Regulation of Digital Media Platforms:

The case of China

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Policy Brief

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Executive Summary

- Unlike US-based digital media platforms, which are largely self-regulated, Chinese platforms, along with other online information service providers, are regulated by government regulators and are held liable for the content they host.

- In recent years, the Cyberspace Administration of China (CAC), China's online content regulator, has shifted the target of its Internet regulatory framework from individual websites and users to major platforms. As a result, almost all major platforms have been frequently summoned and punished for hosting problematic content.

- The CAC requires Chinese platforms to fulfil the 'primary responsibilities' in online content governance, and has laid down a series of specific requirements instructing them to do so, including implementing the real-name registration and verification policy, conducting real-time content monitoring, and establishing a user blacklisting mechanism.

- While China's online content governance mainly focuses on politically sensitive content, vulgar content and rumours (or disinformation) on platforms are also frequently suppressed, as the Chinese Communist Party (CCP) relies on morality-based discourses to legitimize Internet control.

- Almost all major Chinese platforms are privately owned by domestic Internet companies. China has established a differentiated licensing system for private and official online news service providers. To strengthen its editorial control over private platforms, the Chinese state has been experimenting with the so-called 'special management share' initiative.

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Introduction

In recent years, the power of digital media platforms related to news and information has drawn increasing attention around the world, especially after the 2016 American presidential election, when platforms like Facebook and YouTube were blamed for the wide circulation of 'fake news'. Whether or how to regulate these powerful platforms has become a fiercely debated issue in many countries. To this day, US-based platforms like Facebook, Twitter, and YouTube are largely self-regulated, enjoying broad or conditional immunity in terms of content liability in different territories.[1] In China, online content platform services are dominated by domestic platforms, defined by government regulators as a type of online information service provider, and are held liable for the content they host.[2]

Here, Chinese platforms refer to speech-related online content platforms that provide an open publishing space for various kinds of actors including media organizations, individuals, and government departments. There are several types of major platforms in China: social media platforms like WeChat and Weibo, news-aggregating platforms like Toutiao and Tencent News, and video-sharing platforms like Douyin (China's domestic version of TikTok) and Kuai.

Outside of China, there is relatively little research into the regulation of Chinese platforms, in marked contrast to the wide literature on the regulation of US-based global platforms. This policy brief provides an overview and analysis of the regulation of Chinese platforms, including the regulatory framework, content regulation, and the interplay of these state activities with the private ownership of these platforms. Given that some Chinese platforms, such as TikTok (owned by the Chinese company ByteDance), are expanding in overseas markets, this policy brief can help people outside China understand the domestic regulatory environment in which Chinese platforms operate (although Chinese platforms adopt different content moderation guidelines in overseas markets to follow local laws and regulations).

Adjustment of the Internet regulatory framework

Faced with a transformed media ecosystem in the age of open platforms, where digital media platforms are increasingly situated at the centre of content production, distribution, and consumption, the Chinese party-state has been adjusting its online content regulatory framework accordingly. Since roughly 2014, China's online content regulator, the Cyberspace Administration of China (CAC), has focused its Internet governance on digital media platforms. As the annual *2015 Analysis Report on China's Online Public Opinion* observes:[3]

> *The government's management of online public opinion has moved from focusing on sensitive keyword filtering […] and individual users to targeting online platforms, especially news-aggregating portals and [social media] platforms like WeChat and Weibo.*

In recent years, the CAC has been constantly expanding and updating its regulations concerning platforms. Among a series of novel regulations related to platforms,[4] some target platforms in general, such as regulations concerning official accounts on platforms, online user comments, online groups on platforms, and security evaluation of new technologies and applications. Others centre on specific types of platforms, such as regulations directed at instant messaging services like WeChat, mobile news-aggregating apps, live streaming services, online forums, and microblogging services. The fact that more than a dozen sets of regulations concerning platforms have been issued in such a short period demonstrates not only China's changing policies regarding its Internet regulatory framework, but also the concerns of the party-state about the increasing impact of platforms on its own control of information.

