaration document⁷. The moral of these stories is that supra-national, multi-lateral negotiations on media regulation become highly politicised once the discussion moves beyond platitudes and begins to contemplate concrete regulatory measures liable to compromise geopolitical interests or profits. It is also important to differentiate between multilateral initiatives which are substantive, reallocate resources or change behaviours- and those which are primarily symbolic and give the appearance of governments/industry taking resolute action without actually committing to meaningful change. It remains to be seen whether the Christchurch Call follows a similar trajectory.

Social media issues

Social media and other digital intermediaries are certainly no different to any other corporations in this respect. Although Facebook has often attracted more critical scrutiny than other digital intermediaries and content-hosting/sharing media, its role in enabling the live-streaming of the Christchurch terrorist attacks and its historical recalcitrance in blocking extremist content is instructive. Much was made of Facebook's March 2019 decision to block white nationalist and white separatist content⁸. However, as Vice's Motherboard investigation⁹ uncovered, this came only after prolonged criticism over its manoeuvre to ban *white supremacist* content in the wake of the racially-motivated Charlottesville murder in 2017, while permitting posts and groups promoting white *nationalism* and *separatism* to remain. Meanwhile, in 2018, Channel 4's Dispatches¹⁰ uncovered Facebook's 'shielded review' policy which permitted high traffic-generating pages exhibiting extremist/hate-speech content to remain despite repeated complaints that offensive/hate-speech content (posted by groups such as the English Defence League and Britain First) violated its community standards. Again, Facebook eventually acquiesced to the growing pressure to block these groups in April 2019¹¹, but the tension

⁴ Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000040066>

⁵ See http://www.uta.fi/cmt/en/contact/staff/kaarlenordenstreng/publications/CUC_Modern_Communication_article_by_Nordenstreng.pdf

⁶ See <https://www.itu.int/net/wsis/>

⁷ Available at <https://www.itu.int/net/wsis/docs/geneva/civil-society-declaration.pdf>

⁸ See <https://www.theguardian.com/technology/2019/mar/27/facebook-white-nationalism-hate-speech-ban>

⁹ Available at <https://www.theguardian.com/technology/2019/mar/27/facebook-white-nationalism-hate-speech-ban>

¹⁰ Available at <https://www.channel4.com/press/news/dispatches-investigation-reveals-how-facebook-moderates-content>

¹¹ See <https://www.wired.co.uk/article/britain-first-ban-facebook>

between shareholder interests and community standards is apparent. Parallel concerns have been raised about YouTube algorithms designed to optimize traffic and user consumption by recommending increasingly extreme content in response to key-word searches¹².

Part of the problem here is that a variety of digital intermediaries, especially those operating through global platforms, fall outside both traditional regulatory frameworks and national/domestic jurisdictions. Leading Canadian communication policy scholar, Dwayne Winseck, points out that the size and global scope of the large tech companies means that they have often been looked to as the default agents for regulatory responses. Under the guise of self-regulation, tech companies have selectively adopted modes of monitoring content while resisting attempts to impose statutory regulations as an affront to free speech¹³. Nevertheless, it is interesting that Facebook CEO Mark Zuckerberg has recently acknowledged that it is problematic for social media companies to be the arbiters of what sort of content is acceptable and has called for more regulatory guidance¹⁴.

As a recent article by Terry Flew, Fiona Martin and Nicos Suzor in the *Journal of Digital Media & Policy*¹⁵ suggests, there is a growing international concern about the need to ensure that social media and other digital intermediaries are held accountable to some form of public interest principles. In 2016, the European Commission, in conjunction with several major tech firms, introduced a Code of Conduct¹⁶ to restrict the proliferation of online hate-speech. In 2017, Germany also introduced its Network Enforcement Act (NetzDG) which requires the removal of hate-speech, although since coming into full effect in 2018, it has been contested by right-wing opponents who contend it restricts free speech¹⁷.

