



## 2023 TPI Aspen Forum Content Moderation: Who Fact-Checks the Fact-Checkers

Scott Wallsten:

We have this panel moderated by Jason Willick of the Washington Post. We have Jay Bhattacharya from Stanford University, Laura Bisesto from Nextdoor, Ashkhan Kazaryan from Stand Together, and Julia Owono from Internet Without Borders, the Oversight Board and Berkman Center at Harvard. Here's Jason.

Jason Willick:

Okay, so we have people with a wide range of backgrounds and expertise on this panel. I'm going to steer the discussion, but people can feel free to engage with one another too. So my first question is for Julie. It seems like the concern about misinformation really kicked off in 2016 around the time of Brexit and Trump's election. As our previous panelists were saying, their teams in 2014, 2013 were a fraction of their current size, and then it seemed like the concerns went into overdrive during COVID and the aftermath of that.

And then now maybe we're in a period of deescalation and sort of less controversy around content moderation, at least for the moment. I don't know if that's your impression from where you sit as someone who's been working on this for years.

Julie Owono:

The assessment on whether or not there is still controversy when it comes to content moderation, well, there are less stakes at the moment. So yes, it seems like we are entering a period that's calmer than what we've seen in previous month, but of course we have a 2024 election season coming up, of course in the United States, but even beyond their numerous countries, including I think India that will have elections.

So this will, I think, reignite some of the conversations and debates on content moderation, and particularly who gets to decide why those who decide the way they do. I think that's why the work of the oversight board and any other form of platform accountability mechanism is extremely necessary because we are helping to shed more light on what was happening behind closed doors, and behind closed doors specifically in the Silicon Valley.

Now, thanks to the work that the board has done, for instance, we've recently published what we call a policy advisory opinion on the request of Meta, a policy advisory opinion on Meta's COVID policies. So Meta asked us whether or not they should continue enforce because they had a COVID misinformation policy and they were wondering whether or not they should continue to enforce those.

We published that opinion late last year, I think in October or December. And what we told Meta was one clear example that I can think of is Meta had a list of sentences that you cannot write on the platform that would be automatically flagged as potentially violating content. Well, we asked Meta how they came up with this list, on what basis, what objective criteria they decided to use to decide that you're not allowed to say that bleach can cure COVID-19, for instance.

And what ensued was yes, a fascinating conversation on the process of that, of coming up with such a list. It's actually a very complex process that involves reaching out to stakeholders from

various political ideological background. And yes, ultimately the decision comes to the company, but for us at the board, it was important to know that it's not just a bunch of policy people within a company that decided that yes, from now on, we won't be able to say this phrase anymore, but rather it was the result of a series of consultation that the company had with international health organization, what's the name again?

W.H.O.

Julie Owono:

W.H.O. Thank you. I was going to say it in French OMS, but it's not. It doesn't work.

Jason Willick:

Got it.

Julie Owono:

So yes, sorry, long answer short-

Jason Willick:

Well, but really quickly, so we should expect in the 2024 election, you guys are battering down the hatches. You anticipate a lot more controversy coming up.

Julie Owono:

Well, I can't tell you that we are anticipating controversy per se, but what I can say is that there is a need to provide answers when it comes to content moderation and elections. And that's why the board has decided to set the subject of elections as a thematic priority for our organization. So what does that mean? It means we will try as much as possible to identify cases that can help us help Meta answer complex questions when it comes to this intersection of moderation and elections.

Jason Willick:

Well, you mentioned COVID. I want to go to Jay now, who is a plaintiff in a lawsuit against the Biden administration, which had to do with the pressure that the administration was putting on some of these platforms to remove certain content related to COVID. A district court judge ordered the Biden administration to cease communicating on these issues with the companies. That order has been put on hold on appeal, but I wanted to ask Jay his point of view of where this is going in terms of COVID-related speech and government pressure on these firms.

Jay Bhattacharya:

So very briefly, I'll tell you my story. I wrote an anti-lockdown petition in October 2020 called the Great Barrington Declaration, and the Great Barrington Declaration argued that we needed to not do lockdowns. We needed instead to focus on protecting vulnerable older people. The petition took off, almost a million people signed it, tens of thousands of doctors, epidemiologists, scientists signed it.

The goal of the petition was to engender a debate. In October 2020, the media environment and the scientific environment made it look like there was a consensus on COVID policy, which there was not in the scientific community, and the GBD, the Great Barrington Declaration made it very,

very clear. Shortly after we wrote it, we had a Facebook page up. Facebook took the page down for a week without explanation.

