



The State of Free Speech, the Free Press and Social Media Censorship: Part 2

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Taylor Hudak (TH): In the European Union and the United States, there is a trend in which we see more regulation of the social media and information space. This is done through legislation, divestiture laws and even sanctions. In part two of our series on the state of free speech, the free press and social media censorship we will look at the latest policies aimed at the press sector and online platforms. I'm Taylor Hudak reporting for acTVism Munich and if you haven't seen part one of our series yet, you can find the link in the description of this video.

Now, we left off in part one discussing the extensive efforts to ban the popular video sharing app TikTok in the US. The official reason is due to concerns over the Chinese ownership of the platform. But that story, in fact, highlights a broader trend in America in which foreign owned companies are aggressively targeted and even forced to shut down operations in the country. It has been clear for many years that RT and other Russian media have long been a target of the US government. Whether that be blaming the 2016 election results on Russia, shutting down RT America in 2022, or accusing Russian media of pushing disinformation with regards to the war in Ukraine. But now it has become very clear that the US has taken its one sided information war to a new level. On September 13th, the State Department issued a fact sheet titled: *Alerting the World to RT's Global Covert Activities*. It announced additional sanctions on Russian media, including three entities and two individuals. According to the State Department press release, the US government accused RT of being more than just a media outlet, but an organisation engaged in information operations, covert influence and military procurement. These bold accusations, without evidence, are being used as justification to further restrict access to Russian media and to justify more sanctions and even surveil and target media personnel, both domestically and abroad. RT and the Russian Ministry of Foreign Affairs have denied the accusations. RT's editor in chief, Margarita Simonyan, said the network "is being targeted by Western governments because they are at war with Russia". She also went on to state that, "Russia has a stable position in the international information space". During a press briefing on the matter, Secretary of State Antony Blinken spoke in a greater depth about the new round of sanctions against Russian media. He confirmed that American journalists and media personnel associated with the sanctioned entities must be reported to the US government.

Antony Blinken (AB): In addition to imposing sanctions, visa restrictions and other measures, the State Department also designated the Russian state funded and directed media company Rossiya Segodnya and five of its subsidiaries, including RT under the Foreign Missions Act. As a result, these actors are now required to notify the State Department of all personnel working in the United States, as well as their property.

TH: And hinting at the political nature of the sanctions, during this same press briefing, Director for the State Department's Global Engagement Centre, Jamie Rubin, shared why the State Department thinks that there is not more global support for Ukraine.

Jamie Rubin: Sanctions are a tool. They're not a goal. What's the goal? The goal is for the rest of the world – and remember, you've asked question for Mat for months and months about, you know, the Global South and why there's not more support for Ukraine in this part of the Middle East or that part of Latin America or this part of Africa, well, one of the reasons, not the only reason, but one of the reasons why so much of the world has not been as fully supportive of Ukraine as you would think they would be, given that Russia has invaded Ukraine and violated rule number one of the international system is because of the broad scope and reach of RT.

TH: And these sanctions, and this overall sentiment has led to a series of attacks against free speech and journalism in America. In mid-October, a US based company that produced content for radio Sputnik was forced to shut down. During the summer Americans affiliated with Russian media had their property raided by the FBI. One of those individuals included former U.N. weapons inspector Scott Ritter. Ritter has been providing analysis on US foreign policy, including on the issue of Russia and Ukraine. On August 7th, FBI officials executed a search warrant on his home, citing potential violations of the Foreign Agents Registration Act, or FARA. Following the raid, Ritter spoke to local media outside his home.

Scott Ritter: I will tell you right now, I am not in violation of the Registration Act. I haven't done that [inaudible]. And hopefully by executing the search warrant and taking the materials that they did, they will rapidly reach that conclusion. The FBI was extraordinarily professional. I have no complaints against the personnel that did this. I do have complaints against the personnel that caused this to happen.