In the UK, meanwhile, a 2017 House of Commons report on hate crime and online extremism¹⁸ was highly critical of social media companies earning advertising revenue from the proliferation of online hate-speech and extremism, and identified the inapplicability of traditional frameworks of media regulation to social media and digital platform operators. A subsequent 2019 House of Commons report on fake news¹⁹ similarly raised significant concerns over the abuse of personal data acquired and sold by social media operators to third parties (such as Cambridge Analytica) which proliferate disinformation and seek to interfere with electoral processes.

The policy context in Aotearoa/New Zealand

Here in New Zealand, the fundamental media policy frameworks have changed relatively little since the deregulation of the Rogernomics era, from the mid-1980s and 1990s. Light-touch regulation has generally been preferred, with policy interventions generally focusing on the state sector itself (e.g. public broadcasters). The balance of inter-ministerial priorities has historically seen budgetary and economic growth considerations emphasized over cultural and democratic considerations, although the context of the Christchurch Call may present an opportunity to redress this. The regulation of media and communications is still largely framed in terms of the respective Broadcasting and Telecommunications Acts. Despite

¹² See <https://www.theatlantic.com/politics/archive/2018/03/youtube-extremism-and-the-long-tail/555350/> also

<https://www.stuff.co.nz/national/politics/112724135/christchurch-call-could-lead-to-work-on-redpilling-of-online-radicalisation>

¹³ See http://www.davidellis.ca/wp-content/uploads/2015/01/winseck-Intermediary-Responsibility_Final-APH.pdf

¹⁴ See <https://www.newshub.co.nz/home/new-zealand/2019/03/facebook-has-too-much-power-over-speech-mark-zuckerberg.html>

¹⁵ See <https://www.ingentaconnect.com/contentone/intellect/jdmp/2019/00000010/00000001/art00005>

¹⁶ Available at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/countering-illegal-hate-speech-online_en

¹⁷ See <https://www.theatlantic.com/international/archive/2018/05/germany-facebook-afd/560435/>

¹⁸ Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/609/609.pdf>

¹⁹ Available at <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomeds/1791/1791.pdf>

more recent amendments (notably to enable roll-out of Ultra-Fast Broadband), these still have loopholes and inconsistencies in respect to online intermediary services.

The complexities of digital convergence have been recognised by previous governments but to date none have been able to overhaul the regulatory framework. Labour's 2008 *Review of Regulation* consultation²⁰ explored options for creating a more consistent framework for online media and content classification, and significantly, it explored regulatory issues across the value chain, from content creation and aggregation to distribution channels and networks. However, the broad scope of the review led to intense lobbying from commercial media interests opposed to expanded statutory intervention. Labour's programme was subsequently terminated by the incoming National-led government in 2009. National then introduced a revised (and narrower) consultation *Exploring Digital Convergence* (including *Content Regulation in a Converged World*)²¹ which attempted to address the gaps in the telecommunications and Broadcasting Acts concerning online services and content standards. However, national's Digital Convergence Bill was put on hold by the incoming Labour-led government in 2017²². Since then, the Ministry for Culture and Heritage has undertaken a further consultation with industry and civic stakeholders in May 2018, while the department of Internal Affairs is currently consulting on a proposal to standardise classifications for commercial video-on-demand content. However, none of these initiatives have encompassed the issues surrounding social media and digital intermediaries that have emerged in the wake of the Christchurch attacks.

Social media regulation in Aotearoa/New Zealand

There has nevertheless already been extensive deliberation on the potential for social media to be abused in ways that are harmful. The 2015 Harmful Digital Communications Act²³ sought to address problems such as cyber-bullying and online sexual harassment, but did not explicitly deal with matters of hate-speech and extremism. Since the Christchurch attacks, there have unsurprisingly been calls for further regulatory responses to the issues raised by the abuse of social media. The Better Public Media Trust's 2019 David Beatson Memorial Lecture²⁴ in Christchurch identified a need for independent regulation of social media, codes of practices, and oversight of the algorithms governing online content discovery through social media feeds and search engines.

A May 2019 report (Anti-Social Media²⁵) by the Helen Clark Foundation noted that, even if the social media companies have no intention to promote extremist content per se, they are highly motivated to optimise traffic through the sharing and discussion of controversial material. The report recommends establishing an independent regulator for social media imposing a statutory 'duty of care' on social media to minimize harm to their users, and working with social media companies, policy makers and law enforcement agencies to find ways to restrict hate speech and extremism.

