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Platform Responsibility with Chinese Characteristics

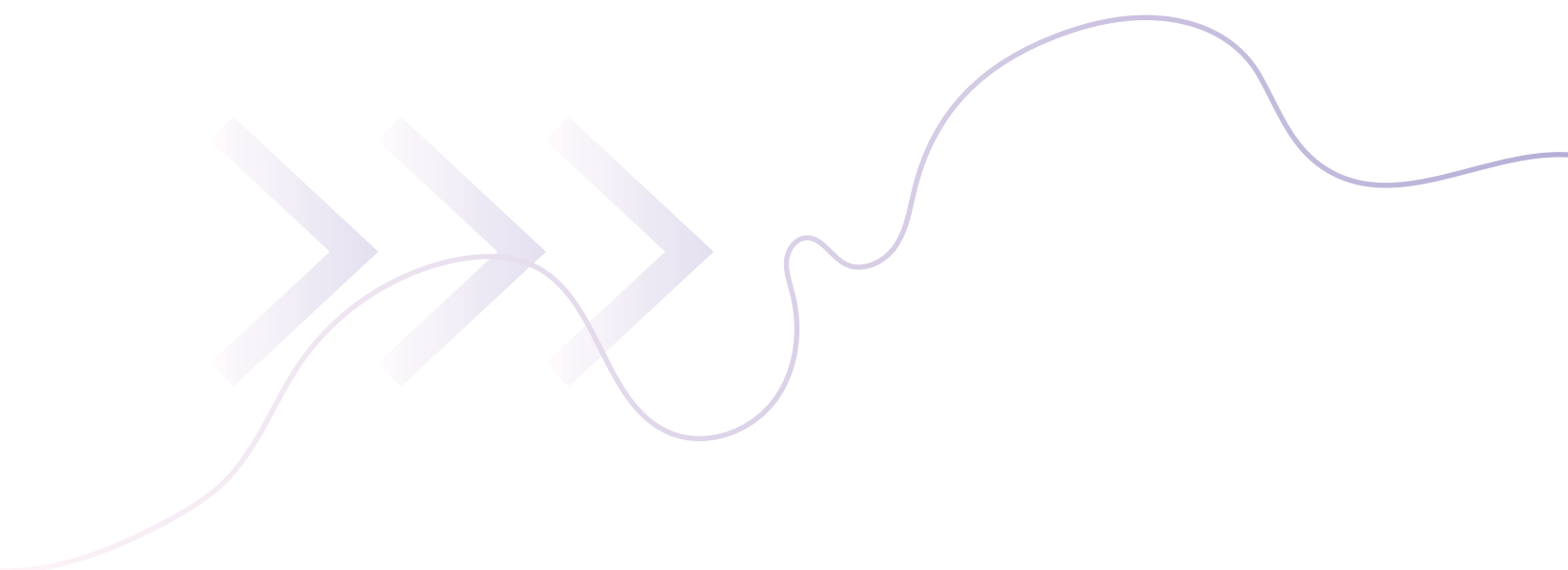
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WORK IN PROGRESS

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1. Introduction

While the US-based platforms like Facebook, YouTube, and Twitter dominate the social media markets in most countries, China, as the world's second largest digital economy, has its own platform ecosystem (Pan, 2016), where indigenous platforms like WeChat, Weibo, and Douyin¹ are the major players. China's authoritarian political system, together with this unique platform ecosystem, has shaped how it approaches platform responsibility for content moderation.

In liberal democracies, debates around platform responsibility have focused on whether to and increasingly how to regulate platforms, and mainly revolve around balancing the two oftentimes incompatible objectives: making platforms accountable for illegal or harmful content and protecting freedom of expression. In contrast, Chinese platforms, despite holding dominant market power over online information access and distribution,² fall under the heavy regulation of the government and are required to take the "primary responsibility" (主体责任) for content governance.³

This paper examines how China approaches platform responsibility for content moderation, bearing in mind its relevance to the global debates around this issue. First, it discusses the general principles and rationales behind China's online content governance. This is followed by a more detailed analysis on how China defines illegal and harmful content, sets platform obligations, and enforces regulations. As part of a wider project that compares the platform responsibility in different jurisdictions, this paper then conducts a brief case study on TikTok, the China-originated video-sharing platform that has gained global popularity, to illustrate the following interactions: how China's laws and regulations influence TikTok's content moderation practices in overseas markets, and how TikTok's content moderation is influenced by other nations' laws and regulations. The conclusion connects China's approach regarding platform responsibility to wider debates about this issue.