One key requirement of the above regulations is that platforms should take the 'primary responsibilities' in governing online content. This means that platforms are not only expected to comply with government content censorship, they are required to take an active role in making relevant rules and enforcing content moderation. In its instructions to platforms to fulfil their governance responsibilities, the CAC has imposed a number of specific requirements on them, primarily:

- conducting real-time content monitoring and storing users' data for no less than six months;
- implementing the real-name registration and verification policy. Platform users need to provide information about their real identities before they can post any content, and platforms are required to verify users' identities based on unique institutional codes (for institutional users) and government-issued identity cards (for individuals);
- establishing user-reporting, rumour-debunking, and blacklisting mechanisms. The blacklisting requirement mandates platforms to add users who have seriously breached relevant laws and regulations to a 'blacklist' and to enforce suitable punishment (e.g. closing their accounts, banning them from re-registration);
- building the user-grading-and-classification management system. 'Grading' means that if users are found to have breached certain rules, then their credit grades are downgraded and the services they can use are limited accordingly. 'Classification' means that, for services such as group chats, platforms need to classify them into different categories according to factors including the size of the groups and the content areas (e.g. political, economic, or entertainment).[5]

Some of the above requirements, including the real-name policy, blacklisting mechanism, and the user-grading-and-classification management system, have exerted pressure on Chinese platforms to strengthen their capacity in conducting surveillance over their users. Due to these requirements, Chinese platforms can 'legally' collect extensive user data without undue concern about penalties over infringements of users' privacy, which is markedly different from the Western media environment of recent years (especially in the EU, with the introduction of GDPR and other privacy-related reforms).

Regulation of platform content

As Microsoft Researcher and Cornell University Communications scholar Tarleton Gillespie points out, platforms often face similar kinds of problematic content and behaviours, such as sexual and pornographic content; hate speech; harassment; and representations of violence, self-harm, and drug use.[6] Given the authoritarian nature of the Chinese state, the definition of problematic content on Chinese platforms has its own boundaries. In general, problematic content in China's context can be classified into three categories: politically harmful/sensitive content; vulgar content; and non-political misinformation and rumours. Partly as a result of the huge volume of content uploaded each day, Chinese platforms have been frequently summoned and punished by government regulators for hosting various kinds of problematic content.

Problematic content on platforms

Politically harmful content (meaning harmful to the party-state) has long been the focus of China's online content regulation, given that such content may affect China's social stability and the party-state's legitimacy to rule. While there is not a clear line around what is 'politically harmful content' in China, the kinds of banned political content listed primarily includes:

- opposing the basic principles laid down in China's Constitution, laws, or regulations;
- jeopardizing state security, leaking state secrets, subverting state power or sabotaging the unity of the state;
- damaging national honour and national interests;
- inciting ethnic hostility or racial discrimination, or disrupting ethnic unity;
- damaging national religion policies and propagating feudal superstitions;
- spreading rumours, disrupting social order and stability;
- inciting illegal assembly, demonstration, protest, and disturbing social order;
- organizing activities in the name of illegal non-government organizations; or
- other content prohibited by Chinese laws or regulations.[7]

In addition to politically harmful content, Chinese government regulators have made great efforts to crack down on vulgar content and rumours on platforms. While such content may distract many Internet users from politically harmful content, it can at the same time discourage them from accessing messages from the party-state. Another reason behind the Chinese party-state's concern over vulgarity and rumours is that the prevalence of such content counteracts its morality-based discourses around Internet governance. As Communications scholar Min Jiang argues, the party-state has legalized Internet control through efforts including 'claiming a moral high ground' and framing Internet governance as a policy of benevolence and protection.[8]

Punishment of platforms for regulatory violations

To tackle the prevalence of problematic content on Chinese platforms, Chinese government regulators often resort to anti-vulgarity, anti-pornography, and anti-rumour campaigns, which are sometimes code names for information control. For example, in November 2018, the CAC summoned major platforms and required them to deal with the 'chaotic situation' around self-media (referring to official accounts on platforms run by individuals). The listed kinds of problematic content include: intentionally distorting the history of the Chinese Communist Party, defaming war heroes, spreading rumours, and spreading pornography.[9] As a result, 9,800 self-media accounts were closed or suspended by platforms. In another example from June 2017, the Cyberspace Administration of Beijing (CAB) summoned major online platforms/Internet companies and ordered them to tackle the vulgar and sensational coverage of celebrity scandals and ostentatious lifestyles. Within days, sixty popular entertainment official accounts (some with millions of followers) were closed across a number of platforms.[10]

Apart from being required to enforce online content governance, Chinese platforms have also been frequently punished by government regulators through fines and other sanctions. For example, in September 2017, China's three most popular social media platforms, WeChat, Weibo, and Baidu Tieba (an online forum), were found by the CAC to contain harmful information such as violent content, false information, and obscenity or pornography, and had thereby breached China's Cyber Security Law (which took effect on 1 June 2017). All three social media platforms were fined and required to rectify their practices.[11] In April 2018, four of China's most popular news-aggregating platforms, including Toutiao, were ordered by government regulators to be temporarily taken down from app stores. Just one day after the take-down order, China's radio and TV regulator (State Administration of Radio and TV [SART])[12] ordered ByteDance to permanently close its Neihan Duanzi app, a popular joke platform containing audio/video content, on the grounds of 'hosting vulgar content' and 'wrong orientation'.[13]

Limitation of private capital

Unlike state-controlled media organizations, most major Chinese platforms are privately owned by domestic Internet companies that are publicly listed on the Hong Kong Stock Exchange (e.g., Tencent) or the US-based Nasdaq Stock Market (e.g., Baidu, Sina, and Netease) and New York Stock Exchange (e.g., Alibaba). While the Chinese party-state encourages media organizations and party/state departments to embrace private platforms in engaging with the public, there are still some limitations on private platforms in China.