Another report from The Workshop (Digital Threats to Democracy²⁶) in May 2019 identified 3 overarching regulatory challenges; platform monopolies, algorithmic opacity, and the attention economy (limited time to consume content combined with a huge range of choice). The report

²⁰ See <https://mch.govt.nz/research-publications/our-research-reports/digital-broadcasting-review-regulation-january-2008>

²¹ See <https://mch.govt.nz/contentregulation> and <https://mch.govt.nz/exploring-digital-convergence-issues-policy-and-legislation-august-2015>

²² See <https://www.beehive.govt.nz/release/digital-convergence-bill-put-hold>

²³ See <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/harmful-digital-communications/>

²⁴ Available at https://www.youtube.com/watch?v=c-2Bck-pa_s&t=

²⁵ Available at <https://www.helenclark.foundation/wp-content/uploads/2019/05/thcf-social-media-report-min.pdf>

²⁶ Available at <https://static1.squarespace.com/static/5cbe92fc4f683f10f6c8de5/t/5cd241278d34250001741b01/1557283123703/DD-single-report-combined-WEB.pdf>

calls for a range of measures including regulating media platform providers, collective action by consumers/citizens and more provisions of public service media. Interestingly it also calls for technological solution in the design of digital platform architectures to encourage civic participation.

InternetNZ has also made some pertinent observations about the Christchurch Call, notably the need for clearly-defined outcomes and for any regulatory response to include civil society, not only government and the tech sector. To that end, they facilitated a civil society statement on the Christchurch Call response, emphasizing human rights and a free and open internet as core principles²⁷. InternetNZ's Jordan Carter and the Internet Society's Konstantinos Komaitis also point out the need for a regulatory response which is proportionate, evidence-based, and targeted in a way that does not inadvertently undermine open access to the infrastructures of the internet²⁸.

The Christchurch Call- Tip of the Iceberg?

The Christchurch Call represents a move toward a multilateral solution to the worst excesses of social media abuse. This summit will only be a starting point, and although a supra-national accord agreeing principles for controlling and removing online hate-speech and other objectionable content is important, any substantive regulatory response will still need to be articulated and implemented on a domestic level. As noted above, some commentators have argued that policy deliberations need to be kept focused narrowly on online hate-speech and extremism. This would probably help expedite some sort of resolution of the immediate Christchurch Call policy issue. However, scoping the response too narrowly on certain types of content on specific types of platform could also waste an important opportunity to progress much-needed system-wide regulatory reforms that are now at least a decade overdue. There are two important arguments in favour of a broader approach;

1. The concerns over online hate-speech and extremism, while important, are just the tip of the policy iceberg and are symptomatic of a range of deeper structural conditions in the digital media ecology, including:
 - a) Intensified financialization and commercial competition (with commensurate increases in market failures and opportunity costs of maintaining civic/cultural obligations);
 - b) Disruption of traditional value chains and business models through convergence; and
 - c) New forms of network dominance stemming from digital intermediaries' dominance of the architectures/algorithms of content discovery (and thereby audience traffic and associated revenues).
2. The deliberations surrounding the Christchurch Call has opened up a rare opportunity to bring government, industry and civil society together and table proposals for regulating social media and digital intermediaries with less risk of pre-emptive de-legitimation in the form of wholesale opposition from vested commercial interests (or for that matter, government departments sceptical of regulatory intervention in the market). Put simply, there has arguably been no better time in the past two decades to progress meaningful structural media policy reform in order to redress distortions of market competition (e.g. the wholesale co-option of advertising revenues by intermediaries which invest nothing in content production) and 'claw back' civic and democratic provisions lost in the regulatory gaps over the past decade (including the declining investment in public interest journalism).