TH: Ritter also commented that actions such as this against US citizens will have a serious effect on our human rights and civil liberties.

Scott Ritter: Things like this have a chilling effect on free speech. There's no doubt that I'm being targeted because of statements I've made about U.S. policy in Ukraine. I'm being targeted because I have made an effort to try and improve relations between the United States and Russia to try to bring about arms control, to bring about peace. Apparently, some in the US government takes umbrage at this, so they executed a search warrant. The idea that you have a free speech right in America when you execute it in a manner that the US government takes exception to and they launch a search warrant, that is an intimidation factor. I can say that I am not intimidated and I will continue to speak out. And I will continue to do what I do

because that's my responsibility as an American citizen. And I will continue to operate in that manner.

TH: But the United States is not only seeking to intimidate American journalists and commentators and restrict Russian media's reach within the US borders. According to the September 13th press release announcing the sanctions, it reads: "The US State Department is actively engaged in a diplomatic effort to inform other governments around the world of Russia's use of RT to conduct covert activities and encourage them", that is, foreign countries, "to take action to limit Russia's ability to interfere in foreign elections and procure weapons for its war against Ukraine". Secretary Blinken further elaborated on this new diplomatic effort in which he described an initiative aimed at diminishing Russian media's reach globally.

AB: Today, we're announcing that these Kremlin backed media outlets are not only playing this covert influence role to undermine democracy in the United States, but also to meddle in the sovereign affairs of countries around the world. In response, today, the United States, the United Kingdom and Canada are launching a joint diplomatic campaign to rally allies and partners around the world to join us in addressing the threat posed by RT and other machinery of Russian disinformation and covert influence. We urge every ally, every partner, to start by treating RT's activities as they do other intelligence activities by Russia within their borders.

TH: So perhaps the US imperial ambitions have officially expanded to the information space. And what this means is that the US is seeking to put pressure on other governments to limit access to RT and other Russian media. And this, in fact, has already happened in India, according to The Hindu, an Indian news publication, "US embassy officials spoke to India's Ministry of External Affairs", encouraging them to join in on the effort to combat what they call Russian disinformation. US authorities requested the Indian government revoke the accreditations of Indian RT journalists and designate them under the Foreign Missions Act. However, the Indian government reportedly has refused to comply. According to the report in The Hindu, the ministry has been silent on the issue, but government officials said that the debate on sanctions is not relevant to India, while a former diplomat said that banning media organisations showed double standards by Western countries. The article went on to cite former Indian ambassador to Russia and France Kanwal Sibal, who said, "the US sanctions to curtail and censor Russian media organisations damaged America's own values". In another statement, former ambassador and former secretary Sibal said: "This will be viewed as double standards by the Global South that they are trying to target. India will obviously not be responsive to such American pressure". And while India will not be subservient to US demands on this matter, this does raise questions about the state of the free press globally in countries that may be more willing to comply with US requests to remove journalists accreditation and restrict Russian media. In a comment about the US State Department's accusations and the sanctions, Russia's Foreign Ministry spokesperson, Maria Zakharova, said: "The US has declared war on freedom of speech throughout the world, turning to open threats and blackmail against other states in an effort to set them against the domestic media and establish sole control over the global information space".

And it is not just the United States where there has been a crackdown on Russian media. We see it in the European Union as well, with the 2022 ban on RT and Sputnik following the outbreak of the war in Ukraine. But in 2024, the EU witnessed a significant regulatory shift on the free Internet through legislation with the EU's Digital Services Act, or DSA. The DSA requires designated very large online platforms or VLOPs, those with more than 45 million monthly users, to adhere to a series of data and advertising protection related provisions. According to the Commission's website, "the DSA is safer, fairer and more transparent", and its measures are said to be aimed at countering illegal content, protecting minors, add transparency and more. The DSA establishes a new oversight framework to monitor the online space through the European Board for Digital Services. It is comprised of digital service coordinators from the member states and is chaired by the Commission. It is the job of the board to ensure compliance with the DSA to ensure its enforcement and support joint investigations. Additionally the new law requires the platforms to take measures to tackle the spread of illegal content as well as disinformation. Platforms must provide content reporting tools for users and allow them the opportunity to challenge content moderation in coordination with trusted flaggers. According to the Commission's website: "Trusted flaggers are special entities under the DSA and are experts at detecting certain types of illegal content online, such as hate speech or terrorist content". Digital service coordinators appoint trusted flaggers who are responsible for detecting problematic content in notifying the platform.

