Monday, Sept. 9, 2024 / Revenge of the regulators

[HALF SECOND OF SILENCE]

[BILLBOARD]

DAVID PIERCE (fill-in host): Pavel Durov, the Russia-born founder of Telegram, is known for a lotta things:

SCORING <Mono Planet-04>

DAVID: Sidestepping authorities. Free-speech absolutism. And one other thing:

WILL OREMUS (*Washington Post* reporter): Putin and Durov have their differences, but they both have this, this affinity for shirtless selfies.

<DAVID AND WILL LAUGH>

WILL: Maybe it's, you know, maybe it's a Russian thing, but he does style himself as this sort of renegade bad boy. He always has. He was sort of an enfant terrible of, of social media in, in Russia, in Europe, for a long time. And, he hasn't – he hasn't deviated from that.

DAVID: And a couple weeks ago, French authorities arrested Durov outside of Paris – which kicked off fresh debate about how governments and tech companies should interact.

*<CLIP> FRANCE24 ENGLISH: Emmanuel Macron is trying to answer tweets from Elon Musk asking about whether there’s still freedom of expression in France. Also tweets coming from Edward Snowden, who’s directly accusing him of orchestrating this arrest to collect sensitive information… <fade>*

DAVID: That’s coming up on *Today, Explained*.

[THEME]

DAVID: It’s *Today, Explained*. I’m David Pierce, filling in as host today. Telegram has nearly a billion users – but most of them live outside of the U-S. So I asked Will Oremus at *The Washington Post* to help us out with an explainer of what this very popular app actually is.

WILL: Telegram is a couple of things:

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WILL: It's an encrypted messaging app similar to WhatsApp or Facebook Messenger.

*<CLIP> FACEBOOK MESSENGER SFX*

WILL: It is also an app where you can have very large group chats, or what's called broadcast channels, where you can post to thousands or even hundreds of thousands of people at once.

TINY MUX BUMP

WILL: Most Americans just chat via text, right? If they have an iPhone, they use iMessage, which is in fact encrypted when you're talking to another iPhone user. But in many other countries around the world, those services are not as popular. And people use apps like Telegram, like WhatsApp to do the same thing.

*<CLIP> WASHINGTON JOURNAL: If it wasn’t for YouTube, Telegram, Facebook, Instagram, etc, very few Russians probably would have heard the name Alexei Navalny.*

WILL: Telegram is most popular in Russia. It's also hugely popular in Ukraine. And so it plays a pivotal role in the Russia Ukraine conflict. And both sides, coordinating and using the app regularly. It's also popular in many European countries, especially Eastern Europe. And it has a pretty large user base in India, in parts of the Middle East, and a little bit in South America.

SCORING OUT

DAVID: And I would assume the reason you start with Russia is because that's where Pavel Durov, the founder of Telegram, is from. So he – he is obviously, I think, more of the main character in this story than your average messaging app CEO. So let's, let's tell his story a little bit. Where did Pavel Durov come from?

WILL: Pavel Durov has been called the Zuckerberg of Russia.

*<CLIP> TELEGRAM CEO PAVEL DUROV: So the company is called VK right now and it is the largest social network. As you can see, we are one of the reasons Facebook is not doing too well in Russia.*

WILL: In 2006 – this was a couple of years after Facebook launched – He and his brother saw Facebook and they were like, wow, this is really cool. And they decided to build a sort of version of Facebook for Russia, and that was called VKontakte – or, mostly called VK. And that became a huge hit in Russia. But within a few years, he was running afoul of Russian authorities, who didn't like the fact that the opposition was using VK. They wanted stuff taken down. He repeatedly thumbed his nose, stuck at his tongue, stuck up his middle finger…

DAVID: <laughs>

WILL: …<laughing> when, when the authorities challenged him. And eventually he ended up, leaving VK under cloudy circumstances. But the way he tells it, he left because he was standing up for the rights of dissidents and Ukrainian protesters to use his service, and the Russian authorities would no longer tolerate that.

*<CLIP> “60 MINUTES”, LESLIE STAHL: There was continual pressure on him to hand over users’ personal data, culminating in 2014, when, under Kremlin duress, Durov was ousted from his own company.*

WILL: And from there, he launches this new encrypted messaging app, Telegram.

*<CLIP> INTERVIEWER: What is the point of Telegram in a world where there are so many other messaging platforms?   
DUROV: It’s a good question. But you know, to put it simply: It doesn’t matter how many other messaging apps are out there if all of them suck, right?*

WILL: From the beginning, he said that this is going to be about privacy. It's going to be about free speech. We're going to encrypt the chats. You know, we won't hand over data to authorities. You don't have to use your real name. That's, that's crucial. You need your phone number to sign… You need *a* phone number to sign up. But they don't ask – and in fact, don't even encourage – users to give out other personal information about themselves. And so it was from the start, advertised as, you know, ‘Here's a place where you can say what you want out of the eye of authorities, and we're not going to narc on you.’