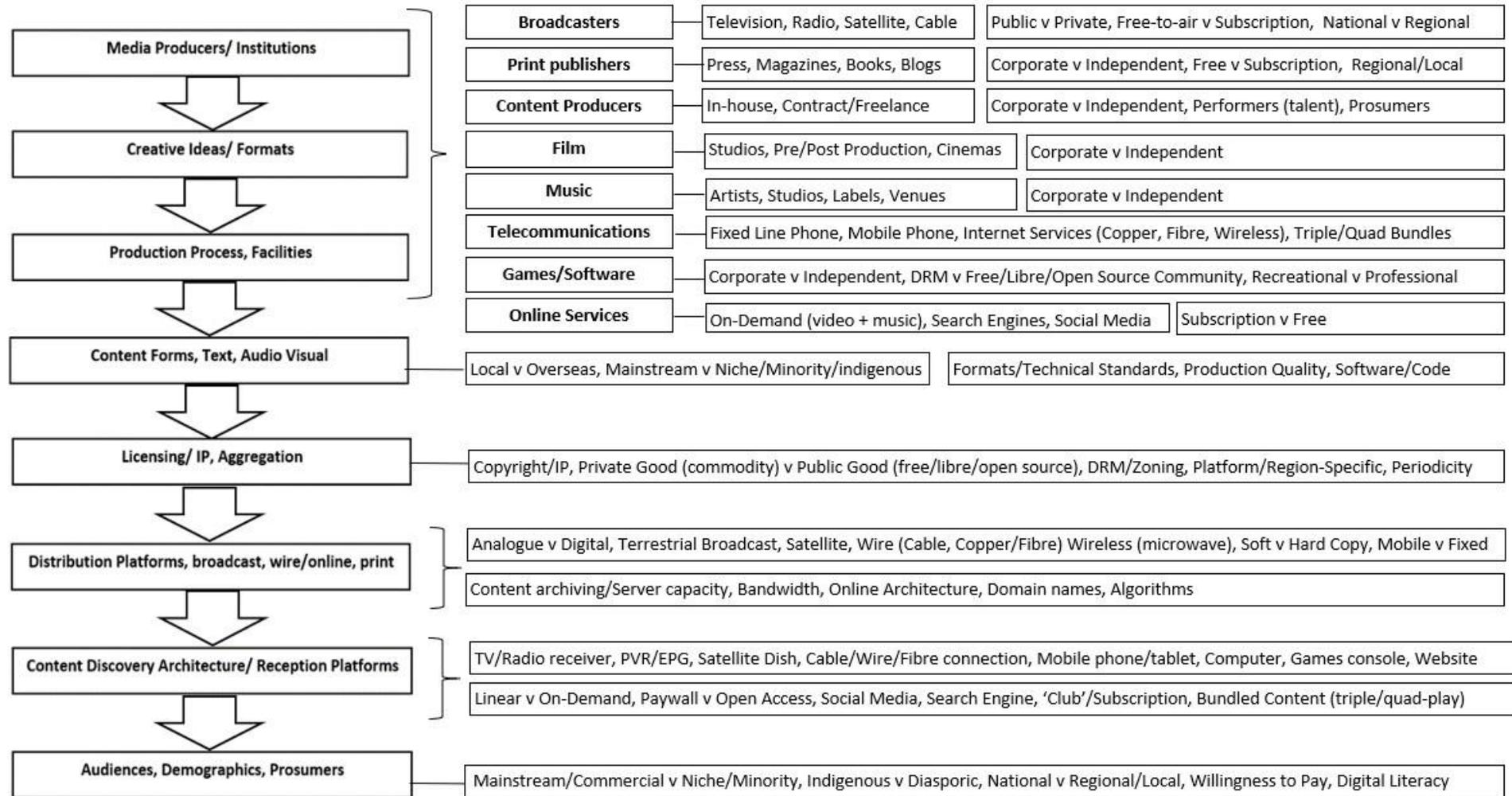
²⁷ Available at <https://docs.google.com/document/d/10RadyVQUNu1H5D7x6IJVKbqmaeDeXre0Mk-FFNkIVxs/edit>

²⁸ See <https://www.stuff.co.nz/national/christchurch-shooting/112704241/how-to-regulate-the-internet-without-shackling-its-creativity>

A scoping framework for policy deliberations

It is not the aim of this paper to make any definitive policy proposals/recommendations in response to the Christchurch Call or the wider set of regulatory concerns it engenders. However, it does propose to set out an heuristic framework for working through the regulatory issues and potential policy responses. To this end, an expanded 'value chain' model is set out below, identifying different layers of the media sector which represent potential points of intervention. Importantly, this differentiates between the levels of content distribution and content discovery/reception which is a crucial point where the platforms and algorithms of social media and other digital intermediaries have become dominant (see fig.1 below).