One aspect of the DSA that is not often discussed but is worth highlighting is a provision which allows for special procedures to be implemented during the time of a crisis. According to the legislation, "a crisis should be considered to occur when extraordinary circumstances occur that can lead to a serious threat to public security or public health in the union or significant parts thereof. Such crises could result from current or emerging armed conflicts or acts of terrorism, natural disasters, or serious cross-border threats to public health". It goes on to state that the Commission, along with the board and the VLOPs, should be able to quickly initiate a crisis response and thus implement certain measures. "Measures may include adapting content moderation processes and increasing the resources dedicated to content moderation, adapting terms and conditions, relevant algorithmic systems and advertising systems and more [...] as well as promoting trusted information and adapting the design of the online interfaces". This means that during a time of a crisis, there may be changes to content moderation practices, changes to the algorithm and the promotion of trusted information. But one must ask what is deemed trusted information and according to whom and by which standard? Now, crisis management and crisis response is specifically addressed in the body of the text of the law. In Article 36, a crisis response mechanism is outlined in which the European Commission, at the recommendation of the Board, can require the VLOPs and search engines to take specific measures to prevent or eliminate any contribution to the serious threat. Article 48 Crisis Protocol states: "The Board may recommend that the Commission initiate the drawing up of voluntary crisis protocols for addressing crisis situations. Those situations shall be strictly limited to extraordinary circumstances affecting public security or public health". And while these provisions are vaguely worded, all of this indicates that special policies and procedures are likely to be implemented during a crisis period. And these procedures are drawn up by the Commission and the board. And so this

certainly raises questions of the possibility for more narrative control on the social media platforms during the time of a crisis. Due to this under the DSA, we could very well see a far more regulated Internet that does not allow for diverse content or analysis in the name of preventing harm during a conflict, a war or public health event. Now, looking more generally at the DSA, any VLOP that fails to comply with the regulation could face a fine of 6% of its annual global revenue. Repeat offenders may even be banned in the bloc.

In part one of our series, we covered several stories of social media censorship involving Telegram, X and TikTok. And while those specific cases were not related to violations of the DSA, these platforms and others have already been subjected to investigations under this legislation. In December 2023, the Commission launched an investigation into X for potential breaches of the DSA related to risk management, dark patterns, content moderation and more. It goes on to state: "On the basis of a preliminary investigation concerning the dissemination of illegal content in the context of Hamas' terror attacks against Israel, the Commission decided to open formal proceedings against X." With regard to the investigation then Commissioner for the Internal Market, Thierry Breton, said: "Today's opening of formal proceedings against X makes it clear that, with the DSA, the time of big platforms behaving like they are 'too big to care' has come to an end. We will now start an in-depth investigation of X's compliance with the DSA obligations concerning countering the dissemination and amplification of illegal content and disinformation in the EU. In addition to X, Meta, the company that owns Facebook and Instagram was also placed under investigation by the Commission in April this year. The investigation was due to potential violations of the DSA for suspected infringements related to deceptive advertising, disinformation and political content. Regarding the investigation, Commission President Ursula von der Leyen said: "This Commission has created a means to protect European citizens from targeted disinformation and manipulation by third countries. If we suspect a violation of the rules, we act." These are just two of several examples in which the Commission launched investigations into online platforms for potential breaches of the DSA. It is clear that it is the Commission that has a significant role in overseeing the enforcement of the regulation and initiating investigations which are in part related to the nature of the content posted to the platform. And while the DSA is quite well known, most have not heard of a similar law targeting the media sector. That is the European Media Freedom Act, or EMFA. The EMFA was recently passed by the EU Parliament in March this year and entered into force in May. It was first proposed in September 2022 and was marketed to the public as part of a broader initiative to ensure media pluralism and media independence, while also protecting journalists from unlawful targeting by member states. The law is intended to also safeguard against disinformation and foreign interference in the EU media sector. And while the EMFA has received some praise for its stated objectives, several press publishers associations and press freedom groups objected to the EMFA right from the start. Shortly after the announcement of the proposal in September 2022, the European Magazine Media Association, or EMMA and the Newspaper Publishers Association or ENPA, issued a press release titled: *European press publishers call on the European Commission not to adopt "Media Unfreedom Act"*. It stated, "We deeply regret this threat for press and media freedom and call on the Commission not to adopt the proposal in its upcoming meeting". And to be clear, this letter was in reference to the 2022 version of the