Regulation of original news production

Although the Chinese party-state has gradually lowered the entry barriers for private capital to participate in cultural and some media businesses (e.g., allowing it to hold controlling shares in film and television production), the state has maintained tight control over news production (as opposed to news provision). Private capital is banned from gathering and producing news in areas of public affairs (politics, economy, military, foreign affairs) and breaking news of social incidents that are deemed to have a significant impact on public opinion. Consequently, Chinese private online news and information providers are only eligible to apply for a news-republishing licence and/or a platform service licence, rather than a news-gathering-and-publishing licence, which is reserved for state-controlled news organizations and their controlled subsidiaries. A platform service licence allows its holder to aggregate news and information and to provide an open publishing service for various types of content producers, while the holder of a news-republishing licence can republish news (some editing is allowed) from government-designated news sources (mainly official news sources).[14]

Given that most major private platforms like WeChat do not produce their own news content, the above limitation on news production does not constitute a barrier for them regarding content aggregation and provision. However, these platforms have to ensure that their users who produce original news content in the above-mentioned key areas have a licence to do so. For private platforms that produce original content, this limitation on news production creates a content boundary that cannot be crossed.

Pear Video, a private video news platform launched in 2016, is a prominent example. The platform, which hosts both its own original content and user-uploaded content, was founded by Qiu Bing, the founder of *The Paper* (an influential official digital news outlet based in Shanghai) and former editor-in-chief of *Oriental Morning Post* (the print predecessor of *The Paper*). In February 2017, Pear Video, which is registered in Beijing, was inspected by local law enforcement institutions and found to have produced political news videos without a relevant licence. As a result, Pear Video was ordered to overhaul its business. Days later, the platform announced that it would transform its content, 'from focusing on political and breaking news to focusing on young people's lives, thoughts, feelings, and so on'.[15] This example shows that private platforms, even headed by senior media professionals, are not allowed to produce news in certain key areas.

Special management share arrangement

To strengthen the editorial control over private platforms, the Chinese party-state has experimented with the so-called 'special management share' initiative on several private platforms. The initiative means that the government takes a small share (1–2 per cent) of private platforms, but that share gives the government or its representative absolute control over their content.[16] In October 2017, China's online content regulator CAC and the official news website *People's Daily Online* jointly took less than 2 per cent shares of Yidian Zixun (a private mobile news-aggregating platform) and *Tiexue.net* (a portal website focusing on military content). In exchange, a government official was appointed to each company's board, who has veto power over their editorial decisions. Such an arrangement means that although the Chinese government, as the media and Internet regulator, already holds regulatory power over private platforms, this new initiative grants it direct control over the editorial decisions of private platforms.

In recent years, an increasing number of Chinese private platforms has accepted this investment from the government or state-controlled news organizations, and some platforms even voluntarily offered a small 'special' share to state-controlled media. An example is Fun Headlines (趣头条), a news-aggregating mobile platform. After receiving investments from two official media outlets, *People's Daily Online* and *The Paper*, Fun Headlines announced in its IPO registration file in September 2018 that it would offer an extra 1 per cent 'special share' to *The Paper* at a very low price, and *The Paper* would have the right to appoint a board member to the platform. It is easy to see that the 'special share' arrangement of Fun Headlines was very similar to the above-discussed examples of Yidian Zixun and *Tiexue.net*.

The main reason why some private platforms are willing to accept the 'special management share' arrangement may be that it increases their chance of obtaining an online news and information service licence. So far, both Yidian and Fun Headlines have obtained such a licence, which Toutiao (one of China's most popular news-aggregating platforms, owned by ByteDance) does not yet hold.

It is not clear whether this 'special management share' initiative may be applied to larger platforms such as WeChat and Weibo. Such a move would raise a number of concerns. Firstly, even taking a small share of these companies would mean a substantial amount of money (e.g., as of June 2020, the market values of Tencent and Alibaba are both around 550 billion dollars). Secondly, as most major Chinese Internet companies are publicly listed in overseas stock markets, they would have to change their charters to allow the Chinese government to hold the 'special management share'. Thirdly, such a move may damage the global reputation of Chinese Internet companies, strengthening the perception that they are strictly controlled by the party-state in a political sense, which is hardly beneficial for these companies.

Notes

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