Fig 1. Value chain break-down of the digital media sector



The same basic value chain framework can then be used to identify different policy issues and points of potential intervention on each level of the market as indicated in fig. 2, below:

Fig 2. Value chain break-down of policy issues



One important implication of the model here is that 'upstream' levels can affect 'downstream' levels (and in some cases vice-versa). So for example, the shape of ownership and level of market concentration will affect content priorities (such as driving news providers to seek online traffic through 'clickbait') while new forms of content discovery via mobile/online platforms may fragment audiences and influence content formats and distribution

channels (e.g. 'digital first' policies). Concomitantly, regulatory interventions at one level may have implications (whether intentional or inadvertent) for others. For example, imposing copyright restrictions on online content sharing or imposing a levy on online advertising spending would influence the business models of digital intermediaries. Similarly, subsidising the expansion of broadband networks affects consumer take-up of on-demand content streaming services. Obviously, this heuristic model does not make predictions about the efficacy of specific policy interventions- that depends on the configuration of the media market and the institutional priorities of the media actors comprising it. However, it does invite a more holistic approach to identifying regulatory interventions.

Applying the framework to social media in the Christchurch Call context

Even if there is a broad consensus that something needs to be done about extremist/terrorist/hate speech online, generic calls to 'regulate Facebook' and other social media are unhelpful unless the nature and source of the problems are being correctly identified and regulatory interventions are targeted appropriately and proportionately. Four key questions arise here:

- 1) What exactly is the issue to be resolved and what policy outcome is desired?
- 2) At what point of the value chain should regulatory intervention be focused?
- 3) What agents are responsible for implementing and enforcing regulatory measures?
- 4) What mechanisms for delivering the policy outcomes are to be employed?

A table outlining some of the policy issues, points of intervention, agents of regulation and potential mechanisms on social media issues is presented below in fig.3, but some preliminary discussion is needed to illustrate some of the technical and normative complexities liable to arise.

Insofar as the primary aim of the Christchurch Call is to restrict/prevent the dissemination of extremist content through online media, it might be assumed that content forms themselves would be the principal focus of any regulatory intervention. This is certainly one possibility, insofar as content standards can be defined and enforced. However, the point at which content might be subject to regulation can be debated. The ultimate aim of the Christchurch Call is to inhibit terrorist activity itself, not only its live-streaming/recording (i.e. the conditions of production which precede content creation and dissemination). There are likely practical limitations to this, not least because even if law enforcement agencies were, for instance, allowed to use social media data to pre-emptively identify potential terrorists/extremists (a response many would consider an infringement of civil liberties), those committed to extreme causes will still be able to make use of the non-mainstream 'dark web' to remain 'under the radar'.

There are also practical issues of defining what sorts of content are injurious to the public good. In New Zealand, the Office of Film and Literature Classification already has a framework which the Chief Censor recently employed to designate the Christchurch terrorist's video and manifesto as objectionable²⁹. Although removing such extreme content from mainstream social media platforms arguably took too long, this is not an unduly difficult task in technical terms, assuming social media companies are willing to comply with legal rulings. However, while few would dispute that live-streamed mass murder should be banned, it is less straight-forward to decide exactly where contentious political, cultural and religious views cross the line of acceptability (indeed, not everyone is comfortable with the Chief Censor's decision to ban the Christchurch terrorist's manifesto³⁰).