*<CLIP> DUROV: We have very adamant principles about it. Through over two years of our existence, we haven’t disclosed a single byte of data to third parties, including governments. And it was not easy.*

WILL: And yeah, that attracts a certain type of person. I mean, there are, there are parts of Telegram that are completely wholesome. You know, you can follow your favorite sports team on there and get updates. You can chat with other fans. You can follow your favorite celebrity. You can talk about cats or dogs. There are also large swaths of Telegram that are dedicated to much <laughing> edgier or shadier material.

*<CLIP> WASHINGTON JOURNAL: The leader of the far-right organization known as the Proud Boys shared a cryptic post on the messaging app Telegram: “What if we invaded?” The message was sent to his more than 7,000 followers on the app… <fade>*

DAVID: Yeah. So that, that brings us to now, which is that a thing that I think a lot of people never predicted would happen happened, which is: Pavel Durov got arrested. What happened now that this action finally went over?

WILL: I've described it as a surprise, but not a shock.

SCORING <Skeeters>

WILL: Two things: so one is just that the very nature of what Telegram is was always going to attract attention and scrutiny from authorities. One of the things that sets it apart from other big social networks is that even when it theoretically could turn over data to law enforcement – let's say authorities are doing a big investigation of a child sexual abuse ring or a terrorist ring or a criminal gang… You know, if you subpoena Google or Facebook, they're usually going to comply. Telegram has not done that. And it's intentional. Until recently, it's begun doing that specifically, or *saying* it will comply specifically if authorities can prove that a user is a terrorist. But they say that actually hasn't happened a single time yet. So they're not sharing data with authorities even when there's a legal request. And that tends to kind of piss off the authorities. Right?

DAVID: <laughs> Fair.

MINI SCORING BUMP

WILL: The other thing is that is just, you know, Durov’s public stance and the fact that he kind of blows them off. I mean, it's not just that he says, you know, ‘I'm so sorry, but we can't comply.’ There are other encrypted messaging apps out there that are designed in such a way that they literally don't have the data authorities want. iMessage: if you're on an iPhone and you're texting with someone else who is on an iPhone, your texts are encrypted end to end, and that means even Apple can't see your chat history when authorities come asking. That is not the case for a lot of what happens on Telegram. Some of what happens on Telegram – what are called secret chats – are fully encrypted in that way. But a lot of the stuff that authorities are upset about is happening in what's called cloud chats or in these private or public channels where Telegram actually could get the data, but they kind of like hide it in different jurisdictions. And, not only do they make it hard to obtain, but they, they just literally ignore law enforcement requests. And that seems to have been the thing that really set the French authorities over the edge. They claim that they couldn't even get a hold… they couldn't get a response from Telegram for these investigations that they were doing. And, that seemed to be the last straw for them.

SCORING OUT

DAVID: What has Pavel Durov actually been charged with? What are the allegations against it?

WILL: They've kind of thrown the book at him.

DAVID: <laughs>

WILL: And I think I think it goes back to the fact that they're just they're just insulted and upset that they can't even get a response from Telegram. At least that's what they say. And so they've charged him with, with this, this litany of offenses. But the key word, I think, is complicity. They're charging Durov personally with being complicit in obfuscating from authorities all the bad stuff that's happening on Telegram. They accuse him of being complicit in giving criminals a place to convene and plot criminal activities and share sexual imagery of children and all the all this bad stuff, you know, sell drugs, whatever. That he is personally responsible for facilitating that. There are also other charges, as we mentioned, including a charge that seems to translate to something like “encryption without a license.” It'll be interesting to see which of these charges hold up as this case moves through the French legal system and which ones get tossed to the side.

DAVID: Okay. And how have both Durov as a person and Telegram as a company responded so far? At the very beginning, if I remember right, it was just pure. We didn't do anything wrong. This is outrageous. How dare they do this? But my sense is that has shifted a bit as these charges have come out and as time has gone on, where are we right now in the response?

WILL: So when this news first came out, Telegram's statement was that it's absurd to claim that a platform or its owner are responsible for abuse of that platform. So they were really dismissing this and saying it was completely unreasonable. On Friday, that tone shifted a bit. Durov posted a statement on his own Telegram channel. He still maintains that it is wrong to hold Telegram or the CEO of Telegram personally responsible for all the bad stuff that happens on there. He says that this is a view that's incompatible with free speech around the world. But he also is now saying, ‘Look, Telegram is not perfect, and we need to do better.’ And, you know, the kind of the sort of the, the apologies that we've become familiar with from US tech CEOs over the years. He's saying, ‘I'm making it a personal goal to do better, in making sure that we're taking down illegal content on the platform.’ And that's the rub for Telegram long-term, is that they want to be both this private messaging app and this bigger mass platform, with all these cool features and the ability to reach large audiences. And that's the part that's really hard to do and stay on the right side of the law without investing heavily in what's called content moderation, which is basically like paying a ton of people and training machine learning systems to figure out, you know, what you know, when stuff is being said on your platform that violates your rules or the laws of various countries, and then figuring out what to do about that, that's it's really hard. It's really time consuming. Meta claims that it's invested like tens of billions of dollars and hired tens of thousands of people to do this work around the world.