Google de-boosted it so that it showed up on page three and a whole bunch of hit pieces showed up on the first two pages. Twitter essentially blocked people who were sharing it. Later we learned from Freedom of Information Act requests that four days after we wrote the Great Barrington Declaration, there was an email from Francis Collins, the head of the National Institute of Health, calling me a fringe epidemiologist, and the other two cosignatories at Harvard and Oxford, fringe epidemiologists, and calling for a devastating take down of the premises.

The Washington Post started writing hit pieces, quoting Tony Fauci, sort of echoing this piece of propaganda, saying we wanted to let the virus rip, when we wanted was to protect vulnerable older people better. We failed, by the way, to protect vulnerable older people. 80% of the deaths have been people over the age of 65 from COVID. So the question is what role did Meta, what role did Google, what world did Facebook, all these tech companies play in suppressing legitimate scientific discussion, policy discussion?

It looks like a very, very bad role. The question is who's to blame. In this lawsuit that Jason mentioned, this Missouri versus Biden lawsuit, we, thanks to this district judge, got very widespread discovery into what the activities of the federal government were in this role of stopping this basic debate over COVID policy.

And it turns out the government played a tremendously important role. We have emails from the White House threatening people at Facebook on their trust and safety team, essentially threatening their company saying, "Look, if you don't obey us, we're going to go after you on regulatory matters on which your company depends." There's emails from the CDC, there's emails from the surgeon general's office. There's essentially a widespread censorship effort across the federal government.

The district judge called it Orwellian in his order to stop Biden administration's communication. It is, I believe, the most important violation of the First Amendment, certainly the most important First Amendment case in my lifetime, maybe in 50 or more years. We'll see what happens with the case. I'm very, very optimistic.

We had a panel of Fifth Circuit look at the case, look at the stay, and you can go read the transcript of the hearing. I'm optimistic that we will get that stay again. During the pandemic, these trust and safety policies enforced by the government, obeyed by the tech administrations essentially resulted in very, very bad damaging policy being perpetuated with the idea that it was correct, children are damaged irreparably in terms of their learning loss.

Huge numbers of people now distrust public health because there was this idea that public health was monolithic and it's ignoring basic science like immunity after COVID recovery, its insistence on mask mandates as if it were a way to protect people when the evidence doesn't indicate that. Basically a scientific debate that should have taken out in public did not occur thanks to this confluence of government and tech.

Jason Willick:

Okay, I want to bring in Ash. Yep.

Ashkhen Kazaryan:

Thank you. I think the Missouri v Biden is definitely an important piece of litigation. I don't know if it's the most important First Amendment case in the last 50 years, but I'm a First Amendment lawyer, so I have stronger ... everyone has their favorite case. So let's talk about it through a

framework of what was the idea behind it, what was the facts behind it, and what was the substance/ the legal construction, because I think they're all on different levels.

So the idea of a government should not be coercing platforms to do anything, I think, it's pretty legitimate and protected by the First Amendment. Government should not be forcing private parties to do anything, which by the way, the district judge did say that after all this discovery, which by the way, the decision was dropped on July 4th, was 155 pages, after all the discovery that there was no collusion. It was government coercing the platforms.

So right, the idea, yeah, platforms should not be saying, and if you read it, some of the government officials are generally going on power trips being, I don't think I can say the words, but being really, really mean and unfair and threatening antitrust actions, section 230 reform if platforms don't comply. There's a lot. There's categories. There's a lot in the discovery.

Now let's talk about the facts. The judge sometimes, the whole decision is tricky. Sometimes he cites things that are not in depositions, like he keeps attributing this one sentence to someone who's never said that sentence, which usually doesn't happen in judicial system, I hope. So it's slightly interesting to see how the appeals court handles that part. And then very shortly, if we talk about the legal construction of his decision, it's also not ideal because there is an injunction.

The government should not be forcing the companies, but then the judge gives the government power to actually still do it. It gives them seven categories of most of pretty much protected speech, but they can still make a decision on and still tell companies to take down. So if a judge makes a content-based decision here, which I am pretty sure is going to be overturned, if not on the Fifth Circuit level, then probably on the Supreme Court level because we've had somewhat similar cases in Ninth Circuit, so we will have a circuit split, and in the next two years we'll probably see this happen on the Supreme Court level.

And I'm sure some people in this room, hi, NetChoice, are going to be involved in that, amongst others. So it's definitely going to be a very important decision because I think the test that we have right now might not be ideal from a legal perspective. A lot of people call this a job [inaudible] kind of discourse. Yeah, government should not be forcing companies to do things, but also courts should be much more careful the way they draft these decisions, because I'm sorry, but words matter.

