

Ex Officio Hearing
"Internet Content Moderation and Freedom of Expression in the Americas"
Thursday, March 25, 2021 - 2:00 - 3:30 pm
Special Rapporteurship for Freedom of Expression, IACHR
Inter American Press Association

Honorable Commissioners and Special Rapporteur for Freedom of Expression.

My name is Jorge Canahuati, president of the Inter American Press Association, and president of the OPSA media group, from Honduras.

Thank you very much for this space on a difficult and fascinating subject.

It is difficult to summarize in 5 minutes the internal discussion that we have been having for years with our members, more than 1,200 news media outlets in the Americas. Our first conclusions are portrayed in the Declaration of Salta of Principles on Freedom of Expression in the Digital Era, approved by our General Assembly in 2018.

As general principles, we believe the rights linked to freedom of expression and freedom of the press must be equally guaranteed in the digital as well as in the traditional environment. And that laws and public policies regarding the internet must be enacted to ensure that the digital space is open, neutral, accessible to everyone, adhering to human rights.

Internet and digital technologies deepens a more open, diverse and plural exercise of freedom of thought, freedom of expression and freedom of the press. However, we have stressed that there are challenges, among them, excessive government regulations and a new environment with private players who exert considerable power over the circulation of information.

Following the cancellation of content by former president Donald Trump and especially the permanent blocking of his account, and those of other people and organizations, we express:

We are in favor of the self-regulation of private news companies and, by extension of digital platforms. While we admit that the latter have been improving this practice, they should create more efficient accountability

mechanisms for content moderation, cancellations and good practices. The Facebook Oversight Board is a positive step, as well as other instances of ombudsmen or user advocacy.

In the particular case of Trump, we consider an abuse of privilege by platforms that have indefinitely blocked the expressions of a public figure. Presuming crimes or misdemeanors that have not yet occurred, without considering the principle of subsequent responsibility, is prior censorship.

As part of a policy of self-regulation to which our Declaration of Salta urges us, these policies, good practices, curation criteria and other community norms must comply with international human rights standards. Therefore, they must be clear, transparent, intelligible, and openly communicated to all users, as well as promoted in permanent digital literacy campaigns.

Likewise, quick and efficient consultation and appeal mechanisms should be enabled for those who feel that their right of expression has been violated.

We consider that these private company platforms, with characteristics of a public network due to their scope and massiveness, have been erratic in the application of criteria in different countries and times.

Nevertheless, we are not in favor of imposing excessive burdens on curation and controls, beyond those required by international human rights laws and standards; among others, on apology for violence, hate speech, protection of minors and elimination of malicious information.

We believe that there is a danger –and we are witnessing the movement of legislators in several countries– of being over-regulated or that governments could seek to create supranational mechanisms that get bogged down in discussions between democratic and authoritarian countries or end up establishing restrictions on free expression.

Anyways, any subsequent restriction and sanction that may impact the right to disseminate, share or release information and ideas on the internet must be established by law in accordance with the conditions set forth in the American Convention on Human Rights.

In any case, beyond the self-regulation of global platforms, those who feel affected by blockages or cancellations must have expedited, free or low-cost access and in courts of their jurisdiction so that any excesses in the community norms are amended. In general, bodies of this nature are more independent and fair, and their decisions, acceptable or not, have the possibility of reaching higher and even international bodies, such as this Inter-American Human Rights System.

In summary, we consider that on this matter, and to maintain an adequate balance between freedom of expression and other human rights, the way forward is:

- 1) Self-regulation before regulations by governments.
- 2) That the self-regulation is based on international human rights standards, guaranteeing transparency, due process, the right to defense and appeal in the administrative and judicial stages, and accountability.
- 3) That community norms (due to their character of standard rules) are subject to prior control of compliance with the human rights standards, and
- 4) That fast track be enabled in judicial systems to expedite the right of defense.

Finally, IAPA urges you to create a new instance of dialogue and consider a request for an advisory opinion to the Inter-American Court of Human Rights regarding the necessary sustainability of the media and its contribution to democracy.

We draw attention to a recent law in Australia and others in Europe that oblige digital platforms to compensate the media for their content, a desire that we express in the Declaration of Salta.

The claim is based on the rules for the defense of competition and copyright, in the understanding that the latter is a universal, pre-existing, and essential right for the existence of an independent and sustainable press as, in turn, is established in our Declaration of Chapultepec, approved in 1994.

Thank you very much.