

9. Freedom of tweets

As Twitter sues Elon Musk to force his purchase of the company or pay a reported one billion dollars in compensation, the character of Twitter today and under Musk's proposed leadership has become contentious. In March 2022, when Musk began his acquisition bid, he polled users on the platform asking, "Free speech is essential to a functioning democracy. Do you believe Twitter rigorously adheres to this principle?" Musk's offer letter contained his response, "I now realize the company will neither thrive nor serve this societal imperative in its current form. Twitter needs to be transformed as a private company."¹

Twitter's content moderation policies have developed over the last ten years to prohibit the glorification of violence, incitement of violence, harassment, hateful conduct, graphic content and much more. These policies themselves have clarifying policies, but still require judgment calls. The judgment of the content moderation team has come under criticism in the past for being too aggressive, too lenient, and too inconsistent. For instance, when Twitter permanently suspended former President Donald Trump's account over tweets relating to the January 6th riots many viewed the decision as censorship of valid political beliefs and while others lamented the decision as too late.²

Musk's perspective is that content moderation should mirror local laws regarding speech and thus be as lenient as legally permissible and has vowed to reinstate the former President's account. Critics wonder, "[i]f Twitter wants to pull back from moderating speech on its site, will people be less willing to hang out where they might be harassed by those who disagree with them and swamped by pitches for cryptocurrency, fake Gucci handbags or pornography?"³ Beyond the user experience, others express concern that the rampant spread of misinformation on platforms like Twitter leads to a degradation of democracy and acts of violence like those of January 6th.

However, the proposed sale of Twitter resolves the digital public square will continue to be controlled by a handful leading voices at places like Twitter, Facebook, and Tik Tok. These leaders are controlled by market forces and their own moral compasses but are not themselves beholden to a democratic electorate. Some states have taken decisions about content moderation away from unelected leaders by implementing laws restricting the content on digital platforms. These new laws include both the Digital Services Act in the European Union, which requires Twitter to scrub its platform of misinformation and abuse, and Vietnam's policy of holding companies accountable for government criticism on their platforms.

¹ Jennifer Korn, "Elon Musk's bumpy road to possibly owning Twitter: A timeline" CNN Business, August 19, 2022 <https://www.cnn.com/2022/05/17/tech/twitter-elon-musk-timeline/index.html>

² Bobby Allyn and Tamara Keith, "Twitter Permanently Suspends Trump, Citing 'Risk Of Further Incitement Of Violence'" NPR January 8, 2021 <https://www.npr.org/2021/01/08/954760928/twitter-bans-president-trump-citing-risk-of-further-incitement-of-violence>

³ Shira Ovide, "Buying Twitter, Elon Musk Will Face Reality of His Free-Speech Talk" New York Times April 26, 2022 <https://www.nytimes.com/2022/04/26/technology/twitter-elon-musk-free-speech.html>