Social Media and Online Platforms as Publishers
Debate on 11 January 2018

Summary

On 11 January 2018, the House of Lords is scheduled to debate a motion moved by Baroness Kidron (Crossbench) on the "role played by social media and online platforms as news and content publishers".

This short briefing considers some of the issues that have arisen as part of the debate on this subject in recent months. These include, but are not limited to, the role of social media and online platforms as disseminators of inaccurate or misleading information (widely referred to as 'fake news'); the use of such applications by state and non-state actors to influence conflict narratives, sometimes through the posting of illegal content; the role of these networks in preventing online bullying and harassment; and the responsibility held by such platforms when copyrighted content is inappropriately uploaded and shared via their services. Potential responses to these challenges—including government-led and industry-led activity—are then briefly considered. A selection of recommended reading is identified at the end of the briefing for further information on this multi-faceted subject.

Background

The media landscape has changed significantly since the advent of the internet. Alongside the rapid rise in the use of social networks and online platforms by internet users both in the UK and around the world, including as a means of accessing news and other content, there has been an intensification of the debate as to what extent social media and other online companies are media actors rather than simply technology or communications firms. This is because such a distinction would have implications from a regulatory perspective in many jurisdictions: if platforms were deemed to be publishers they would have more responsibilities regarding the content uploaded and shared on their networks than otherwise.

The debate has been complicated by both dominant and emerging online networks and platforms not fitting neatly into previously accepted industry definitions. For example, Mark Zuckerberg, Founder, Chairman and CEO of Facebook (which boasts two billion monthly users) argued in August 2016 that his company was a "tech company, not a media company".[1] This indicated that it was his view that his company acted as a conduit for information and discussion rather than as a publisher of opinion.[2] However, later that year he elaborated by asserting that Facebook was a "new kind of platform".[3] He stated that Facebook was not a "traditional technology company" or a "traditional media company". Rather, he argued, his company "buil[t] technology and we feel responsible for how it's used". Mr Zuckerberg added to this tacit acceptance that Facebook was not solely a technology company when he acknowledged Facebook's role in disseminating news. On this point, he is reported to have said: "we don't write the news that people read on the platform. But at the same time, we also know that we do a lot more than just distribute news and we're an important part of the public discourse".[4]

Claims such as those from Mr Zuckerberg that social media companies and online platforms such as Facebook and Google are not media companies have been contested by industry figures and

commentators. For example, Lionel Barber, Editor of the *Financial Times*, and Emily Bell, Director of the Tow Center for Digital Journalism at Columbia University, have both contended that such firms should hold more responsibility, as publishers, for the content distributed and shared via their platforms.[5] Others, such as Scott Guthrie, writing for the Chartered Institute of Public Relations, have suggested that the definition of a publisher in UK and EU law should be updated to include social media and online platforms so that they fit within the scope of existing regulatory frameworks.[6]

However, these views are not shared by all commentators. For example, Professor William Dutton, the first Professor of Internet Studies at Oxford University, has argued that the regulatory models in place for the broadcast media, newspapers, or other "traditional media", are not well suited to the internet. Rather, he contends that educating users about the need to "critically assess information they are sent through email and by their friends and followers on social media" was "one of the only useful approaches that does not threaten the democratic value of social media and email".[7]

Statistics

Internet Penetration and Devices: UK

The issue of the level of responsibility held by online networks has increased in prominence as more people use the internet to access news and other content online. The most recent Ofcom report on the communications market, published in August 2017, estimated that 88 percent of adults in the UK had internet access at home.[8] In addition, more than four in ten (42 percent) UK internet users, including nearly two-thirds of 16–34 year olds and 44 percent of 35–54 year olds, were reported to regard their smartphones as their most important device for accessing the internet. In line with this finding, smartphones were the internet-connected device UK adults were most likely to own (76 percent), higher than the percentage of adults estimated to own laptops (64 percent) and tablets (58 percent). Smartphone ownership was reported to be highest among younger adults, with more than nine in ten 16–24 year olds and 25–34 year olds (both 96 percent) owning one.[9]

