SOCIAL MEDIA AND THE CHALLENGES OF REGULATION IN NIGERIA

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Abstract

With the great potentials of the internet and other digital social media formats, comes the challenge of monitoring and regulation. To preserve the virtues of freedom of expression, democratic governance, and sustainable development, this study notes that there is a need for the regulation of the social media as a result of the dangers they pose. The Desk study and Case study method of research were adopted in examining the challenges involved in regulating these media. In examining the issues involved in regulating the social media, the study was guided by the Normative and Technological Determinism theories. Findings show that, Pornography, Right to privacy and freedom of speech, among others, form the burning issues in discourses related to social media regulation. The study recommends among others, the urgent need to review media laws to address the technicalities involved in the newer technologies like social media. Also, training of media policy makers in the issues involved in social media is quite imperative in this regard as it will help them tackle the technicalities in drafting a regulatory framework.

Keywords: *Social Media, Regulation, Challenges, Regulatory Framework, Ethics, Legal*

Introduction

Regulating traditional media in the face of such issues like obscenity, copyright, right of privacy, freedom of information, etc, has been up-heaval. Thus has become more difficult with the emergence of social media. Regulatory bodies like National Broadcasting Commission (NBC), Nigeria Communication Commission, etc, may be confronted with the difficulties of instituting measures and guides for users and operators. The difficulties become gloomier if one recognizes that social media have lots of potentials which are both advantageous and disadvantageous.

The increasing use of social media and online tools have led to greater privacy challenges. The challenges of revised guidelines for endorsements and testimonials focusing on consumer-generated media, such as blogs and social networking sites are daunting. Meanwhile, the use of Social media and other communication technologies continue to grow considerably and offer all citizens great opportunities for participation, interactivity and creativity. However, risks for children and abuse of these technologies continue to exist and, as a result of the changing technologies and social behaviours, new risks and abuses continue to emerge (Jeremiah, 2011).

Discourse on the social evils of social media, includes also the need to protect unguided access by minors. In order for this to be achieved, measures should be adopted to protect the physical, mental and moral condition of the children, which might be impaired by their accessing inappropriate content. Moreover, in order to encourage citizens to exploit the opportunities and enjoy the positive benefits offered by the Internet and social media technologies, measures promoting their safer use through legal regulations and ethical considerations, are also needed.

Bill Gates, at the World Press Freedom Day in 2011, observed that the internet was becoming the town square for the global village of tomorrow. He is almost entirely correct: today, the Internet is pushing down all manner of artificial barriers and making information dissemination a democratic affair. Also, Adelakun (2011) has re-examined the discourses at the recent World Press Freedom Day, which reflected on the fundamental principles of press freedom in the age of the Internet He considered whether people, 20 years after the declaration of the press freedom was made in Windhoek, Namibia, can voice their opinions and access diverse, independent information sources.

The Internet, which is the main vehicle of the social media platform, has a major role to play in the decentralization of information dissemination, away from the hands of a few traditional professionals that control what goes out to the public. The Internet has substantially altered the media landscape and information flow paradigm due to its ubiquitous nature; it has turned almost everybody into an information disseminator and this has implications for the traditional media and the various aspects of journalism itself (Adelakun, 2011). The statement below underscores this opinion:

The principle of internet freedom is rooted in the openness of the platform so that the internet can remain an engine of idea innovation and economic growth... We must seek to protect free expression while at the same time fostering tolerance. Just like a town square, the internet is home to every kind of speech. In the market place of ideas, those ideas with merit will become stronger and those without merit will in time fade away. ((Punch, Feb 25, 2011).

According to the International Telecommunication Union (2010), close to two billion people-about a third of the world's population-use the internet. In Nigeria, the figures are not definite but with mobile phones connected to the Internet becoming more popular, more and more Nigerians are connected and the art of journalism is taking a new turn as citizens get online more empowered to create and report their own news. The evolution of the Internet, the emergence of new forms of media and the rise of online social networks have reshaped the concept of "the press" in a way we might not have imagined (Okorom, 2012:). It comes with a bundle of advantages and disadvantages, however.

