



Musk's free speech takeover of Twitter won't necessarily mean freer speech

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On March 25, Elon Musk tweeted “Free speech is essential to a functioning democracy. Do you believe Twitter rigorously adheres to this principle?” Musk then bought the platform to implement changes that will purportedly transform the platform into a free speech haven. However, the “free speech” changes Musk proposes may not promote freer speech on the platform, and may actually undermine it.

Musk proposes sharply limiting content moderation, saying Twitter should only concern itself with taking down content that is illegal. According to Musk, “if people want less free speech, they will ask the government to pass laws to that effect. Therefore, going beyond the law is contrary to the will of the people.” This means that obscene or harassing content posted on Twitter would be left up, as long as the speech is legal in a user’s country.

Yet only “following the law” can turn Twitter into a cesspool of offensive—but legal—content. The conservative social media sites Parler and Gettr, for example, initially promised to only moderate speech that violated United States law. The platforms were promptly overrun by so much obscene, violent, and racist content—content that is legal in the United States—that they became practically unusable for the average person. Though some users liked being able to post extremely offensive content, many others were put off from using Parler and Gettr, limiting the exercise of free speech to an exceptional few. This could happen on Twitter, too. A platform unusable for the majority of people is hardly one capable of achieving its “societal imperative” to host free, inclusive discourse worldwide.

Further, rather than maximizing free speech, moderating content consistent with a country’s laws would amount to aiding government censorship in many countries. What happens when Iran wants information on a user posting blasphemy? Or when the Vietnamese parliament bans more anti-state speech? Or when France further expands its definition of banned, “hateful speech” and enacts more aggressive censorship? Musk himself, who grew up in apartheid South Africa, should be particularly sensitive to the fact that following “the laws of the country” is not the same as following the “will of the people.”

Another major change Musk proposes is to “authenticate all human users” in service of his broader goal to ban all bots from Twitter. Though it is not yet clear exactly what he means by “authenticate,” the process will likely require collecting some form of personally identifiable information. If enacted, this policy could seriously undermine and chill free speech on Twitter, especially for marginalized groups and political dissidents who rely on their ability to remain anonymous.

Twitter can’t reveal information that it does not possess, but if Musk moves forward with “authenticating all real humans,” Twitter will carry more of its users’ personally identifiable information, which will make it a bigger target for powerful actors seeking to unmask their critics. Since its founding, Twitter has aggressively defended the privacy rights of its users from private and public actors. In this way, the platform has emulated First Amendment jurisprudence, which offers robust protection for anonymous political speech in most circumstances. If Musk wants to promote free speech on Twitter, he should take care to avoid undermining the platform’s established free speech tradition.

All of that said, however, Musk’s takeover is not necessarily bad news for the social media platform. In fact, Twitter co-founder and former CEO Jack Dorsey said that Twitter being “owned by Wall Street and the ad model” was his biggest regret, and Musk’s “taking it back from Wall Street is the correct first step.” Dorsey is right: by taking the company private, Musk is better positioned to implement (likely unprofitable) changes to Twitter that will advance broader social goals and ensure the company’s long-term viability. That includes promoting openness of Twitter’s algorithm and offering end-to-end encryption of Twitter’s private messaging.

Even more critically, Musk can use his influence to address the public’s profound crisis of confidence in Twitter. The primarily negative response to Musk’s “free speech” poll is just the tip of the iceberg; many Americans are convinced that dominant social media platforms are the cause of many of society’s ills. Widespread distrust of Twitter’s content moderation decisions undermine its position as a credible source of news and information. To combat this, Musk should focus on dispelling the notion that content moderation is something imposed on ordinary Americans by and for progressive elites in order to satisfy the sensibilities of progressive elites. As Dorsey notes, “Elon’s goal of creating a platform that is “maximally trusted and broadly inclusive” is the right one.

One way Musk could accomplish this is to hire an ideologically diverse group of moderators to update Twitter’s terms of service and to create greater transparency in Twitter’s takedown appeals process. Musk could also alter Twitter’s moderation schema slightly to no longer remove content based on use of gendered pronouns, allowing more discourse on a particularly divisive topic.

Conservatives celebrating Musk’s acquisition of Twitter correctly note that “hate speech” is sometimes a euphemism for non-progressive opinions. But Twitter, on the aggregate, has not acted as an agent for the progressive political agenda. In fact, it has a remarkable track record for promoting and protecting free speech when it moderates content and when it defends its users’ right to anonymity. Musk can tweak the algorithm to allow slightly more of the speech he prefers. But if he really wants to “unlock” Twitter’s “extraordinary potential,” he should make sure not to chill speech in pursuit of free speech.

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