Jason Willick:

So stepping back from politics for a second, Laura Nextdoor doesn't publish these kinds of political debates at least directly. Can you talk a little bit about how the misinformation policy works when we have people talking to each other in the context of neighbors rather than Facebook or Twitter or YouTube talking about national issues?

Laura Bisesto:

Yeah, thanks. Loving this conversation as the platform up here. So first let me just give everyone a little bit of background on Nextdoor. I'm not sure if everyone's a Nextdoor user or will become one hopefully. Show of hands. Okay, hopefully you all sign up. We are in one in three households in the US. We have about 80 million verified neighbors worldwide. We're in 11 countries, and really the purpose of Nextdoor is to connect neighbors to exchange helpful information, goods, to get trusted information from public agencies, as well as connect with local businesses.

We have a little bit of a different approach to safety given that we are connecting neighbors. One is we require you to sign up with your real name and your real address. Two is we do connect you based on your neighborhood, not based on who you may know. We aren't a

following model or a model really where you're supposed to be sharing these big personal accomplishments, things like that. It's really to give and get help with your local community.

The third thing we do is our content moderation is anchored in local communities. So that means that our community guidelines, which users agree to when they sign up, are enforced by local communities. So a community in a small town in Colorado may see an issue is more or less controversial than a community in New York. And we want to make sure that content moderation reflects the realities of those different communities.

And the other thing we do to promote safety is we do have a chronological feed if you'd like, so you can see just what's happening in your neighborhood as it happens. I wanted to set that framework because I think it's really important to understand that we have a curated platform to achieve a business objective, and that's our choice as a business. We believe we are a competitive business. We're competing with some of the biggest tech platforms out there to try to get a niche part of the market.

And for that reason, we have a unique set of community guidelines. One is we do allow organizing protests or peaceful rallies around local issues or issues that matter to people. We don't allow national political conversations in our main newsfeed. We don't think it's conversations, and we don't care what side you're on. We don't judge it at all, but we just don't allow those conversations. These conversations typically turn very uncivil really quickly, and they're really not locally focused, which again is the point of our platform.

And this is one example of a content moderation decision. We make policy we make because we want to have this curated platform, and we're really happy to be in the US where the First Amendment protects us to leave content up or take content down, in this case, the way we see fit.

Jason Willick:

Speaking of government pressure, I want to go back to Julie. There are non-democratic governments that can pressure companies to remove or keep up certain content. There are democratic governments like the American government that we've seen can do the same. How do you think about that? I guess this overlaps a little with the last panel's question about the First Amendment abroad, but you mentioned India for example. How do you think about this problem of government pressure?

Julie Owono:

Yes, our framework is international human rights law, which applies to any country that has signed the conventions that protect and uphold freedom of expression, for instance. And based on that, all of those international conventions say exactly the same thing that freedom of expression is a tantamount, it's the most important to some extent, probably the foundations of democracies. And in order to limit that freedom of expression, governments can only do so in very strict and limited conditions.

The first one, well, there are three. The first one is that there should be a legal restriction. So there should be a law that clearly explains that in circumstances we will limit your free expression. Secondly, the restriction must be proportionate. So that means you cannot, for instance, jail someone just because the person has written something, their opinion. And thirdly, the restrictive measure has to be necessary, which translates into basically the government had no other choice than to censor to achieve whatever aim they wanted to achieve.

That's our framework. Based on that, we have always condemned, and we've said that to Meta as early as 2021. The board started operating in October 2021, and one of the first decisions

that we made was related to there were skirmishes. We were discussing that yesterday. There were problems in Israel between Palestinians and Israelis. And when content was shared and was taken down by Meta, and while doing investigations to better understand the case, what we identified was that the Israeli government had set up an internal unit, which they called the Internal Referral Unit, which I think sits within the Ministry of Justice. I might have to verify. I'm not sharing disinformation, just an honest mistake, if I do make a mistake. And basically that unit had a direct access to the policy teams at Meta, for the case of meta. I don't know about the others.

We look only at content on Instagram and Facebook, and that was extremely problematic because the requests that the government made were not based on local law. So they did not reach out to Facebook and say, "Oh, we have a law that says you can't negate the Holocaust, for instance, and therefore we'd like you to take it down." There was no such thing. In that case, the referral unit was asking Facebook to take down content based on Facebook's own community standards, which was extremely problematic, because we also, while doing our investigations, we also found out that there were extremely problematic biases in the moderation infrastructure of Facebook, Meta in general, with regards to content in Arabic, meaning that there is, acknowledged by the company itself, there is over-enforcement of content by Arabic users on Facebook and Instagram.