²⁹ See <https://www.rnz.co.nz/news/national/385501/chief-censor-defends-classifying-manifesto-objectionable>

³⁰ See <https://www.noted.co.nz/currently/social-issues/why-banning-the-accused-gunman-s-manifesto-is-a-bad-idea/>

This becomes even more problematic when considering whether entire groups or movements should be restricted. Facebook's decision to remove groups like Britain First is arguably justified on the basis that these groups actively promoted racial and religious intolerance. However, the UK government does not currently class them among banned terror/extremist organisations (like more militant far right groups such as National Action). One might contend that unless *all* the views expressed by people affiliated with the group were intrinsically objectionable, free speech is imperiled when popular sentiment or political correctness drives social media companies to impose wholesale bans on legal public organisations and become the arbiters of what sort of views are permitted online. This is further complicated when one considers that different countries and cultures have different norms, values and degrees of tolerance but may be able to discover content based on overseas servers which lie outside domestic jurisdictions. There is inevitably a tension here between regarding social media as an open 'public sphere' and protecting free speech as sacrosanct while on the other hand recognising that free speech can be abused in harmful ways if left unregulated.

As noted earlier, the responsiveness of social media companies to official demands for content to be removed has varied. If self-regulatory measures and voluntary codes of practice regulators are insufficient to motivate their compliance in removing harmful content, then regulators could require internet service providers (ISPs) to block access to websites designated as objectionable. Denying content discovery by restricting internet access is opposed by some civic groups as a step toward controlling the infrastructure and threatening open access, although technically speaking, it is not unduly difficult and it can be targeted to specific URL addresses. ISPs are generally reluctant regulatory agents, but website blocking is not intrinsically a violation of civil rights, especially in extreme cases. The risk is that such measures might become a heavy-handed default in lieu of more subtle policy measures. Countries with authoritarian media policy frameworks such as such as PR China have gone even further and prohibit public access to entire platforms such as Facebook and Google while maintaining strict oversight (including access to records of user activity) over domestic platforms such as Weibo, Baidu, Renren and WeChat (although the motive here may be as much economic as political).

Another complexity in policing extremist content is that the potential harm inflicted on individual consumers or society as a whole from exposure is easier to police in hindsight than pre-emptively. Lone-wolf terrorists typically do not place classification guidelines on their content in advance of distribution, and if the harm occurs at the point of reception/consumption then the damage is already done. It is therefore difficult to pre-emptively stop the live-streaming of actions like the Christchurch attacks. Pre-vetting/registration of all live-stream users might not have excluded a heretofore unknown extremist, but might well prevent democracy activists from live-streaming a protest action.

Improving regulatory oversight of the algorithms used by social media and online intermediaries to harvest user data and prioritise content in social media feeds or search engine is another possibility. This would, however, require an unprecedented level of transparency from a sector heretofore reluctant to permit such scrutiny. Analysing the code to identify the factors liable to trigger recommendations of extremist content might allow amendments to ensure that such material was not made more easily discoverable by users. However, the business models of social media are premised on optimizing traffic and eyeballs, so any wholesale restriction on algorithms which amplify the visibility/ discoverability of content as its popularity is 'trending' could have economic repercussions. Algorithms are also notoriously crude compared with human judgement and cannot easily recognise contextual cues which might signal that content is problematic. For instance, the Christchurch attacks were recorded on a helmet camera and appeared visually similar to a 'first person shooter' video game, so even with advanced machine-learning and AI, misrecognition/ misclassification of content is likely to remain a significant limitation.

A further issue which emerges here concerns the statutory status of regulatory agents and the enforceability of any code of conduct or set of content standards. Industry almost always prefers minimal statutory provisions because a) self-regulation typically carries a minimal commercial risk of penalties or fines and may well be unenforceable if a media operator disagrees with a ruling, and b) self-regulation typically accepts current

industry practices as a benchmark of reasonable conducts and incremental slippages (e.g. declining content quality due to reductions in revenue) are likely to be accommodated rather than held to a consistent standard. There is also a prevailing ideological suspicion of state regulation as somehow authoritarian and a threat to civil liberties. Despite some historical precedents in New Zealand (e.g. the 1935 jamming of Uncle Scrim) such concerns are usually overstated. Apart from the possibility that industry self-regulation might fail to protect the wider public interest, statutory regulation clearly does not imply direct government interference. Independent arms-length statutory regulation already exists in the form of the BSA, OFLC and Commerce Commission. It is perhaps ironic that in the current context, it appears that some social media operators like Facebook have realized that the burden of expectations upon them to regulate the content delivered through their platforms requires very difficult decisions which are always subject to contestation. Ironically, there may be *less* commercial risk for social media and digital intermediaries in accepting independent statutory legislation against which they can justify their practices.