Social Media and Online Platforms: News

Similarly, social media and online platforms have received additional scrutiny over time in line with the rise in their use by individuals to access content, especially news. The most recent report on digital news from the Reuters Institute for the Study of Journalism at the University of Oxford found that across most countries featured in its report there was a "consistent pattern, with television news and online news the most frequently accessed", while readership of printed newspapers was measured to have "declined significantly".[10] The report estimated that, in all markets surveyed, Facebook was used by 70 percent of individuals, with 47 percent of people accessing news via the network. In addition, YouTube was estimated to be used by 61 percent of individuals, with 22 percent accessing news through videos hosted on the site. Instagram, owned by Facebook, was estimated to be the third most widely used social network—with 24 percent of individuals in markets surveyed estimated to be users; with 6 percent accessing news through the application. This was followed by Twitter, used by an estimated 20 percent of individuals, with half of these users accessing news content via the network.[11]

For the UK in particular, the report estimated that 74 percent of UK adults accessed news online— including via social media, through which 41 percent of adults were estimated to have consumed news. This compared with an estimated 69 percent who consumed news via television and 41 percent who read news in the print media—the same proportion as those accessing news via social media.[12] The report also found that more than four in ten (41 percent) of respondents reported using social media to

access news content and that the smartphone now matched the computer as the most important device for accessing news among those surveyed. Furthermore, 6 percent of respondents reported paying for online news.[13]

Issues

False News ('Fake' or 'Junk' News)

A number of issues have emerged as part of the debate on the role of social media and online platforms as publishers of news and content. Arguably the highest profile of these in recent months has been that of 'fake news'. The term reappeared in popular discourse in late 2016, with speculation that false news stories concerning the two main candidates in the most recent US presidential election could have had an impact on the outcome of the election.[14] There have been a number of reasons identified for the apparent increase in false news stories appearing on social media and online platforms in recent months, but there appears to be broad consensus that financial and political drivers have been significant factors behind the perceived rise. In addition, the nature of social media and other online platforms has, in many cases, allowed the rapid spread of such content—whether due to a lack of editorial curation of content by networks themselves, the effect of user- and algorithmic-filtering of content, or the 'viral' popularity of certain content driven by reaction to and sharing by real and automated users.[15]

Conflict Narratives and Extremist Content

The nature of social media networks—their low cost for users, the ease by which they can be accessed via an internet-connected device and the opportunity for content to reach large audiences—has meant they have been attractive to both state and non-state actors as a means to exert influence and disseminate preferred narratives in conflict situations, in some cases through the use of 'fake news' as outlined above. A recent example of the use of social media for information warfare purposes is the use of social networks by actors in the conflicts in Ukraine to influence narratives of events in the region.[16]

The use of social networks and online platforms to disseminate narratives has been taken further by extremists, including individuals associated with so-called Islamic State, who have used such networks to disseminate illegal material online.[17] In May 2017, the House of Commons Home Affairs Committee stated that social media companies "must be held accountable for removing extremist and terrorist propaganda hosted on their networks" and urged the Government to assess "whether the continued publication of illegal material and the failure to take reasonable steps to identify or remove it is in breach of the law, and how the law and enforcement mechanisms should be strengthened in this area".[18] In response, the Government stated that it expects companies to "do more to proactively detect and remove terrorist content from their platforms" and would "consider various options for strengthening UK law if the companies do not make sufficient progress in tackling the issue".[19]

Online Bullying and Harassment

In October, the Government published an Internet Safety Strategy consultation document in which it proposed a new social media code of practice to "see a joined-up approach to remove or address bullying, intimidating or humiliating online content"; an industry-wide levy "so social media companies and communication service providers contribute to raise awareness and counter internet harms"; and an "annual internet safety transparency report to show progress on addressing abusive and harmful content and conduct".[20] The Government is currently considering responses to the consultation. Speaking on the day of the strategy's publication, Karen Bradley, Secretary of State for Digital, Culture,

Media and Sport, said that she hoped to tackle cyber bullying and other internet safety issues by working with social media companies, although she did not rule out legislating if necessary.[21] She said that such companies "are not legally publishers at this stage", but the Government was "looking at their role and responsibilities and […] at what their status should be".

Intellectual Property and Copyright

Social media and online platforms allow users to post content, including written, audio and visual matter, that may be subject to copyright. Users who infringe copyright by inappropriately posting content, the rights to which they do not own, may be liable to legal action by the copyright holder. Critics have suggested that certain social media platforms, such as Facebook, could do more to avoid copyright infringement on their networks, though it should be noted that Facebook has introduced changes to mitigate against the issue on its platform.[22]

Responses

A number of potential mitigations or solutions to the issues outlined above have been suggested or put into practice in recent months, with measures balanced between government-led regulation in certain jurisdictions and industry-led initiatives in others.

