

How to get kicked off Twitter: An examination of the changing ethics of the so-called 'tech giants'

This paper aims to contribute to the growing field of research into the ethical codes of social media and other 'big tech' companies by analysing two instances where internationally regarded journalists were suspended or removed from web-based media platforms. It will argue that the current focus on tech companies' responsibilities to protect users has led them to place less emphasis on freedom of speech than they did previously.

Key words: Andrew Jennings, Automattic, cricket, ethics, social media, Twitter, Wordpress

Introduction

The speed with which social media expanded left little time for ethical reflection. Facebook (FB), for example, was only made available outside educational institutions in 2006 and, by 2012, boasted more than one billion active users (Facebook 2018).

There has been a significant amount of research into the ethics of using social media from the point of view of practitioners (e. g., Couldry 2012, Lipschultz 2018). Increasingly, this is being supplemented by research into the approaches of the social media companies themselves. Bulut (2016), for example, studied the 2013 Gezi Park protests in Istanbul, Turkey, and argues that 'FB and Twitter have chosen to act in accordance with national policies even though Twitter is slightly more resistant to cooperation'. During the 2016 US Presidential election, Lori Bergen, president of the Association for Education in Journalism and Mass Communication, called on social media platforms 'to ensure ethical transparency in curating and disseminating news' (AEJMC 2016).

The paper was conceived at a time when there was widespread criticism of social media and technology companies for failing to monitor or restrain users of or contributors to their platforms.

... yes, that is episode 100, the same number of international centuries that Sachin Tendulkar scored. It's taken us four years to reach this landmark which is apparently about the same time that it took between Sachin's 99th and 100th centuries (ibid). (In fact, Tendulkar needed 34 innings after his 99th century to reach his 100th – a period of around two and a half months.)

When, however, in March 2017, he joked about another Indian batsman, it provoked a fierce backlash and his Twitter account was abruptly suspended. Virat Kohli, the India cricket captain and arguably the best batsman in the world at the time, was injured and, as a result, was not playing in the fourth and final Test of India's series against Australia. However, during the drinks break, he did come on, carrying water for his team mates. Many of his fans – and, indeed, professional journalists – were tweeting or commenting on his amazing humility for being prepared to carry the drinks for his team mates. For example, the YouTube channel of Xtra Time.in posted pictures of Kohli with the drinks tray under the heading: 'Must watch! Virat Kohli carries drinks during break.'

Indian captain Virat Kohli once again proved he is a perfect team-man. Kohli, who is not playing in Dharamsala, was seen carrying drinks for his team-mates during the first session of the Test Match. The Indian captain was seen trotting out onto the field with drinks, which became viral on social media. The commentators were also taken aback by such a move from Virat (Xtra Time 2017).

Joshi argues that this tweet was a comment on the extreme nature of his fans rather than on Kohli himself: the man carrying the drinks tray attracted more attention than those on the field of play in a deciding Test. 'You had hordes and hordes of blind-worshippers throwing themselves at the feet of Virat Kohli' (*Radio Cricket* 2017).

He responded with a tweet which read: 'Kohli scores century: HE'S THE GREATEST. Kohli scores duck: HE'S STILL THE GREATEST. Kohli carries drinks: WITNESS THE HUMILITY OF GOD (cited by Talwar 2017).

Although Twitter have not, to my knowledge, commented publicly on the suspension, Joshi believes it was this tweet which led to @altcricket being closed. 'I think it got to a Kohli fan club and then another Kohli fan club and it spread like a virus ... then some Kohli fan account said: "Let's try and get him banned. Let's get him banned." I woke up the next day to get a message saying my account had been suspended' (*Radio Cricket* 2017).

Unlike Guy Adams (above), Joshi was not able to appeal against the suspension because he no longer had access to the email account

which was linked to @altcricket. (Twitter now regularly asks users to confirm that their email address is still current – presumably to deal with this issue.) The offending tweet was widely retweeted but the retweets do not appear to have been removed from the micro-blogging site. Twitter's terms of service state that 'you understand that by using the services, you may be exposed to content that might be offensive, harmful, inaccurate or otherwise inappropriate' (Twitter 2018).

It is a sign of the importance attached to social media that the news of Joshi's suspension was picked up by the Indian edition of the *Daily Mail* (Dawkins 2017). The writer of the article approached Twitter for comment but had not received one by the time it was published. I have also approached Twitter and not received a reply.

Case Study Two: Transparency in Sport

Investigative journalist Andrew Jennings is the author of several books, the best known being *The new lords of the rings: Olympic corruption and how to buy gold medals* (1996) about the International Olympic Committee, and *Foul!* (2006) which investigated FIFA, the international football association. He is the presenter of several documentaries for ITV and BBC *Panorama* programmes about corruption in football, most notably *FIFA's dirty secrets* (broadcast on 29 November 2010) which is credited with helping bring about the downfall of former FIFA president Sepp Blatter. He is a regular conference contributor on both sides of the Atlantic.

