

Social media and democracy

## The sound of silence

### Regulation of free speech should not be outsourced to a few tech tycoons

THE FIRST reaction of many people was one of relief. On January 6th, with 14 days remaining of his term, the social-media president was suspended from Twitter after years of pumping abuse, lies and nonsense into the public sphere. Soon after, many of his cronies and supporters were shut down online by Silicon Valley, too. The end of their cacophony was blissful. But the peace belies a limiting of free speech that is chilling for America—and all democracies.

The bans that followed the storming of the Capitol were chaotic. On January 7th Facebook issued an “indefinite” suspension of Donald Trump. Twitter followed with a permanent ban a day later. Snapchat and YouTube barred him. An array of other accounts were suspended. Google and Apple booted Parler, a small social network popular with the far-right, from their app stores and Amazon kicked Parler off its cloud service, forcing it offline entirely.

Surely this was acceptable in the face of a mob on the rampage? Legally, private companies can do as they choose. However, some decisions lacked consistency or proportionality. Although Twitter cited a “risk of further incitement of violence” by Mr Trump, the tweets it pointed to did not cross the common legal threshold defining an abuse of the constitutional right to free speech. Meanwhile Ayatollah Ali Khamenei is still on Twitter and death threats are easy to find online. The companies ought to have focused on individual posts for incitement. Instead they have banned people, including the president, pushing fringe voices further from the mainstream. In some cases action was needed, as with Parler’s poorly policed and violent exchanges, but overall there was no clear test for when speech should be banned. The internet’s infrastructure, including cloud-computing services, which should be neutral, risks being drawn into divisive partisan battles.

The other problem is who made the decisions. The tech industry’s concentration means that a few unelected and unac-

countable executives are in control. Perhaps their intent really is to protect democracy, but they may also have other, less elevated motives. Some Democrats cheered, but they should evaluate any new speech regime based on its broader application. Otherwise an act that silenced their enemies last week could become a precedent for silencing them in future. The regrets were telling. Angela Merkel, Germany’s leader, said that private firms should not determine speech rules. Alexei Navalny, a Russian dissident, decried an “unacceptable act of censorship”. Even Jack Dorsey, Twitter’s CEO, called it a “dangerous precedent”.

There is a better way to deal with speech online. Making the industry more competitive would help by diluting the clout of individual firms and by stimulating new business models that

do not rely on virality. But for as long as the industry is an oligopoly, another approach is needed. The first step is to define a test of what should be censored. In America that should be based on the constitutional protection of speech. If companies want to go further by attaching warnings or limiting legal content they need to be transparent and predictable. Difficult judgments should fall to independent non-sta-

tuary boards that give people the right of appeal.

Over 80% of Twitter and Facebook users live outside America. In most countries tech firms should adhere to local laws on speech—Germany’s rules on hate speech, say. In autocracies, like Belarus, they should default to the standards they observe in America. Again, judgments about which standards apply in which country could be guided by media boards. This may harm American firms in more places: this week Uganda banned Facebook and Twitter ahead of a contentious election.

America needs to resolve its constitutional crisis through a political process, not censorship. And the world must seek a better way of dealing with speech online than allowing tech oligopolies to take control of fundamental liberties. ■