With the growth of the Internet, individuals, groups, and others now enhance their freedom of expression much more than the traditional media could have allowed. They exercise their rights to seek, receive and dispense information in a democratic way, by-passing the standard gatekeepers who control much of what seeps into the public arena for a variety of reasons ranging from altruistic to outright selfish. With the various platforms the new media offers, it is possible for almost any citizen to communicate to a large audience; either through blogs, social networking sites, Internet groups, chartrooms, or other similar means. Now, it is much easier for citizens around the world to challenge authorities on issues, expose corruption, and express their opinions via the internet. Images that would have been censored by media houses, either for its goriness or sensitive nature, gets frequently circulated online. Online, people make comments and write without restraints. With these new frontiers now being opened, the media is definitely better for it in many ways.

One of the most popular uses of the Internet, according to UNESCO, is blogging. From 22 million blogs in 2005, there are now more than 100 million by 2010. One of the reasons for its popularity is its decentralized nature, speed of information dissemination and lack of formal gate-keeping such as editing, which means just about anything goes through the internet. George Lundberg, an American sociologist, once said information on the Internet is subject to the same rules and regulations as conversation at a bar (Adelakun, 2011). OKorom (2012:7) summed it up thus, "New media has had a profound effect on the most essential categories of society in the twenty-first century: economies, politics and the exchange of ideas."

It is difficult to conclude the discussion of new media technology without raising the question of ethics. As Okorom (2012:25) has aptly observed, whenever a new technology is introduced especially in the area of information and communication technology, the questions of whether the new technology is used right or wrong comes to play. In the case of new media, some journalist have raised legitimate concerns over the method and use of new media tools in the collection and dissemination of news and information. There are concerns that the new media tools could be used to spread misleading information. In Nigeria, for instance, there is conclusive evidence to show that most corrupt politician sponsor certain websites in order to exploit its benefits to advance their selfish interest. Also Face book, Twitter You Tube, Skype and other new media platforms can be used to spread falsehood. There are also concerns that new media tools can seriously undermine investigative journalism because people are more prone to publish what interest them rather than what is in the interest of the public (Okorom, 2012).

In the light of the above observations, it becomes pertinent to examine the challenges inherent in the task of regulating social media in Nigeria. This paper therefore, undertakes this task and provides rich insight into the subject matter. This presentation is necessary to provide insight in

our bid to propose a framework for social media regulation in Nigeria as regards protecting all users, including minors from unprotected access.

Statement of the Problem

The use of Social media and other communication technologies continue to grow considerably and ofterall citizens great opportunities for participation, interactivity and creativity. Marshall Mcluhan's (cited in Odoemelam, 2012) technological determinism paradigm has therefore been vindicated by these contemporary modes of communication. While there are various formats and media for communication made possible by the advance in technological know-how, the social media is the most phenomenal. The possibilities it has created in human interaction and communication are beyond bounds.

However, regulating traditional media in the face of such issues like obscenity, copyright, Right of privacy, freedom of information, etc, was upheaval. But they have even become more difficult with the emergence of social media. Regulatory bodies like National Broadcasting Commission (NBC) and the Nigeria Communication Commission, etc may be confronted with difficulties in instituting measures and guides for users and operators. The difficulties may even be gloomier if one recognizes that social media have lots of potentials which are both advantageous and disadvantageous.

The various internet-based applications, from social networks to user-generated content and micro-blogging, have empowered nearly every internet user to be a potential broadcaster (willingly or unknowingly) with millions of other users both locally and globally. This trend ensures new and emerging patterns of communication; demolish artificial and other similar borders while creating participatory and new forms of other creative expression.

The new relationship consequent upon social networks therefore raises critical legal, ethical and moral challenges: for governments to enforce laws, which can limit freedom of speech; for internet companies to protect privacy and develop standards in an online environment; for users, and especially for young people, to know how to protect their privacy and free speech. No doubt, this new found type of communication requires a form of regulation to prevent a lawless society sponsored by social media. The above has prompted Ekwe et al. (2011), to propose the *anarchical theory of the media,* in which they foresee a society in chaos owing to the disorder in seeking, receiving and dissemination of unfettered information.

In an attempt to implement the regulatory framework, what challenges would be experienced and what are the dimensions?

Objectives of the Study

The study will be guided by the following objectives:

1. To examine ethical and legal issues involved in the regulation of the social media in Nigeria
2. To identify challenges associated with legal and ethical regulation of the social media in Nigeria
3. To examine remedies to the challenges of regulating social media in Nigeria

Research Questions

Effort will be made to provide answers to the following research questions:

1. What are the ethical and legal issues involved in the regulation of the social media in Nigeria?
2. What are the challenges associated with legal and ethical regulation of the social media in Nigeria?
3. What are the remedies to the challenges of regulating social media in Nigeria?