bill. But still today, many press publishers caution against provisions within the EMFA and other laws intended to regulate the media.

So what exactly is the European Media Freedom Act? It's important to first note how it is different from the previous legislative framework. The EMFA centralises the EU media sector into a single market overseen by a newly established European Board for Media Services. This is similar to, but not to be confused with the separate European Board for Digital Services mentioned earlier as part of the DSA. It will be the duty of the European Board for Media Services to monitor the EU media sector, to issue opinions on market concentrations, to provide special advice and ensure uniform compliance with the regulation and more. The Board is stated to be an independent entity that is not influenced by the Commission. However, the Board will consist of national regulatory authorities and a representative from the Commission and the Board Secretariat will be provided by the Commission. Additionally, many of the board's tasks are to be performed alongside the Commission. In a debate on the EMFA on France 24, Ilias Konteas, executive director of European Press Publishers Associations, spoke about the unprecedented nature of this legislation.

Ilias Konteas (IK): We do also have concerns about some elements in the media freedom market that we consider fundamental, in the sense that press freedom in Europe has operated throughout centuries on the basis of certain elements. And we feel that if those are now disregarded or disrupted, fundamentally, this is not going to be a positive development.

TH: Konteas goes on to elaborate that decentralisation of the European media sector under the EMFA goes contrary to how the media has always operated in Europe. Historically, media policy has primarily been a competence of the member states. And so this triggered some debate on whether the Commission was even allowed to propose a media regulation in the first place.

IK: Europe is a diverse region. Europe has always relied on the diversity of its culture, on its geographical diversity, on its linguistic diversity. And the media markets across the Union have been built on these elements. So we don't feel that there is one common market that justifies the regulatory intervention by the European Commission. A second element, the supervision from a central authority, this European Board is unprecedented for our sector. What we feel is also problematic is the direct involvement of the European Commission. It's like, you know, you have a government, a European government supervising the media. I don't think this fits very well. And we believe that it has to be addressed.

TH: This is the first time the Commission proposed a law pertaining to the media in the form of a regulation. The existing framework that the EMFA will expand upon is the Audiovisual Media Services Directive, or the AVMSD. One of the most fundamental differences between the two pieces of legislation is in the name itself. The AVMSD is a directive that applies to the more narrowly defined audiovisual media services, whereas the EMFA is a regulation which applies to media service providers or MSPs, which includes the press and even freelance journalists and non mainstream media organisations. Given that the EMFA is in the