Amidst the calls for regulation of social media and digital intermediaries, there is often a tacit (and sometimes explicit) assumption that social media and digital intermediaries are more than just platform providers but content aggregators/curators and distributors/publishers. The implied dichotomy between media companies which produce and publish content and those which provide the 'pipes' for the common carriage of other's content is unhelpful in the digital media ecology however. As telecommunications operators have vertically integrated with content providers to provide triple/quad play services (wire-line/mobile, broadband and content) so this value-chain distinction is becoming blurred in both institutional and market boundary terms. More specifically, however, the primary operations of search engines and social media do not entail provision of either the distribution infrastructure or the content forms themselves. Rather, they provide the intermediary architecture/navigation platforms to enable third parties to share and discover content (hence the distinction between the layers of distribution and content discovery in the value chain models in figs. 1 and 2), and in doing so monetise the online traffic thereby generated. This is also why the core operations of social media and search engines tend to fall between the traditional regulatory provisions for telecommunications and broadcasting, and suggests that the prevailing regulatory frameworks need more than cosmetic reform to address concerns related to the practices of social media and digital intermediaries.

Figure 3 below presents a break-down of several regulatory issues arising from concerns about social media and digital intermediaries, and breaks down potential responses in terms of the point of intervention on the value-chain, possible agents of intervention, and the potential mechanism for addressing the issue. The issues identified reflect a broader reform agenda beyond the immediate concerns of the Christchurch Call. Meanwhile, the identification of certain regulatory agents and mechanisms is intended to offer a framework for scoping potential regulatory responses, not to denote their desirability or feasibility.

Fig 3. Value chain model applied to social media/digital intermediaries in the Christchurch Call context

| Regulatory issues | Potential Points of Intervention | Agents of Intervention | Potential Delivery Mechanisms |
|--|--|---|---|
| Proliferation of harmful extremist content including online hate-speech and live-streaming of terrorist acts (e.g. Christchurch mosque attacks) | <ul style="list-style-type: none"> • Content production • Content form • Distribution platforms • Content Discovery & Algorithms • Audience Reception | <ul style="list-style-type: none"> • Police/law enforcement (domestic or multilateral) • Content standards regulators • Advertisers • Internet Service Providers • Digital Intermediaries (social media, search engines) • Algorithmism • Audience | <ul style="list-style-type: none"> • Prosecution of terrorist/extremist groups. • Increased policing of 'dark web'. • Pre-vetting, classification & restriction of content pre-distribution to restrict objectionable material • Pre-vetting for live-streaming access. • Development of codes of online practice for digital intermediaries • Content standards codes vetted post-distribution in response to complaints and/or via algorithms. • Content providers self-police content and/or regulators issue take-down notices. • ISP website blocking. • Advertiser boycotts of non-compliant social media (or possible restrictions on advertising). • Audience media literacy & self-monitoring, also complaints to regulators and authorities, consumer boycotts. |
| Algorithms underpinning search engines and social media news-feeds reinforce audience discovery of viewpoints/perspectives with which they already concur echo chambers & filter-bubbles), undermining civic solidarity and rational dialogue. | <ul style="list-style-type: none"> • Distribution platforms • Content Discovery/Algorithms • Audience reception | <ul style="list-style-type: none"> • Digital intermediaries • Independent regulators • Government • Audience | <ul style="list-style-type: none"> • Increased self-monitoring of algorithms by social media and search engines. • Independent regulator access to and vetting/oversight of algorithms/code (e.g. requiring prioritisation of independent public interest media in news-feeds and web searches). • Government support for public interest media including public service broadcasters and independent journalism. • Audience media literacy. |
| Collation and (a)uses of personal data/ breaches of privacy either by social media or third parties to whom data is made available (e.g. Facebook traded user data to Amazon in return for advertising business) | <ul style="list-style-type: none"> • Content licensing/IP • Content Discovery/Reception • Algorithms • Audience Reception | <ul style="list-style-type: none"> • Police/law enforcement • Independent regulators • Internet Service Providers • Digital Intermediaries (social media, search engines) plus associated 'App' providers • Audience | <ul style="list-style-type: none"> • Legislation to protect privacy of audience personal data as inalienable intellectual property. • Require active consent for data sharing with third parties and rights to revoke consent and delete stored data. • Permit law enforcement agencies to access personal data in order to anticipate extremist activity. • Imposition of limitations on the authorised use of social media data plus periodic reviews of data usage to identify potential abuses exceeding the scope of user consent. • Enhanced audience rights to block undesired advertising. • Audience media literacy, consumer boycotts. |