Theoretical Framework

In this study, we examine the issue of regulation, which involves a form of control, censorship or the application of restraint in the content and presentation of information. We also discuss the medium of communication as a causative factor (legal and ethical factors) and finally, there is also the normative theoretical perspective, which focuses on legal structure of the State as it relates to the regulation of communication and information dissemination. Therefore, in order to adequately reflect these theoretical poles, we propose two theories: the Technological Determinism theory and the Normative Theories.

Technological Determinism Theory

This is a media theory. It best explains the impact of ICT on how information is consumed, retrieved, and disseminated in contemporary society as posited by Marshal Mcluhan and cited in Odoemelam (2012:6). During the 1960s, Marshall Mcluhan, a Canadian literary scholar gained worldwide prominence as someone who had a profound understanding of electronic media and their impact on both culture and society. He argued that technology inevitably causes specific changes in how people think, in how society is structured and in the forms of culture that are created. Due to this, Mcluhan was said to be a technological determinist (Baran and Davis, 2006). To describe the potency of technology in the dissemination of information, Marshall McCluhan in 1969, coined the phrase, "the medium is the message", which posits that, the medium or tool that is used in communicating the message has a shaping effect upon the user (Baran & Davis, 2006).

The theory further postulates that, "changes in communication modes largely determine the course of history. Mcluhan's theory aimed at drawing attention to the important strength of communication technologies". This theory regards the wider dimension of information craze in the society, as a direct result of the information explosion fostered by ICTs (Baran and Davis, 2006). It is therefore safe to assume that the social, historical, economic and cultural changes occurring in human society today, could be linked to the invention and development of new technologies. The medium, which the theory emphasizes, has gone ahead to prove that communication technologies are turning the world into an interactive forum. (Odoemelam & Adibe, 2011). The social media as technology tool is a medium, and therefore it has an effect upon the message. This effect will be explored in this paper.

Normative Theory

This theory draws its strength from the nominal definition of 'Norm'. The theory reflects on what ought to and what ought not to be done in the practice of packaging and dissemination of information. The original understanding of the normative theories of the press, focused on the political milieu of nation-states, where the press is expected to assume the coloration of the political milieu within which it finds itself. In the main, the theory helps to explain the ways in

which societal communication rules impinge on mass media structure and performance and highlights the consequences of non-convergence between societal communication principles and mass communication principles (Folarin, 2002:22).

An example of the normative theory is the concept of gate-keeping. According to Folarin (2002:95-96), Kurt Lewin coined this concept in 1958. It is concerned with the screening of the information to be disseminated. ^Gate-keeping emanates from the understanding that apart from legal restrictions on what is to be published, including photographs, the communicator has the moral duty to be socially responsible to his audience in the content of the message. Some of the methods used in checking the communication process include: Censorship, Regulation of Electronic broadcasts, Regulation of Advertising, Restriction of the dissemination of pornography, Criminal and libel sanctions, Suit to assert Right of privacy, selective consumption, etc. For ethical regulation, appeal is made to conscience and what is best for the greater number of people. In this regard, we make reference to Emmanuel Kant's principle of Categorical imperative and also the ethical notion of the Golden rule which states "Do unto others as you want them to do for you". This theory is therefore relevant in our discourse because it provides an hindsight on the essence of some kind of control in the use and dissemination of information.

In this study, we take advantage of this latter understanding of the normative theory and apply it to this inquiry. So, the normative theories are those rules and regulations, including moral and ethical obligations which guide the process of communication and to which operators and actors in the communication business must adhere to. In this regard, we point to the social responsibility paradigm as a reflection of such norms that underline role expectation and role performance in the dissemination of information and in seeking for information. These theories find relevance in this study because of the concepts of regulation and the medium in question.