So for us, knowing that there was this concealed, non-disclosed relationship, direct relationship between Facebook and a government in an environment where there was already unfairness towards certain users based on the language they spoke, this was extremely problematic for us from a freedom of expression perspective. And we asked Meta, we urged Meta, we recommended Meta to publish information about the government requests that they receive to take down content based on Facebook's and Instagram community standards.

It was the first time that someone had asked publicly Facebook to do that. We, of course, worked with stakeholders, civil sites organizations, which also had been calling Facebook to do that, and Facebook accepted. So if you read now transparency reports by Facebook, you will find a section that says, "We received X, Y, Z number of government requests." This is a huge step. Well, some people will say, "What type of transparency are we talking about?"

Of course we can still get into more details and knowing exactly what words or whatever content was taken down, but it's already important to have information on the volume, and frankly, it's terrifying to know that so many governments around the world, like you said, liberal and illiberal ones have such a direct access to platforms that we all use for freedom of expression.

Jason Willick:

My next question is for anyone. It seems to me that this has kind of become a left and right debate in Congress. How much can a Republican committee or democratic committees browbeat the executives about misinformation and so on to try to get them to control more speech at hearings, and then the Republicans on the other side, "Why are you taking this down? You took this down." The companies seem to be responding to this political pressure that has become polarized along partisan lines.

How much of this is the fact that the people involved in this tend to be professionals and managers and technocrats, and as the Republican party gets more populist, we sort of have this inherent clash between the people who are running these companies, which increasingly give to Democrats and so on, versus sort of the epistemology of people who are not in this circle?

Ashkhen Kazaryan:

I would challenge the fact that only Democrats want the platforms to take things down. I think both Republicans and Democrats are equal opportunity brow beaters, and they yell at platforms, sometimes for the same actually, I think, in general in tech policy, especially in content moderation regulation, partisan lines are not as clear. Like you see Josh Hawley and Elizabeth Warren co-sponsoring bills.

Jason Willick:

Yeah, but Josh Hawley is mad because they're taking things down.

Ashkhen Kazaryan:

Sometimes. No. If you look, for example, I think in November of 2021, there was this package of bills. Cathy McMorris Rodgers and Republicans and House Energy and Commerce, they introduced like 28 bills. Some of them said, "Take down cyber bullying." Some of it said, "Please keep everything that's lawful content up." So I mean, they were in constant contradiction with each other. And I think there is some soul searching that needs to be done to draw the lines, but you cannot say that Republicans always only just want things to be kept up.

And I mean, we can waver into this, but that's what all these contradictions in Texas HB20 are, or in the Missouri v Biden decision where he says, "No, government should not be coercing platforms," and then give seven exceptions, and all of them are vague enough and also about lawful speech." So I would challenge that, but I would also challenge the fact that people at tech companies are all flaming liberals who give money to Democrats.

I think there's definitely, I mean, we have right now a pretty big tech company that I would not call its CEO a flaming liberal. His name is Elon Musk. I don't know if you've heard of him. So I think the ecosystem is complicated and it's not black and white, and we just need to accept and live in that comfortably.

Jason Willick:

I don't think it's liberal conservatives so much as establishment and populace to some extent. But I'm glad you mentioned Elon Musk, because I think that's a big change in this ecosystem. People mentioned X as we're now supposed to call it, no longer has such a big moderation team. What's that? So that's a change because it seems like the policies of these companies seem to align more and now there's more experimentation and diversity going on. But Jay, you wanted to jump in?

Jay Bhattacharya:

Yeah, a few notes. One, the kind of exceptions that I think are completely legitimate are things like direct physical threats on a platform or child trafficking or things like that. I mean, those are the exceptions that Ash is talking about. I don't see them as particular intrusions. On the other hand, the idea that tech platforms can have the technical capacity, the scientific capacity to pre-judge scientific debates when they're taking place in real time is folly.

In fact, that's exactly what happened during the pandemic. On the left and right issue, I have to say my particular experience has been that ... I testified in Congress, for instance, on exactly this issue about misinformation regulation, and it was democratic congressmen that viciously attacked me. [inaudible] basically misquoting me for trying to say I want to kill people effectively.

It's the left in this country that embraced this kind of restriction on free speech for scientific debate. And then as far as Twitter, the old before Elon took over, I was on a blacklist the day I joined Twitter in August 2021. I got to go see their, because I was put on this blacklist ... When

Elon took over, a reporter, Barry Weiss reported that I was on this blacklist. I got to go visit Twitter and see their database, the Jira system, and I was put on that blacklist the day I joined Twitter.