form of a regulation, this means that it is legally binding, supersedes national laws and the member states are limited in their ability to determine how to achieve the set objective in the law. A directive such as the AVMSD allows for more flexibility. Similar to the DSA, the EMFA establishes rules for very large online platforms or VLOPs, which are platforms that have more than 45 million monthly users. This includes Tik Tok, Facebook, Instagram, X, YouTube and others. Article 18 of the EMFA requires providers of VLOPs to provide a functionality which allows for media service providers or MSPs to submit a declaration prior to using the platform services or uploading content. As part of this declaration the user must declare they are a media service provider, that they comply with the EMFA, that they are editorially independent from member states, political parties and third countries, that they are subject to regulatory requirements related to editorial responsibility and that they do not publish content generated by AI. The MSP must also provide a legal name, contact details and the information on the relevant national regulatory authority. VLOPs are obligated to monitor content posted by MSPs and may even restrict or remove content uploaded to the platform if it violates provisions within the EMFA or the platform's terms of service. The European Magazine Media Association expressed concern over this particular article in the bill in late 2023, which at the time was Article 17, but in the final version it is Article 18. In a press release which was co-signed by several major European media groups, it said: "Platform censorship is at odds with EU and national laws and journalistic standards. Just like unilateral removals, any restriction of the visibility of legal editorial content by VLOPs, including down ranking, shadow banning, etc., is incompatible with media freedom and pluralism and would have the same effect on the media's ability to reach their audiences in the citizen's right to access information".

But there has also been support for the EMFA. Reporters Without Borders or RSF, praises this new legislation in its final form, calling it a big advance for the right to information in Europe and encourages states to ambitiously implement the new law. However, throughout the legislative process, RSF has been critical of portions of Article four, which include national security exemptions for the surveillance of journalists. Meanwhile, press publishers associations remain critical. Regarding the final passage of the law the EMMA put out a statement which reads: "The European Media Freedom Act sets a precedent for regulating the press sector at the European level and subjecting the press to a European media regulator. And under the EMFA, legal editorial media content does not have sufficient protection against content moderation decisions by very large online platforms". Executive director Ilias Konteas included a statement in which he said: "Not only has the EMFA opened the door to press regulation, but it enshrined in law misconceptions about the role of publishers, the precedents of platforms' terms and conditions over the law, and the alleged assimilation of the press to audiovisual media". Despite significant criticism but also some praise from MEPs and others, the EMFA will fully apply throughout the bloc in August 2025.

In summary, with regard to the EU's Digital Services Act and Media Freedom Act, it suggests where we are headed with the regulation of the social media and information space. Ultimately, these laws placed the burden on the online platforms to monitor and regulate content. And no specific regulations and policies on how exactly to monitor that content is

coming from a central authority in collaboration with the EU Commission. If a platform does not comply with the policies, it will face an investigation and may even be fined or banned throughout the bloc. With the Commission in such a prominent role in the regulation of information posted online, it raises concerns about any content that may be critical of the Commission itself or critical of certain Commission members or EU policies. Will platforms be placed under arbitrary investigations and potentially penalised for not regulating content the Commission does not like? After all, the Commission is an unelected and unaccountable body of bureaucrats who have had their fair share of political scandal that is absolutely worth being reported on and discussed in the public sphere. This is how free and open democracies should operate. How can journalists be truly independent if they are subject to the control of the Commission through the European Board for Media Services? The official press releases and speeches celebrating the DSA and the EMFA use positive language like media freedom, independence, transparency and safety. This gives the impression that these policies ensure principles that most people would support. But a closer examination of these laws show something else. These policies have the potential to restrict information that goes contrary to the official narrative and thus jeopardises the free press and hinders your right to know and access information. We must consider what is the best pathway forward. Is it more regulation? Is it less? Is it truly a free media or a controlled information space that promises to give us free speech and a free media?

So that concludes our series on the state of the free press, free speech and social media censorship. Several of the stories that we covered are developing matters, so we will keep you updated with the latest on acTVism Munich. Make sure you are subscribed to the YouTube and Rumble channels. And don't forget to follow us on Telegram at acTVism Munich Official. And if you like this video and would like to support our independent journalism, please consider donating to our organisation. I'm journalist Taylor Hudak and I thank you all for watching.

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