| | | | |
|---|---|---|--|
| Co-option of social media (and/or search engines) by political agencies for the dissemination of propaganda and/or fake news (e.g. Cambridge Analytica) | <ul style="list-style-type: none"> • Distribution Platforms • Content Discovery • Audience Reception | <ul style="list-style-type: none"> • Police/law enforcement • Independent regulators • Digital Intermediaries (social media, search engines) • Internet Service Providers • Audience | <ul style="list-style-type: none"> • Legislation to criminalise concerted efforts to manipulate elections through abuse of social media. • Expanded fact-checking and fake news detection/removal systems by social media and/or regulators. • Independent regulator access to and vetting/oversight of algorithms/code (e.g. requiring prioritisation of independent public interest media in news-feeds and web searches). • Blocking of identified fake news proliferators from social media and other online platforms. • Audience media literacy. |
| Impact of digital intermediaries on traditional media (e.g. newspapers) by dominating advertising revenue from online traffic through facilitating discovery of third party content (e.g. it is estimated that Google and Facebook account for 70% of online advertising) | <ul style="list-style-type: none"> • Content licensing/IP • Distribution Platforms • Content Discovery/Reception • Audience Reception | <ul style="list-style-type: none"> • Government • Independent regulator • Content producers • Digital Intermediaries • Advertisers | <ul style="list-style-type: none"> • Regulation obliging social media and search engines which facilitate third party audience discovery to contribute to the cost of producing the content thereby discovered/shared. • Impose a marginal levy on domestic advertising via social media/digital intermediaries, with the revenue being redistributed to local content providers. • Subject existing relationships between digital intermediaries, content providers and audiences to market competition/ market power regulations. |
| Concentration, Network effects & monopolisation of the means of online content discovery (e.g. it is estimated that Google and Facebook account for 80% of online referrals) | <ul style="list-style-type: none"> • Media institutions • Content Discovery/Reception • Distribution Platforms | <ul style="list-style-type: none"> • Government (multi-lateral/ domestic) • Independent regulator | <ul style="list-style-type: none"> • Redesignate digital intermediaries as public utilities with civic obligations beyond private shareholders. • Subject existing relationships between digital intermediaries, content providers and advertisers to market competition/ market power regulations. • Require formal break-up or partial nationalisation of digital intermediaries which exert disproportionate market power or fail to operate in the public interest. • Government support for public interest media including public service broadcasters and independent journalism. |
| Concentration, Network effects & monopolisation of the platforms for e-commerce. | <ul style="list-style-type: none"> • Media institutions • Distribution Platforms | <ul style="list-style-type: none"> • Government (multi-lateral/ domestic) • Independent regulator | <ul style="list-style-type: none"> • Redesignate online-e-commerce providers as public utilities with civic obligations beyond private shareholders. • Subject e-commerce platform providers to market competition/ market power regulations. • Require formal break-up or partial nationalisation of e-commerce providers which exert disproportionate market power or fail to operate in the public interest. |

- Document edited 16 May 2019