Regulation

In respect of regulation, a number of jurisdictions have legislated, or announced plans to legislate, to make social media and online platforms more responsible for the content hosted and shared on their networks. For example, on 1 January 2018 new rules came into effect in Germany that require platforms with over two million users, such as Facebook and Twitter, to remove potentially illegal material within 24 hours of being notified or face fines of up to €50 million.[23] In France, President Emmanuel Macron has announced plans to legislate to tighten the rules on what content social media companies could permit to be posted on their sites during elections.[24] At an EU level, the EU Commission has launched a public consultation on the issue of 'fake news' and announced plans to set up an expert panel on the subject to advise the Commission on "all issues arising in the context of fake information spread across traditional and social media and how to cope with its social and political consequences".[25]

In the UK, the Government has outlined its view that "as the internet comes of age, it needs to acknowledge its responsibilities".[26] In a speech to the UK Internet Governance Forum, Matt Hancock, Minister of State for Digital at the Department for Digital, Culture, Media and Sport, set out the Government's ambitions, as part of its work on a Digital Charter, to "create a world-leading framework for understanding online conduct". He also commented on the Government's intention to assist "high quality journalism" find a sustainable business model; continue cooperation with industry in respect of taking down terrorist and extremist material online; and support further copyright reform.[27]

Industry-led Initiatives

The UK Government has cited examples of the social media platforms assisting with the policing of content on their sites, including examples of terrorist and extremist material, pirated music and indecent images of children.[28] It has also been reported that social media and web search industries have made changes to how their networks operate, including to the algorithms which dictate what content is visible to users, as a means to inhibit the spread of 'fake news' and copyrighted material on their platforms.[29]

Key Documents

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- Parliamentary Office of Science and Technology, *Online Information and Fake News*, 12 July 2017
- European Parliamentary Research Service, *Understanding Disinformation and Fake News*, April 2017; and *Disinformation, 'Fake News' and the EU's Response*, November 2017
- Congressional Research Service, *Information Warfare: The Role of Social Media in Conflict*, 4 March 2015
- House of Commons Library, *Online Harassment and Cyber Bullying*, 13 September 2017
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Further Information

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- House of Commons Digital, Culture, Media and Sport Committee, 'Fake News Inquiry (2016–17 Session)'; and 'Fake News Inquiry (2017–19 Session)'
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[3] Samuel Gibbs, 'Mark Zuckerberg Appears to Finally Admit Facebook is a Media Company', *Guardian*, 22 December 2016.
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[5] Freddy Mayhew, 'FT Editor Lionel Barber Calls on 'Deeply Flawed' Social Media Networks to 'Drop the Pretence' They Are Not Media Companies', *Press Gazette*, 14 November 2017; and Emily Bell, 'Technology Company? Publisher? The Lines Can No Longer be Blurred', *Guardian*, 2 April 2017.
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[15] ibid; and Parliamentary Office of Science and Technology, *Online Information and Fake News*, 12 July 2017.
[16] Congressional Research Service, *Information Warfare: The Role of Social Media in Conflict*, 4 March 2015, p 1.
[17] ibid.
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[19] Home Office, *Government Response: Hate Crime: Abuse, Hate and Extremism Online*, December 2017, Cm 9556, pp 1–2.
[20] HM Government, 'Making Britain the Safest Place in the World to be Online', 11 October 2017. See also HM Government, *Internet Safety Strategy: Green Paper*, October 2017.
[21] Peter Walker, 'Google and Facebook to be Asked to Pay to Help UK Tackle Cyberbullying', *Guardian,* 11 October 2017.
[22] Rob Price, 'Facebook's New Video Business is Awash with Copyright Infringement and Celebrities are Some of the Biggest Offenders', Business Insider UK, 6 May 2015; and Josh Constine, 'Facebook Lets Content Owners Claim Ad Earnings of Pirated Videos', TechCrunch, 27 April 2017.
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[24] BBC News, 'Emmanuel Macron: French President Announces 'Fake News' Law', 3 January 2018.
[25] European Commission, 'Call for Applications for the Selection of Members of the High Level Group on Fake News', 12 November 2017; 'Next Steps Against Fake News: Commission Sets up High-Level Expert Group and Launches Public Consultation', 13 November 2017; and Nikolaj Nielsen, 'EU Commission to Target Fake News', EU Observer, 13 November 2017.
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