In September 2013, he noticed that his Wordpress.com site, *Transparency in Sport*, had disappeared. He looked into it and it turned out – according to 'Phil' who was, apparently, a Wordpress 'trust and safety adviser', that the site had been taken down following a complaint from a Russian law firm. And this is the complaint (with grammatical errors throughout):

Myself, Robert William, CEO and one of the editor in CrimeFashion. My website url is <http://crimefashion.netne.net>. I posted a lot of news from all around the world. And my site reaches to lot of peoples and we have a very good customers. Two days before we saw that some person who is using wordpress blog is copied [sic] some content from our site and posted in his blogs. It is illegal. And we are the copyright owners of that content, others don't have the rights to copy my content. So please check that two links and please remove it as soon as possible (Jennings 2014).

Jennings contacted Wordpress's lawyers; he also contacted their PR company in New York. 'I spent quite a bit of time pointing out that I was known, that I worked for American universities as well

as British ones' (Jennings 2017). But in the end he gave up. 'It was time to move on. I wanted Blatter,' he said (ibid).

It's not clear whether or not the account has now been reinstated. Visitors to *TransparencyInSportBlog.Wordpress.com* will see a message saying that to view the site you need a wordpress.com account and permission from Jennings. By the time I interviewed Jennings for this paper, he could no longer remember his password. So the site is effectively dead though most of the content has been archived elsewhere. The website <http://crimefashion.netne.net> no longer exists; it may never have done. In any event, it would probably not have been difficult for Wordpress to have investigated whether or not Jennings had plagiarised material from this site.

Automattic, the owner of *wordpress.com*, prides itself on managing millions of blogs with relatively few employees. Its website includes a chart, titled 'One of these things is not like the other' which shows that it has 164 million unique views per month, yet only employs 670 people. This is far fewer employees than Google (72,053), Facebook (20,658) or Twitter (3,583) (Automattic 2018). This, perhaps, explains why the company is reluctant to investigate complaints.

America's Digital Millennium Copyright Act (DMCA) exempts online service providers (OSPs) from copyright law so long as they comply with the terms of the Act. One of conditions is that 'when given a proper notice of infringing material being posted on its network', the OSP 'responds expeditiously to remove, or disable access to, the material that is claimed to be infringing' (Pike & Fischer Inc. 2003: 30). The Act allows the original publisher to demonstrate that their content does not include 'infringing material' but Jennings was reluctant to put his private details in the public domain:

Under DCMA they claim they have to pass on any details. 'You've got to send us your details.' I said: 'I'm not going to send my details to people who are going to harm me' (Jennings 2017).

Andrew Jennings is an award-winning investigative journalist; there are people who regard him as their enemy; he doesn't want to reveal a lot of personal details and he certainly can't reveal the source of all the content on his site.

Regular users of social media, particularly Twitter, will be accustomed to seeing notices reporting that tweets have been removed under the provisions of the DCMA. The effects of the Act are discussed below. Automattic were approached for comment on the suspension of Jennings' site but have not responded.

Conclusion: Changing ethics in social media

In both the case studies examined above, a journalist's account with a major tech company has been abruptly closed in response to a complaint or complaints. In both cases, these accounts are important to their work as journalists. And, in both cases, there do not appear to have been any attempts by the tech company to investigate the validity of the complaints.

In Nishant Joshi's case, there are no claims being made in the tweet, so there is no issue of libel; there is no copyrighted material being shared; there are no offensive phrases being used and no threats of violence. Joshi describes himself as 'a Kohli fan' (*Radio Cricket* 2017) and insists his criticism was aimed at supporters and the media rather than the player himself. In any case, professional sports men and women face far worse abuse on Twitter on a daily basis.

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The issue in this case (though without any official comment from Twitter, this cannot be confirmed) appears to be the sheer number of complaints – almost certainly running into the thousands. While the tweet itself does not appear exceptional, it would appear that, at some point, the sheer weight of numbers drew it to the attention of Twitter's censors. They, in turn, would have noticed that many of the complaints were orchestrated by a small handful of individual users which may have made them cautious about taking further action. This raises a concern as to whether insulting someone who is immensely popular or well-known should be treated differently to an attack on someone who is less famous.

The case also raises issues of commercial interest. Lipschultz (2018: 272), in his discussion of social media ethics, remarks that 'editorial independence may be compromised when special interests override larger public interests'. In this case, cricket is one of the most discussed topics on Twitter in India, which has the world's second largest population. So the potential damage caused by alienating cricket fans in India is considerably greater than that caused by upsetting one journalist. Clearly the continued participation of some high-profile figures on Twitter is vital to the company's business – not least President Donald Trump. Stock market analyst James Cakmak has estimated that were Trump to leave Twitter (or be suspended), it would wipe \$2 billion in market value off the company (Bloomberg 2017).

Andrew Jennings's case would, on the surface, seem to have been easy to investigate, simply by checking whether or not the Robert William of <http://crimefashion.netne.net> actually exists. Instead, the company simply followed its obligations under the DMCA. This, in turn, had the effect of placing the onus on Jennings to prove he had *not* breached William's copyright rather than on William (or

the firm that brought the complaint using that name) to prove he *had* done so.

