How Should We Limit Facebook's Power?

nytimes.com/2021/10/08/podcasts/facebook-regulation.html

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Welcome to the weekend. On Wednesday's show about the Facebook whistle-blower testimony, we ended on a question: Will the company be regulated? Although we can't predict the future, we wanted to use this newsletter to ask experts what the government can — and, in their opinion, should — do to ensure that the platform works in the interest of public health. Then, we introduce you to one of our guest hosts you've been hearing while Michael is out on parental leave.

The Big Idea: Both parties want to regulate Facebook. But how?

The Daily is powered, every day, by a big idea. Below, we go deeper on one from our show this week.

Image

A former Facebook employee, Frances Haugen, testified in a Senate committee hearing in Washington on Tuesday.Credit...T.J. Kirkpatrick for The New York Times

It's been *a week* for Facebook. First, the world got a taste of life without its services when billions of people experienced an unchosen (and for some, welcome) social media blackout. Then, the notoriously secretive company was again scrutinized on Capitol Hill. But this

week's Senate hearing, with its rare show of bipartisanship, was different from ones in the past: It was powered by a whistle-blower — and one who had receipts.

As you heard on Wednesday's show, Frances Haugen, a former Facebook employee, presented internal documents to lawmakers demonstrating the company knew its platforms had negative health effects on children. In the process, she urged senators to make the regulatory changes needed to address misinformation promoted by the company's algorithms and to create accountability for Mark Zuckerberg, Facebook's chief executive. Although these weren't new proposals, what was new was the senators' education on the topic and their unified commitment to taking action. But the critical question now is: What *can* they do?

Facebook has intimate access to the lives of nearly half of the world's population — and there is no neat solution to mitigating its unprecedented corporate, social and political power. The company has shown itself to be resistant to self-regulation; free speech protections complicate proposals to reform the law that currently governs the internet; and there is increasing consensus that antitrust action — or breaking up Facebook — would most likely just fracture the problem into smaller pieces, making the issues harder to tackle. ("We don't need to break them up; we need to break them open," said Tom Wheeler, former chairman of the Federal Communications Commission during the Obama administration.)

Some experts say novel solutions are needed. Here are two suggested by those we called:

Creating a new federal agency dedicated to Big Tech oversight

Senators are considering how to create independent oversight of major platform companies, but Tom Wheeler isn't confident that existing government agencies are up to the task. "I ran an independent regulatory agency," he said, and the regulatory process "is sclerotic and rigid." Now, he added, "we're moving at exponential speed in a world that was built for linear transformation."

Tom is calling for "a new agency of digital experts that has the agility to deal with the ever-evolving digital market." His idea is optimistic: The agency would bring tech industry leaders into dialogue with federal representatives ("ideally digital natives") to determine an agreed-upon set of behavioral standards, later codified and enforced by the agency through monitoring, monetary penalties and disgorgement. Unlike existing agencies, Tom argues, a new agency created from scratch would allow the implementation of modern management practices and policies capable of keeping pace with a fast-moving industry.

Renée DiResta, research manager at the Stanford Internet Observatory, also believes a new agency could help address the "myriad harms" posed by Facebook, ideally inviting additional transparency into internal company policies and product design changes for the company's algorithms that would "address the worst negative externalities of virality," she said.

"This is not a moment for halfway measures," Tom said, adding that senators focusing simply on new legislation was insufficient. "It is very dangerous to define tomorrow in legislative language. Because then you've defined tomorrow in terms of what you know today."

Stricter privacy legislation to limit Facebook's power

Siva Vaidhyanathan, director of the Center for Media and Citizenship at the University of Virginia, isn't convinced that creating a new federal agency would solve the Facebook problem. "People keep going back to the 20th century to try to figure out how to address this phenomenon we've never seen in human history," he said, adding that it was a "regulatory infrastructure that assumes good faith" on behalf of platform companies.

Siva takes a more international perspective on the problem, arguing that Facebook is not "going to change its behavior because of something that happens in the United States." More than 3.5 billion people around the world use Facebook's platforms, and in some countries like India, by itself home to over 300 million users, the company is synonymous with the internet. "When Mark Zuckerberg wakes up in the morning, I guarantee you he thinks about India before he thinks about the United States," Siva said.

The company also applies different policies and algorithms in different legal jurisdictions, and the United Kingdom and the European Union are each exploring additional platform regulation. So instead of focusing on regulations that would affect only the United States, Siva argues, lawmakers would be more effective in going after the company's primary source of profit: personal data.

"We could pass strong legislation in the United States and encourage other countries to follow the same route that would severely limit what companies, not just Facebook and Google, but all companies, do in terms of surveillance and the use of our data," he said. While making some exceptions, such as for public health data, Siva said that forcing companies to delete the personal data of their users within a set window of time would limit ad targeting and algorithmic amplification, making both "less precise and less effective."

Siva believes this would have downstream effects for safeguarding against authoritarianism, too. "These big tech companies are on the precipice of becoming the operating system of our lives, and they're very connected to other centers of power," he said, citing the connectivity between the social media company WeChat and Chinese governmental surveillance.

"You can imagine similar things happening with Facebook partnerships in Turkey, the Philippines, India and Brazil," he said. "And who knows where else?"

You can read more about this topic in our interview with Shoshana Zuboff, a surveillance expert. And you can listen to our playlist of episodes about Big Tech here.