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Why are social media companies exempt from libel law?

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Before there was Facebook there was Mail Call 1.0, one of the pioneering newspaper messaging boards that sought to attract readers by allowing them to, anonymously, say exactly what was on their minds. It went about as well as you might expect.

Although seasoned journalists cringed at the idea of largely unedited comments from the great unwashed finding their way into the hallowed ground of newsprint, in the beginning it wasn't all that bad.

It was a largely good-natured stream of community consciousness over topics that lost their currency a quarter century ago. There were mini-serial threads — what happened to a hot tub that disappeared from school property; the notorious driving habits of some unknown person in a green station wagon; lemon cookies that relied on prepackaged cake mix — that almost became like comic strips that were not to be missed.

But problems quickly materialized, and serious-minded people in the community were aghast that we would print such dreck.

Early in the process, it was the lawyers' considered opinion that message boards were safer to publish in unedited fashion; once you started picking and choosing whose comments got in, you were taking greater responsibility for the content.

Well, of course that lasted about a week until the comments started getting out of hand in their savageness and inaccuracy. So an attempt was made to keep it noncontroversial, but a sanitized Mail Call had its own problems.

One guy called me and said that for three days running he had called Mail Call with what he regarded as serious concerns about the environment. Those items never appeared in the paper, so as an experiment he called Mail Call to effectively say, "I would like to thank my

friend George for helping me get my head unstuck from between two balustrades in the staircase.” It was printed the next day.

Social media began much the same as Mail Call, a largely innocent collection of vacation photos, playful observations and dutiful documentation of fancy desserts. Facebook’s Mark Zuckerberg, to be fair, probably had no idea it would take such a dark turn, devolving into enclaves of hate and conspiracy theories that has destroyed more friendships than it has created.

Social media preys on ignorance, feeding those who don’t have the time or inclination to keep up with real news by pumping people full of derogatory nonsense that they want to believe specifically because it is so juicy and inflammatory. A lie, Mark Twain said a century before there was any whisper of an internet, can travel around the world while the truth is putting on its shoes.

But social media has an advantage that newspapers don’t: They cannot be sued for libel. Twenty-five years ago, when it seemed that pornography was the worst thing that could ever come of the internet, Congress passed the Communications Decency Act, which attempted to censor all that was lewd and lascivious. As an afterthought, it tacked on a provision stating that internet companies themselves, in the eyes of the law, were not publishers, so if a naughty photo showed up on your screen it wasn’t their fault.

Well, of course the courts struck down the porn part of the law, but left standing the afterthought, which today is causing far more trouble than porn ever did.

Years later, along comes Facebook which, to its delight, discovered it was protected from liability no matter how foul or erroneous the content that appeared on their sites.

Forty-seven state attorneys general have asked this protection be stripped from the law, with the ACLU in opposition on free-speech grounds. But no matter which side you take, an unasked question is this: Why should newspapers, who are having trouble finding two readers to rub together, be held to a standard that social media with its billions of users are not?

Facebook would clean up its act in a New York minute if it were open to the same legal challenges as print, which more and more doesn’t seem like a bad idea. As it is, Russian propagandists who want to disrupt our democracy have more protection than newspaper reporters who would expose them.

But the real problem is less legal than societal. Why does meanness always seem to win? Why do those with black hearts and malevolent motives come storming into platforms where we

share our photos of desserts and musings on green station wagons, and turn them into festering swamps of racism, hate and lies?

It won't change until we make it clear we don't want them in our lives, and chase them back under the rocks from which we crawled. How we go about doing that is a difficult question to answer. But something seems to be wrong with us that is beyond the power of the law to fix.