What would cause Twitter, to their old trust and safety team, to do this? I don't lament the collapse or the scaling back of that trust and safety group in Twitter 1.0. They were behaving irresponsibly by not allowing scientific debate to happen. And I just want to emphasize the consequence of this. We would not have had school closures that was longer than almost the rest of the developed world had we had a real scientific debate. Our children would be better off as a result of it.

We would've better protected vulnerable older people because we would've taken it more seriously. We would not have had vax mandates that have collapsed the trust that created an anti-vax movement that's bigger than I've ever seen it in my career. The trust in public health would not be in the toilet where it is now. We'd have been more like Sweden where there was a debate that was actually allowed to happen. It was a tremendously consequential decision by governments and these tech platforms to not allow the scientific debates to happen.

Ashkhen Kazaryan:

I'm sorry, I pulled up the exceptions. By the way, it doesn't mention [inaudible], it just says criminal activity. But for example, informing social media companies of threats that threatened public safety or security of the United States is wide enough an exception that they could use that exception to cite your work as public safety.

Jason Willick:

Ash is talking about the remedy that the judge ordered in the Missouri versus Biden.

Ashkhen Kazaryan:

Yeah, the exceptions. So they are wide enough where if this government wanted to, they could take your GBD, was it called, right? GBD, and put it under these exceptions and still contact platforms and say it should take it down. So the exceptions are wide. I can tell everyone which page of the decision it's on. Let's move on.

Jason Willick:

I think your point-

Jay Bhattacharya:

I just don't agree with that. I don't think that A, the Great Barrington Declaration was a threat to national security in any way, shape or form, in any platform looking at saying, okay, why are you saying this is a threat to national security? We could just laugh it out the door. So yeah, I just-

Jason Willick:

I think your point, Ash, is well taken that it's hard to, you've said you don't think the government should be coercing the companies, but it's also hard to define what does that look like? Can that be really mandated by a court or legislation? What shape would that remedy take, is I think what you were saying.

Ashkhen Kazaryan:



My point was that the court gave government power to still coerce companies against the First Amendment. And while I'm not an epidemiologist and I don't comment on those issues, I'm just commenting on the First Amendment case here.

Jason Willick:

Go ahead, Julie.

Julie Owono:

I'll let Laura.

Laura Bisesto:

I just wanted to comment really quickly to the earlier question and reiterate that I think there's competitive business decisions that companies make that you saw Elon Musk make that he thought would be what his users wanted, what does customers wanted. I think you've seen a lot of consequences and I think though companies should have that decision, be able to make that decision for themselves. How can we enable user trust on Nextdoor? How can we make sure our customers want to advertise on Nextdoor?

I think those are really important business decisions to make, and I think that's the decision Elon Musk made, and there were serious consequences from advertisers walking away and users as well, and I think de-legitimizing the accuracy of information on the platform, frankly. So I think that that's really what's important to keep in mind is these are competitive business decisions that companies should be able to make, and they can in the US.

Julie Owono:

I actually slightly disagree with you, Laura. I think maybe actually what we're seeing is a convergence in the idea that we need rules. Even though these are competing businesses, you mentioned for instance that Nextdoor has community guidelines. The very idea of saying we should have rules on our spaces, whether ... Even Truth Social has rules for its platform. For me, this is revolutionary from a tech history perspective.

Now, maybe the debate that just happened shows that we probably should evade from the content, embedding ourselves too much in the content, because we will never agree. I mean, we have different opinions and that's fantastic. But rather what we should be doing and what we should be focusing our energy on right now is to reflect on those specific rules. Do we want to see pedophilia on our platforms? I don't think so. Do we want to see drug dealing in open air? I don't think so. Do we want to see, I don't know, women being harassed? I doubt we want to see that.

So these are maybe the questions that is the right moment to ask this, and the collapse of X, my opinion is that there is a collapse. The collapse of X is directly related to that because people don't feel safe on that space. And to create that safety, to create that trust, you need that infrastructure of rules and principles to which your platform will adhere to no matter who the owner is, no matter the opinion of people who are on the platform. But yet there will be an infrastructure that will keep you safe. I think that's where hopefully the whole debate will head in the coming month.

Jay Bhattacharya:

Julie, I agree with you there should be rules, but the rules should be minimal in the sense of, I guess this is a point of agreement with Ash. I think there should be minimal. I mean, criminal

activity should not be allowed on platforms, completely okay with that. The rules as they were enforced during the pandemic went far, far, far beyond that, as I hope you'll agree. And in particular to call Twitter, Twitter 2.0 is not collapsed. It has more activity now, more actual scientific debate going on than it had before Twitter 1.0.