Research Design

This study adopts the qualitative research design. According to Reinard (2001:1-9) Qualitative studies try to describe the human condition by using general views of social action. The qualitative techniques used in this study include the Desk Study method which is also known as Library research method and the Critical Discourse Analysis. With the Desk Study technique, an in-depth review of literature on subject matter was done. This involved the examination of existing documents. According to Wimmer and Dominick (2011:130), "existing documents may represent a fertile source of data for the qualitative researcher". However, sampling of relevant works to be examined was selective or biased. This is in line with Ndagi's (1999:18) position that such steps must be selective so as to exclude characteristic in the elements that may not be required. The following criteria were used to select articles for review: 1. Articles that discussed either new media or social media and the dangers of non regulation. 2. The articles must discuss social media within the context of ethical and legal regulation. In the critical discourse analysis, Van Dijk (2008) views discourse not only as a reflection of existing social structures, but where social structures are produced, reproduced, reconstructed, confirmed, legitimised or resisted. Hence, the critical analysis of discourse acknowledges the larger socio-political sphere within which the discourse is situated. Critical approaches to discourse typically aim to prove by analysis that discourse is rarely neutral or free of ideologies. There are many approaches to CDA that are both theoretically and analytically varied. Van Dijk (2008) in his attempt to construct a theoretical framework of CDA discusses the link between micro and macro levels of analysis. These research approaches were used for the study because they yielded different views which

would not have been captured if the researcher had used only one method (Cresswell, 2002; Inagaki, 2006).

Conceptual Discourse

Social media belong to a new category of media that focuses on social networking, allowing users to express themselves, interact with friends, share personal information with freedom as well as publish their own views on issues on the internet. Social media are online media that promote participation, openness, conversation and connectedness (Mayfield, 2008). Moriaty, Mitchell and Wells (2009:341) cited in Odoemelam and Adibe (2011) compared this medium with the old mall and arcade hangout. "Like the old mall and arcade hangouts, these are places where friends spend hours talking to each other about their joys, crushes and disappointments". For instance, as at 2007, the phenomenally popular facebook had created community of 24 million members across the world (Odoemelam and Adibe, 2011).

Apart from blogging, the various networking sites are also a veritable source of journalistic report in one way or another. During the general elections in April, 2011 Nigerians from various parts of the country kept people informed and entertained by reporting activities on Facebook, Twitter and elsewhere (Adibe and Odoemelam, 2012). And here is one major advantage citizen journalism has over traditional journalism. People are everywhere the journalist cannot be. They can see information, stories and take pictures and write their own stories. That explains why media houses now make provisions for the i-reporters; the citizen journalists who have access to information they do not have (Okorom, 2012).

This way, more people get to express themselves and participate in public debate more than before. In Nigeria, even in areas where internet penetration is low or nonexistent, citizens still make use of mobile phones to send information via text messages to local radio stations, or to places where internet is more dominant.

However, the downside is that even as new frontiers are being forged by these 21st century media, new barriers and new attempts to block, filter and censor information are being created thus creating an impediment for democracy. More bloggers have been arrested in some countries in the past one year. For instance, a young man, Moukhtar Aminu, was arrested in Jigawa State in February 2011 for allegedly insulting the state Governor, Alhaji Sule Lamido, on Facebook.. He was remanded in prison while Nigerians expressed outrage at the illegality of the action (Adelakun, 2011).

According to UNESCO (2011), the legal system has been slow to adjust to the changes caused by the convergence of telecommunication and broadcasting including public service broadcasting and the merger of broadband operators and internet service providers. Thus the 2011 World Press Freedom Day held in Washington from 1-3 May, 2011, raised the issue of a legal system to be put in place to protect bloggers and other internet citizen journalists so that democracy in the various countries can be enhanced. It says:

> Various policies and approaches exist on privacy and freedom of expression, including industrial policy and regulation such as copyright, user-centric approaches related to child protection policy, fraud, defamation and hate speech, net-centric policies linking to domain names and security policy in terms of privacy

> and freedom of expression. How do stakeholders employ these existing mechanisms to better protect freedom of expression in the age of digital communication? If the existing mechanisms are inadequate, what should be done?

The human rights organization, Article 19 (2011), recently pointed out that internet intermediaries play a key role in facilitating the connections between the providers of information and the users. Today, they are the new postal service, telephone network, local newspaper, and broadcast stations. But how they are addressed by civil society and governments is not yet clearly established and consequently freedom of expression is often being unduly limited.

Discourse on Regulatory Frameworks

A concerned expert, Michad Allen, had observed on the Facebook that the new media has to be regulated. He says, "The Internet is not tidy. It is complex. Everyone is a data, subject and a data controller" (Allen, 2011). Thus, we make the case that, regulatory framework instituted which guarantees that the content of audio and visual formats respects the principles of human dignity and do not harm any human category. That is why it requires, that law-makers be led by the society's interests to protect the freedom of speech, pluralism and independence of social media creators. Based on this, legislative framework must be flexible enough and at the same time contain clear criteria which must be applied equally to everyone. We hereunder make a case for social media legislative framework which aims at protecting creators and users of social media.