DAVID: There probably aren't tens of thousands of people at Telegram, period, right?

WILL: I've seen reports that they have 50 employees. <laughing>

DAVID: Yeah. Ok. <laughs>

WILL: They don’t have to disclose… It's privately-owned company, so we don't know all the details of their financials, but it's a tiny team. We know that. And in order to do the level of content moderation that would keep him out of this trouble long-term, with the services Telegram offers, it would probably lose tons and tons of money because it also doesn't have huge amounts of revenue at this point. I mean, as you can imagine, advertisers aren't clamoring –  especially big brands – aren't clamoring to slap their name on a social network that's known for drugs and terrorism and, adult content and all that kind of thing.

SCORING <marytodd lincoln marytodd>

DAVID: More on what this Telegram mess might mean for Big Tech, coming up on *Today, Explained*.

[BREAK]

[BUMPER]

DAVID: Will has a theory. He thinks that Pavel Durov’s arrest is a sign of a much bigger shift happening behind the scenes.

WILL: There's this idea that's at the very core of what Silicon Valley and the Internet were built on:...

SCORING <All Thumbs>

WILL: … that information wants to be free, and that the ability for people to communicate around the world is sort of a human right, and that attempts to censor or block that will necessarily be defeated, because the Internet is this new thing that is just impossible to fully regulate. And it's just this new form of freedom and authorities can't do anything about that. And for a long time, governments, at least democracies, basically seemed to buy that. And there was very little regulation in the United States or around the world of the Internet. And that's what I think is beginning to crumble a bit in recent years. Regulators in Europe and then regulators in other democracies around the world have become more emboldened to take on these tech companies and say, ‘You know what? There are limits to what people should be able to say online. And the tech companies that facilitate that shouldn't be completely immune from any of the consequences if it turns out that there are a lot of real world harms that flow from their services.’

SCORING OUT

DAVID: Yeah. And there's actually another one of these happening right now, which is what's going on with X in Brazil, which strikes me as both the same and also different in some very odd and backwards ways. Can you explain what's going on with X in Brazil right now?

WILL: Yes. So in Brazil, Jair Bolsonaro, who was a sort of right-wing strongman, ran for reelection and lost. And his supporters didn't accept those election results.

*<CLIP> THE GUARDIAN: <translation> The biggest fraud in Brazil’s history. The biggest fraud.*

WILL: You know, you can think of parallels to the Stop the Steal movement in the United States after Donald Trump lost in 2020. And there were attacks on all the branches of Brazilian government, similar to the January 6th uprising in the United States. What diverged in the two paths is that after, the, the left-leaning leader, Lula, took power in Brazil, there has been a crackdown on the Bolsonaristas, and that has included a crackdown on his supporters on social media. And so, one Brazilian Supreme Court justice in particular, named Moraes, has led this campaign against what he deems misinformation and political misinformation, online. And so Moraes and the Brazilian government have been pushing X and other social networks to take down this content, to suspend Bolsonaro supporters from their platforms. And Musk and X, they started doing it and then they started speaking out against it. And then they at some point stopped doing it and they said, we're not going to do this anymore. And that did not go over well in Brazil.

*<CLIP> BBC: Brazil’s telecom regulator has now suspended access to X for the country’s 200+ million people…*

*<CLIP> GLOBAL NEWS: Following the suspension, Musk compared the judge presiding over the case to Harry Potter’s villain, Voldemort.*

DAVID: Do you look at these two as sort of separate but related kinds of incidents, or are there more similarities, even though one person got arrested?

WILL: Yeah, I think I think you're right. I mean, I think, I think it's probably an accident of fate that that Durov got off a plane in France and got arrested, whereas Musk, you know, was able to get his people out of Brazil. And so they shut down X. I think the goal from the two countries is essentially the same. It's to say we won't put up with this, and you have to comply, and we will use every tool at our disposal to force you to comply. I should also say that there are real issues. I mean, Musk, you know, Musk and Durov are these very flawed characters, and a lot of people are really reluctant to hold them up as champions of free speech because…

DAVID: Well, they would both like you to think they are champions of freedom. That's a big part of what they both say all the time.