Big tech companies have, however, been reluctant to conduct investigations. The pioneers of silicon valley insisted that they simply wanted to enable communication, they did not seek power over it. This is evidenced in both the companies' codes of conduct and their public pronouncements:

- Twitter's terms of service state that users retain their rights to any content they submit, post or display on or through the service. 'We may not monitor or control the content posted via the services and we cannot take responsibility for such content' (Twitter 2018).
- Wordpress says: 'We host millions of web sites for our users and are not able to control or police the hundreds of thousands of blog posts our users create every day' (Automattic 2018).
- In August 2016, Mark Zuckerberg, Facebook founder and chief executive officer, said: 'We're proud of being a tech company and not a media company ... we build the tools, we do not produce any content. ... The world needs news companies, but also technology platforms, like what we do, and we take our role in this very seriously' (Segreti 2016).
- In a case involving a former Conservative council candidate who unsuccessfully sued Google for libel over comments published by a third party on its Blogger platform, Google argued that it could not be regarded as a *publisher* (Kiss and Arthur 2013).

Even when offensive, misleading, invasive or illegal content was posted on these sites, the companies relied on users to raise them. The idea of proactively policing their pages appeared neither desirable nor, given the sheer amount of content involved, practicable. This attitude is summed up eloquently in an editorial in the *Spectator* magazine:

Companies such as Google and Facebook insist they're the digital equivalent of the vans, newsagents and paperboys who distribute what other people publish. So they ought not be held responsible for it (*Spectator* 2017).

One might extend this simile to say that just as the newsagents, van rental companies and paperboys were free to decide to terminate their business or employment with a particular newspaper group without giving any reason, so Twitter or Wordpress are free to suspend their relationships with journalists such as Joshi or Jennings.

But this is where the comparison breaks down. While a newspaper could switch its custom to a different van company, Nishant Joshi cannot switch to a different micro-blogging social media site –

because Dale Steyn and his other valuable contacts use Twitter. Journalists are locked into the big social media companies in the same way as we were once locked into using the telephone. The *Spectator* goes on to argue that the 'we're platforms, not publishers', argument changed with the advent of social media:

The tech giants, worried by the demons they were nurturing, started to behave as publishers. They began moderating and sometimes banning content. Facebook started to editorialise its news feed, tweaking 'emotional content' to see if it would make users happy or sad. They stopped being mere platforms (ibid).

It would seem that, tacitly if not publicly, the tech giants have come to realise this. The most obvious example of this being Facebook's decision, in May 2017, to hire an extra 3,000 editors to screen posts. We may well see other companies following suit, albeit on a smaller scale. At the UK home affairs select committee meeting, referred to at the start of this paper, representatives of Google and Facebook also both said they were now proactively seeking out content that violated their policies rather than depending on it being reported to them. '99 per cent of the content we take down involving ISIS and al-Qaeda comes through our own efforts of finding that content rather than content reported to us,' Simon Milner, Facebook's UK policy director, stated (Home affairs committee 2017).

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Perhaps most surprising was the response from Twitter, which once declared itself 'the free-speech wing of the free-speech party' (Halliday 2012). Sinead McSweeney, the European and African vice-president of public policy and communications for Twitter, said that safety was its 'number one priority' in 2017. She added: 'You cannot be on our platform if you are affiliated with a group that encourages violence against protected groups' (Home affairs committee 2017).

It is understandable that the committee members were concerned with the suppression of offensive or terrorist material. Several MPs have received death threats and the United Kingdom was subjected to at least five terrorist attacks in 2017, with social media seen as a recruiting sergeant for the attackers (ibid). Yet, there was not one question to the tech companies' representatives about whether, on occasion, they could be too quick to endorse complaints, nor any concern expressed about the impact that their more proactive policing regimes might have on freedom of expression.

In 2014, business analyst Brian Solis wrote:

The ethical practice of social media starts with an ethical foundation. Without it, you risk falling victim to social media's relentless and unforgiving nature of real-time relevance or irrelevance. ... Without a strong ethical foundation, you

unintentionally make perilous decisions driven by what's right ... right now, rather than what's truly right (Solis 2014: xvi).

While Solis's advice was directed at *users* of social networks, it could equally be applied to the companies that have established them. The tech giants are now behaving as both publishers and regulators and, as such, wield greater potential influence than any newspaper or television company has ever enjoyed in a liberal democracy. It is to be hoped that lawmakers consider how to protect free comment in their future dealings with these companies.

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Note on the contributor

Charles M. Lambert is Head of the Journalism and Media cluster at the University for the Creative Arts, in Farnham, Surrey. He spent two decades as a television journalist, covering news and sport for the BBC and ITV before becoming leader of the Sports Journalism degree course at the University of East London. His first book, *Digital sports journalism*, is due to be published later this year by Routledge. He has taught Philosophy and Ethics to A level students.