And in fact, if you look at see, Meta tried to put this competing platform together, Threads. I mean it's like the children of the corner over there happily patting each other on the back. No one actually wants to go talk on that platform. It's much, much more effective to have an open debate. In that sense, I agree with you, Laura. It is absolutely something. It's a business decision and we'll see. I don't think people want to be in a constricted space where they can't actually say what they're thinking, even though it's legally protected free speech.

Ashkhen Kazaryan:

In the past week, two major advertisers have pulled out of advertising on Twitter because there are reports that their ads were next to Neo-Nazi content, and while Twitter should do whatever, sorry, X should do whatever they want on their platform and moderation, I think the reason Threads is not growing as fast anymore, has more to do with network effects than vibes and opinions.

Jay Bhattacharya:

Have you tried it? Yeah.

Ashkhen Kazaryan:

I tried it. I still am using it. I think it's just platforms have ... I think content you post on Instagram and content you post on LinkedIn and content you post on X often are different things. I don't know, I don't work at Meta, so I don't know what vibes they're trying to do at Threads. I don't think they're trying to recreate ... If you ask me, I think if Dante lived in 2023, the additional circle of hell would have been Twitter. Hey, I'm still on it. You should follow me.

Jason Willick:

I agree with Laura that if we don't want heavy-handed government regulation, then the best approach, and the traditional American approach, has been a pluralism of different approaches among different companies, and the Europeans are more keen on creating rules across the entire industry.

So to the extent that we do have companies trying to implement, experiment with different things and learn from it, and I mean we'll see what happens with Elon Musk's experiment, and then potentially that'll affect the rest of the industry. Last thing before we go to questions, this NetChoice case I think is very important. The Supreme Court asked for the Solicitor General's opinion on it, which means they're probably going to hear the case that has to do with the laws in Texas and in Florida that try to restrict the ability of the platforms to limit speech based on viewpoint. Laura, would that affect you all at Nextdoor?

Laura Bisesto:

Absolutely. Down the road it would. Hopefully the cases are successful at the Supreme Court. We are members of NetChoice.

Jason Willick:

Successful meaning the Florida and Texas laws are enjoined or invalidated.

Laura Bisesto:

Enjoined. That's what I meant. Sorry. So there's two components to each of the laws. One component is a mandate to keep content up. That's where there's a split between the circuits right now and one circuit, I think the Fifth Circuit says you have to keep the content up. 11th Circuit says that you can't do that, that's a First Amendment violation, and that's what the Solicitor General agreed should be reviewed by the Supreme Court.

There is a second component to both of the laws that requires transparency by the platforms, but they vary. Texas requires transparency around details around content moderation. Florida is much more of a generalized disclosure about terms of service. Because the two issues are similar but not necessarily the same, the Solicitor General has not sought review in those, although NetChoice is seeking review because those are really critical issues for the platforms.

There is concern, including by Nextdoor, that by having to drill down and report on all this, on different things on the platform, that it could be quelling speech as well and having a First Amendment impact, and that's the argument they make. So those two cases are really important. And as I said, we are members of NetChoice. We hope NetChoice will be successful in getting those laws permanently enjoined.

We think though more importantly, this should not be done at a state by state level, like privacy laws, any debate around Section 230, which is the federal law that allows platforms to moderate content the way they want to, leaving content up, taking content down. We think that should be debated at Congress more importantly. I don't know what your exact question is about those laws, but that's my thought on the Florida and Texas laws and the Supreme Court.

Jason Willick:

Sure.

Ashkhen Kazaryan:

So the Florida one, fully agree, the Florida one was more platforms should let anyone who's running for office be on them. You have a right to be basically on Facebook if you're running for any office. And then the viewpoint one was the Texas HB20. Solicitor General just recently filed their brief and they said that the Supreme Court should take it up. And they also said that these laws do violate the First Amendment in the parts that Laura described. So I think it's a pretty good indicator that NetChoice is going to be at the Supreme Court very soon in the upcoming term. And honestly, with the current composition of the Supreme Court, I think they're going to be victorious.

Jason Willick:

Yeah, well, I think what we've seen with the Florida and Texas law with the judicial injunction, there's a lot of concern about the way that political ideas are being controlled online, but we are still far from having any kind of consensus solution for how the government can remedy that. So I think we have a few more minutes for questions now. Do you want to choose one of those questions or ... okay.

Speaker 9:

Thank you guys so much. So my question is about misinformation policies. So do you think it's even possible to have a misinformation program, whether it's labeling or demotions or removals that is actually objective, or will there always be an element of bias in those programs? I think

Community Notes is a really interesting example, but of course Facebook and YouTube have not taken that approach.