WILL: Yes. Musk and Durov have both really worked to style themselves as champions of free speech, and there is a sense in which they're standing up for free speech. There are also critics who think that both are behaving hypocritically. With Musk in particular, he said from the start when he made a bid to acquire Twitter:

*<CLIP> ELON MUSK: Well, I think it’s very important for there to be an inclusive arena for free speech where… <single person woos> So, yeah. Um…*

WILL: But when you asked him, what exactly do you mean by that? He didn't seem to have fully thought it through. He said at one point, ‘Well, by free speech, I mean that which complies with the law. So if it's not illegal, we shouldn't be taking it down.’

*<CLIP> INTERVIEWER: You’ve described yourself, Elon, as a free speech absolutist. Does that mean that there’s literally nothing that people can’t say and it’s ok?   
MUSK: Obviously, Twitter or any forum is bound by the laws of the country that it operates in. Obviously there are some limitations on free speech in the US…*

WILL: And in fact, he has done that under X and been more compliant in many cases with – than the previous Twitter regime when authoritarian governments or authoritarian leaning governments have come calling saying, ‘Hey, you need to take this stuff down cause it's against the law.’ In India, Narendra Modi's government asked X, asked Musk to take down content that they didn't like. And they did it: they rolled over. And the same thing has happened with Erdogan's government in Turkey. In Brazil, all of a sudden they're taking a stand. And some people see it as hypocritical because Musk has allied himself with Donald Trump and the conservatives and the Republicans in the U.S. he's donating, you know, money to the, to the to the cause. He's using his platform all the time to advance conservative and even right-wing views. And so when right-wingers in Brazil are getting persecuted for what they say, he'll stand up for them. But when people on the left in other countries are trying to stand up to right wing strongmen, he was happy to turn them in.

DAVID: So in in that way of thinking that it seems like Durov might be more of the free speech warrior in that he, he has actually, you know, been a sort of equal opportunity middle finger to everyone everywhere, which I suppose counts for something if all you care about is free speech, right?

WILL: Yeah. I mean, I think that's that's fair to say that Durov has probably been more consistent than Musk in not handing over data to authorities, no matter which side they were on. We did talk for one of our stories to a former co-founder of Telegram who has worked with Durov, who says that Durov is not exactly what he claims to be, that if he were really this righteous defender of free speech, he wouldn't also be pursuing all these features in telegram that are really seem to be about attracting mass audiences and making it big and profitable. He would be keeping everything encrypted. So there are allegations of hypocrisy for Durov as well.

DAVID: Okay. And I think the one thing definitely coming for both of these companies and frankly, for it seems like the whole tech industry is that they're both facing pretty serious government action in a bunch of places around the world. Do you think this is a signal of kind of a broader new era of tech regulation? Or again, is this just kind of one thing that happened?

WILL: I think it is. I think it's, I think it's been gradually building this idea that that tech should not be unfettered and that governments should have some power over what happens online, and that when they don't like what happens online, they should be able to hold tech companies responsible. Whatever you think of Musk and Durov, there are real trade-offs here. It does sound intuitively good and right that democratically-elected governments should have some power to hold tech companies accountable. At the same time, you could certainly imagine a world in which that goes too far. And of course, we've seen that already in repressive countries And even in the U.S., where we have such a strong tradition of free speech and where most of these most of the largest tech companies are based, you're seeing a lot of energy, both from right and left, to try to rein in tech companies and social media. That is even more so in other countries around the world. For both reasons: they don't have the First Amendment, but also the Silicon Valley companies aren't their constituents, right? Like Europe doesn't have to worry that they'll be accused of stifling their economic engine when they go after Meta or Google, because that's not their economic engine, right? It's ours.

SCORING <A Clear Vision of the Future>

WILL: What I think just about everybody who's paying attention could probably agree on is that in 10 or 15 years, we will, we will not have a world where the largest tech companies can just operate with impunity in every country, or even in every democracy. Right. We're certainly moving already toward a world in which there are country-by-country regulations and the largest tech companies, if you want to be a multinational social media giant, you have to hire government affairs people in all these countries. You have to learn to play ball. You have to be very careful about what you do and what you say in order to stay in compliance. And maybe in the best case scenario, that opens the playing field to more competition. You know, maybe if this antitrust movement really gains traction, maybe if it does become very costly or difficult to be a multinational social media giant, maybe we'll see more local alternatives emerge, because it is now so hard to just have a one size fits all social network that can operate in every country.

DAVID: Will Oremus at *The Washington Post.*

Today’s episode was produced by Amanda Lewellyn. It was edited by Matt Collette and Laura Bullard. Patrick Boyd and Andrea Kristinsdottir engineered.

I’m David Pierce. You can find me at The Vergecast, talking about Apple, all this week.

That’s it for *Today, Explained*.

[10 SECONDS OF SILENCE]