2. General Principles of China's Online Content Governance

Before analyzing China's approach towards platform responsibility, it is necessary and useful to understand the general principles of China's online content governance. Such principles mainly include differentiating the regulation of traditional media and online media, requiring websites and online platforms to take "primary responsibility" for content governance, exerting stricter control over "news" content, and centering on public opinion management (or control).

2.1 Differentiating Traditional and Online Media

Compared to the regulation of traditional media, which are mostly state-owned or state-controlled (in terms of ownership), China exerted a looser control over digital media services, at least until a decade ago when online platforms emerged as the main gateways for online news and information. All Chinese traditional media outlets (such as newspaper, radio, television, and magazine) are required to have a sponsor-unit (e.g., Hassid, 2008; Zhao, 2012), which can be a department of the party or the government, a state-owned enterprise, a public institution, or an official media organization (e.g., Wu, 2000). These sponsor units retain "ultimate responsibility" over the content published by their affiliated media outlets and thus have a strong "incentive" to ensure them to comply with government requirements (Hassid, 2008: 419). In contrast, digital media services do not necessarily need such a sponsor-unit, making it possible for private companies to enter the digital media market. Currently, all China's major social media platforms are owned by private Internet companies.⁴ As these platforms do not have a sponsor-unit, they maintain more discretion on content moderation than traditional media.

Both traditional and online media are required to obtain a license from relevant media regulators in China. Unlike regulatory agencies in liberal democracies, which "typically operate at arm's length from the government", China's media regulators are government departments subject to the directives of the Publicity Department (PD) of the Chinese Communist Party (Zhao, 2012:154). China has different regulators for traditional and online media. The National Radio and Television Administration (NRTA) and the National Press and Publication Administration (NPPA) are the regulators for radio/television sector and the print media respectively. The Cyberspace Administration of China (CAC), which is also the office of the Central Cyberspace Affairs Commission (CCAC) led by President Xi Jinping, is China's central and primary online content regulator, overseeing all online content (including content produced by traditional media organizations) (State Council, 2014). While the regulatory responsibilities of the NRTA and NPPA mainly lie in license reviewing and issuing for traditional media outlets, they (as well as other government ministries such as the Ministry of Culture and Tourism) occasionally issue content guidelines that may also apply to online content and impose punishment on platforms.⁵

2.2 IISPs: "Primary Responsibility" for Content Governance

Just like traditional media, Chinese Internet Information Service Providers (IISPs, including social media platforms) are required by government regulators to moderate content they host. This requirement can be traced back to the Regulation on Internet Information Services (RIIS) in 2000 (China's first of its kind), which requires all IISPs

to monitor illegal content and stop immediately the distribution of such content when detected (State Council, 2000, art. 16). In recent years (since around 2015), as platforms increasingly become the dominant gateways and gatekeepers for online information, Chinese authorities started to emphasize that websites and platforms must take “primary responsibility” for content governance.⁶ For example, during a symposium on Cyber Security and Informatization in 2016, President Xi noted that “Internet companies should take the primary responsibility [for online content governance], while government regulators should strengthen their supervision and management”.⁷ This “primary responsibility” requirement has been repeated in all relevant content regulations concerning platform responsibility since 2017, illustrating that it has become a basic principle for China's online content governance. Here, Chinese platforms' “primary responsibility” for content governance mainly concerns user-generated content, as platforms generally don't moderate content from media organizations and government-run accounts (although such content is still subject to platforms' key-word filtering systems).⁸