Jay Bhattacharya:

Yeah, I think it's impossible. I mean, I think on scientific topics, there's always controversy unless it's like is the world round or something, you're going to have controversy. And to expect tech platforms to solve that scientific debate in the midst of it happening is insane. Community Notes is interesting because I'm a Community Notes contributor. Basically, if the world is flat, you get a community note and everyone's fine. But if it's anything else, it's people just argue with each other in community notes and it doesn't show up. That's as close as you're going to get to what you can do, I think, with it.

Julie Owono:

I would like to briefly comment on this. So for us at the board, the most important aspect is making sure all the process is transparent, who you are working with, if you have fact checking programs, what type of organization, how are these organizations vetted, chosen? And many questions that you can think of and maybe something that I don't think about.

For us, that level of transparency is what is needed to restore trust. You may not agree with what the assessor has said, but provided that you know where the assessor is coming from and how they were chosen, well, I feel like as a user, I feel more empowered when I know where that information is coming from rather than having the impression or the doubt that it might have been a decision made by a bunch of people located in the Silicon Valley. So for me, transparency here is going to be extremely important.

And to your question, is it even relevant to have such programs around misinformation? I think having such programs is more an opportunity to allow users to continue to educate themselves. What we've tried to add as a board, so until very recently, the only decisions that we could make was telling Facebook to take down a content or telling Facebook to put it back up. Sorry. Since I think last year, we now have the ability to tell Facebook on a specific case, on a specific content that Facebook should use warnings, not warnings, but they have labels saying, "Oh, there is disagreement. There is a discussion on this debate."

For us, this allows the users to be exposed to the whole bunch of ideas, articles, debates that might exist on an issue without necessarily saying that there must be a truth about that. Because there are lots of things where there is no truth. You rightly talked about scientific debates, and for me from a democratic perspective, that's very important.

Jay Bhattacharya:

But it was very one-sided what Facebook did. They would put labels up on one side of the debate and not the other. It was defectively defamatory, right? So I mean, I didn't use Facebook to communicate just for that reason because I was like, "Okay, I don't need labels defaming me on Facebook." I mean, I like the idea, but the application of it during the pandemic was a disastrous failure.

Julie Owono:

We were not allowed during the pandemic to suggest labeling, and we hadn't published yet our COVID-19 policy advisory opinion, which I strongly encourage you to go to read, because we strongly criticized Meta's approach during the pandemic.

Jay Bhattacharya:

I wasn't criticizing you, Julie. I was going after Meta.

Jason Willick:

Yeah, go ahead.

Speaker 10:

So most of the discussion about the government role has been to either require the platforms to keep content up or pressure them to take it down. What about liability? What about a rule that would hold platforms liable for content that recklessly disregards the truth?

Ashkhen Kazaryan:

So you want government to define what truth is and then punish platforms for violating that? Am I-

Speaker 10:

No, it would be in a court of law. It would be determination like such as we have for other forms of liability, recklessly disregarding the truth.

Ashkhen Kazaryan:

Well, in the United States, there is a Supreme Court decision called US v Alvarez that basically says that even lies are protected by the First Amendment. So I don't know if that would work here. I also don't know if I want any government, no matter who's in power, to be punishing anyone in private over speech, no matter what that speech is. We literally this month had law enforcement storming a newsroom in Kansas. While United States is a democracy, we're still in a place where speech should be protected and should be guarded. So that's my opinion. But I would love to hear ...

Jason Willick:

To stick [inaudible] for our question, he means we do have libel laws and the Supreme Court has an actual malice standard for defamation, but that would require reform to Section 230 at the federal level. Well, because Section 230 shields the platforms from liability, it would.

Speaker 10:

Still sue the person who said it?

Jason Willick:

Sure, no, of course. But we're talking about the platforms. You can already sue the person who said it. Anyway. Any other questions? [inaudible].

Speaker 11:

Yeah, we've been talking a lot about how should content be moderated, but I just wanted to clarify a little bit your views on who should be making the decisions. So we have a baseline of these are private companies, ultimately it's their decision. We're talking about what should the government's role be. There's also Meta's decision to create this kind of external oversight

board democratic kind of process, or they've experimented with that, which hasn't been picked up by a lot of the other platforms.

So I wonder, I guess, Jay, first of all, what is your view about who should be making decisions at the end of the day if Meta decides the GBD is not something that should be on their platform? Is that ultimately their decision? Should the government have a role? Should there be some other kind of external decision making process?

