

# NATIONAL REVIEW

## About Those Facebook Ads Calling for More Internet Regulation

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Facebook recently began running a series of advertisements calling for increased Internet regulation. In the videos, featured employees argue that because Facebook's content moderation can't please everyone, the government should set standardized speech rules for all platforms. This unsatisfying argument treats the market for speech governance as a problem. It endorses a solution that would benefit Facebook at the expense of its competitors and runs afoul of the First Amendment.

In one of the [advertisements](#), a Facebook employee named Aaron explains the current situation. "There's very little agreement whether we should be leaving more content up, taking more content down, with any particular rule or issue that we're looking at," he says. "We're not going to make everybody happy. Without regulation, we're really navigating that space as best we can."

All of this is true. No one set of rules can ever satisfy everyone. Peoples' preferences are varied and diverse. However, Facebook sees this as a problem. It wants government regulation to supplant platforms' varied rules with a single, standardized set of speech guidelines.

Aaron continues: "I think a standardized approach would help platforms all across the board define what the bounds of those rules should be." His claim is followed by a message that reads, "Learn why we support updated internet regulations including reforming Section 230 at [fb.com/regulations](https://fb.com/regulations)."

A "standardized approach" would eliminate competition among platforms to provide the best content moderation. At present, if Facebook users deem the platform's rules too restrictive, they can use more liberally governed services such as Reddit or Gab. Switching between rules is as easy as switching tabs. But standardizing the speech rules "all across the board" would erase many of these platforms' distinguishing features. Because of Facebook's size and ubiquity, any standardized rules would probably look more like Facebook's than those of other platforms.

Platforms could still compete with one another to offer the largest network or the most compelling features. Those are areas in which Facebook's size already gives it an advantage. Standardization of platform speech rules is innately anticompetitive. Regardless of the particular rules adopted, their standardization would limit competition to a range in which size matters much more than it currently does.

Large platforms like Facebook can adapt to legislative moderation mandates more easily than their competitors. It is expensive to comply with new regulations, and Facebook can bear the expenses less painfully than other platforms. Because Facebook already has extensive content-moderation rules and a huge staff of moderators, it would need to do less than other platforms to bring itself into compliance. Perhaps only Facebook would be able to comply.

For example, only Google's Content ID system could satisfy the requirements of early versions of the European Union's Copyright Directive. Britain's scrapped porn-ID law would have required pornographic websites to license age-verification software from, and share data with, MindGeek, the largest purveyor of Internet pornography. Standardization risks the creation of monopolies where none naturally existed.

Facebook's calls for regulation aren't necessarily motivated by anticompetitive calculations. Because it is such a large platform, its moderation decisions have outsized impact, and attract outsized political attention compared with that drawn by the decisions of other platforms. The platform faces a constant barrage of regulatory threats, lawsuits, and content-policy demands. It would be much easier for Facebook, and potentially more reassuring to Facebook's investors, to have the platform's content policy set by the government.

Unfortunately for Facebook, that isn't how America works. Of course it is difficult to govern the speech of billions. But this is exactly what Facebook aspired to do as it grew; its current troubles are the wages of its success. Facebook can transfer its editorial authority, just not to government. Indeed, Facebook has already established a promising court of appeals for its moderation decisions.

Facebook seems to forget that America already provides a set of standardized speech rules. First Amendment jurisprudence allows the prohibition of obscenity, imminent threats, copyright violations, and other longstanding categories of unprotected speech. American government, at the state and federal level, has passed laws prohibiting certain unprotected speech. Platforms almost uniformly remove illegal content.

Many platforms also remove hate speech and misinformation, unwanted speech protected by the Constitution. Section 230, the law that protects their varied moderation strategies, applies uniformly to platforms "all across the board," be they large or small, restrictive or liberal. Section 230 may give Facebook more leeway than it would like, but its protections are all the standardization the Internet needs.

Standardizing the moderation practices of platforms would require government either to promulgate rules for the removal of protected speech or to prohibit platforms from removing protected speech entirely. In the former case, government would violate constitutional prohibitions on government censorship; in the latter, it would usurp the editorial rights of private platforms. Without the ability to moderate, platforms would struggle to attract the advertisers that fund their free publishing tools.

Although Facebook might wish to give its editorial rights to the government, our Constitution prevents the government from accepting them. If Facebook's power over speech is concerning, it would be more concerning in the hands of the state. One size of speech rules cannot possibly fit all. Facebook's desired homogenization of content policies would harm its competitors and leave Internet users worse off.

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