We recommend that the Nigerian government should create a common law concerning the Internet and new communication and information environment responding to the upper model. This law should protect freedom of expression and human dignity in the information and communication environment by ensuring a coherent level of protection for minors against harmful content and developing children's media literacy skills.

Regulation Challenges

Studies, (Adibe and Odoemelam, 2012; Jeremiah, 2011; Adelakun, 2011), show that extensive regulatory framework exists that guide operators in the more traditional form of information and communication sending and receiving. Laws of communication like, Obscenity, Copyright, Sedition, Defamation, etc are easier to address. But social media which at present is emerging, constitute a lot of regulatory challenge. We hereunder, examine some of these challenges:

- Legal technicalities that bother on freedom of speech and of expression constitute a problem at regulating social media. For instance, civil organizations and free speech proponents will raise arguments that any such effort regulation is an impingement on the freedom of speech.
- The inadequacy of available media laws to address the technical issues inherent in social media constitutes a challenge also.
- Lack of lawmakers and lawyers who are well trained in the technicalities of social media legal and ethical issues. This can be seen in the inability of communication laws to define what constitute pornography, copyright, invasion of privacy in the light of social media. The dimensions of sending and receiving information with the use of social media, has made it difficult to draw the line between an infringement of those provisions and lack of it.

But with traditional media, it is easy to determine when the law against either pornography or copyright has been flaunted.

- There is also the challenge of lack of a well constituted regulatory framework and sufficient technical and legal know-how to advance the cause of regulating social media.
- One of the major constraints to regulating social media is lack of adequate knowledge of what social media is and its dimensions. This ignorance also manifests itself in the lack of knowledge of what medium constitutes social media; such as, facebook, twitter, GSM, youtube, etc.
- The rapidity, with which newer social media are invented, makes it difficult for policy makers to come up with immediate legal frame work to regulate the new inventions.
- One of the most proposed methods for addressing the problems of social media is the method of self regulation or self censorship. But unfortunately, this requires morals or ethics. The problem therefore, is that both virtues are scarcely universal but are relative. Thus, what may appear as obscene to one, may not be so to another. But with social media, there is no universal interpretation.
- Finally, the lack of distinction between communicators and the audience which has thinned the tine between who the sender and receiver is has made it difficult to regulate social media. This has made social media an all comers affair. It is therefore difficult to determine professionals from amateurs.

Summary

This paper set out to examine social media and its regulation in Nigeria. It specifically examined the challenges in ethically and legally regulating the social media. The Desk study and Discourse analysis methods of research were used in the study. Studies revealed that pornography, lack of adequate knowledge of what social media is and its dimensions especially among lawmakers, constitute a challenge in its regulation Also, legal technicalities that bother on freedom of speech and of expression and lack of lawmakers and lawyers who are well trained in the technicalities of social media legal and ethical issues, constitute a problem at regulating social media.. All these constitute grave challenges to the effective regulation of social media in Nigeria. However, despite this present gloomy situation, the horizon will expectedly be clearer in the future if there will be considerable improvement in the legal structures of Nigeria.

Conclusion

As this study has shown, new technologies raise new situations which require new methods and approaches for protecting creators and users of social media. In conclusion, we agree with pope Bennedict XVI and note that, as with every other fruit of human ingenuity, the social media must be placed at the service of the integral good of the individual and of the whole of humanity. If used wisely, they can contribute to the satisfaction of the desire for meaning, truth and unity which remain the most profound aspirations of each human being.

Recommendations

- There is urgent need to review media laws to address the technicalities involved in the newer technologies like social media.

- Training of media policy makers in the issues involved in social media is quite imperative in this regard as it will help them tackle the technicalities in drafting a regulatory framework.
- Regulatory bodies should think of policy sub-sections on different types of media such as Facebook, blogging, and Twitter.
- Law makers should be given adequate training on the concept of social media and what constitutes the social media. Deeper knowledge of the media will result in relevant laws that will not impinge on human right of expression, but rather address the negative aspect of social media usage.
- Strategies should be devised whereby, Minors (Children) could be protected from unguided access until such a time that they could make informed decisions on what information on the media they should expose themselves to or not.

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