Jay Bhattacharya:

I'm okay with platforms making decisions about removal of content or community guidelines. Obviously Nextdoor is going to be very, very different than Twitter. It's a very different business model, very different use case, very different goals. I don't think there's any problem with that. I really have a problem with the government putting their thumbs on the scale, especially government bureaucrats who think of themselves as the science itself, deciding that they can decide what misinformation policy should be for all of society to discuss. That's not okay.

I do think that platforms that have as its mission a very broad discussion, open broad discussion, and then turn around and then have sort of overly restrictive content moderation policies on one side are harming themselves. I think there's a reason why you are going to end up seeing much more scientific discussion on Twitter than you are going to see on Facebook. So that I agree with in a sense, it's a business decision. That's fine. It ought to be, and they'll pay the consequences for it one way or the other, but the government should not be involved with it at all.

Jason Willick:

Go ahead.

Speaker 12:

So I want to come back to Laura's point, because I think that NetChoice cases, as you said, raise two important issues. I mean, one is what is the right of the government to limit the content on the platform? But I think equally as important, which the Supreme Court apparently won't be focusing on, is the transparency piece. And when you sort of take a step back and look at AI doctrine, I mean there's a lot of emphasis on transparency and explainability. So I'm just wondering what are your thoughts, solutions on how do you provide that degree of transparency but also protect the First Amendment rights of the platform? How do you strike that balance?

Laura Bisesto:

Yeah, that's a great question. And to be clear, the Supreme Court hasn't decided on what they're going to review. The Solicitor General really only urged the Supreme Court to take up that first issue about whether things need to be left up in the actual content moderation. So that's still undecided. I think it's probably another month before we hear whether or not it's been granted.

I can see how you would connect between AI transparency as well as content moderation transparency. And Nextdoor, we actually have some AI integration into our product. We have different features as a platform where we try to help people make content that is more engaging with their neighbors or also kinder. Again, we're a platform, we're connecting strangers who may not know each other even though they're neighbors.

When we can detect content that may be unfriendly or uncivil, we remind people that they're talking to their neighbors and we have a way that AI can help reframe your post. If you're complaining about your neighbor who left, let's say a dog fell in your trash can, you might be

writing a nasty post. We can help you reframe that to be friendlier and just remind everyone. So that's the kind of ways we use AI. But transparency is really critical.

And so when we launched these products, we also set out a set of principles that included transparency, privacy, safety, accessibility, inclusivity I think is the fifth. And so we actually think transparency is really critical. We also have a transparency report around content moderation. These are things that are very important to us, and it's again, a business decision we are making to show and gain the trust of our users who are a very interesting population.

I've talked to a lot of you about this, but most of our users are well over 25. I think 90% of our users are over 25, 40% are over 55. So we have a user population where we do want to earn trust with technology. And so we take that approach based on our business's decision.

Speaker 13:

So the question about liability is actually, I think, really important, because that's where people get tripped up. And I think if you're not talking about defamatory speech, it's much more clear cut. The First Amendment says there is no duty to protect people from the harms of speech, even if it's false. The courts have been pretty clear about that for decades. But assume defamation and assume you get rid of Section 230, you still need to have some kind of knowledge to put you on notice that something is defamatory before you can be held liable for it.

So the actual malice standard doesn't really get you there without the knowledge. So I guess my question is, do you think there is any actual physical possible way for platforms to have that kind of knowledge to be able to assess whether something is defamatory to even get you to that point in the first place? Or is this just an idea that gets you absolutely nowhere? And I guess I'm very interested in the actual platform's operational answers to that.

Julie Owono:

So I won't answer from the perspective of the board because we don't deal with any content that has a legal liability for the company. So for instance, Holocaust in France, there is a law that says you cannot negate, so we won't touch on that. What I can say with regards to the example given on defamation, there is the right to be forgotten in France. For instance, in Europe, which posed significant problems, because one of the examples given is a politician who doesn't want anymore, anyone to remember that they had been convicted of embezzling public funding.

Well, they could go now in Europe and ask Google to take it down because you have the right to be forgotten. It's a very important individual liberty, while at the same time, it also prevents a whole society from an important debate about public officials and public money. So I am personally very conflicted on that. I am not a platform, I'm not a technical person at platforms, but based on my very limited knowledge, I envisioned that it could be tricky if you had to do that on the global level.

There are places around the world where records are not as kept as they are in the United States or in European Union. I also come from Cameroon, and I can tell you my birth certificate is standing somewhere in my village back home. And so yes, I think it would be difficult facing the reality and the globality of platforms, including platforms like Nextdoor. You just mentioned that you have users in 11 countries, which I am sure have different jurisdiction.

Jason Willick:

Yeah, and the liability shield goes beyond defamation. So there could be a different knowledge standard for different causes of action. I think we are past our time, so thank you everyone.