China's approach regarding platform content responsibility has been classified by MacKinnon et al. (2015: 40-42) as “strict liability”, compared to the models of “broad immunity” (e.g., the US, where platforms enjoy the “safe harbor” protection with a few exceptions like sex-trafficking) and “conditional liability” (e.g., the EU and many countries, where platforms enjoy immunity if they take down illegal content upon actual knowledge of its existence). It is worth noting that, just like in the EU and many other countries, Chinese platforms also enjoy “conditional liability” regarding tort damages. According to the Civil Code of the People's Republic of China (which replaced China's Tort Liability Law and several other civil laws in 2021), if online service providers take necessary measures in a timely manner upon receiving notices from the infringed users, they are not held liable for the damages (NPC, 2020, art. 1195-1997). Therefore, classifying China's approach of platform responsibility as “strict liability” can be misleading. In other words, Chinese platforms may be “strictly liable” to government regulators for hosting some types of banned content (as defined later, such as politically sensitive content), but they have only “conditional liability” for infringements of users' rights and interests caused by content they host.

2.3 Stricter Control over “News” Content

Chinese media and Internet regulators set out stricter rules over media services that produce or host news information. According to the Regulation on Internet News Information Services (RINIS, 2017a), IISPs that produce, host or re-publish news content are required to obtain an Internet News Information Service (INIS) license from the CAC or its local offices. Here, “news” content is defined in a narrow sense, referring to news reports and commentaries about public affairs (including politics, economy, military, and foreign affairs) and breaking social incidents (CAC, 2017a, art. 2). Thus, sports or entertainment news is generally not subject to this limitation.

An INIS licence specifies which type(s) of news services the licence-holder can provide: news gathering and production; news re-publishing; and communication platforms. Only news organizations and their controlled subsidiaries can apply for a licence for news gathering and production (CAC, 2017a, art. 6.1), which means online platforms can only apply for a licence to host news (as a communication platform) and/or “re-publish” news from designated news organizations (mainly central and provincial official news media). This limitation on news gathering and production is an important rule that allows Chinese government regulators to control the sources of news. However, it can be difficult to define what is or is not “news” content in practice. For example, many individuals publish commentaries on social issues of public concern through their public accounts on social media platforms,

a considerable percentage of which could be classified as news commentaries. The Regulation on Public Accounts Information Services of Internet Users (CAC, 2021a) stipulates that public-account platforms and operators must obtain an INIS license to publish news content (art. 5.2). Currently, all license-holding public accounts are run by media organizations, government or party departments, and their controlled subsidiaries.⁹ While the limitation on news publishing is not new, this regulation demonstrates Chinese regulators' concerns over social media platforms being used by individuals to bypass government controls over news sources. In practice, the difficulty for online platforms to judge what constitutes "news" is still there, and major platforms like WeChat and Weibo often (intentionally or unintentionally) allow, or temporarily allow, some content from individual authors that may challenge official narratives.

China's control over news content is closely linked to its policy toward foreign social media platforms. This is because social media platforms usually host a huge amount of news content, and thus must apply for an INIS license, at least in principle.¹⁰ According to the RINIS, to apply for an INIS licence, an entity must register in China and its main executives and editor-in-chief must be Chinese citizens (CAC, 2017a, art. 6). In addition, foreign capital is not allowed in establishing an INIS, even in the form of partnership with Chinese capital (CAC, 2017a, art. 7). These limitations mean foreign social media platforms are de facto blocked in China. In October 2021, LinkedIn announced that it would shut down its social networking business (but would launch a jobs-only site) in China, due to facing a "challenging operating environment and greater compliance requirements".¹¹ This means all major foreign platforms are now either blocked, or retreated, from China. As for why LinkedIn had been allowed to operate in China, one possible explanation is that the platform is generally viewed as a career-networking site, rather than a typical social media platform that hosts news content. In addition to strict control over news-related platforms, China's requirements for platforms regarding content moderation (discussed later) also make it very difficult, if not impossible, for foreign social media platforms to operate in the country.

2.4 Content Governance Rationale: Public Opinion Management

The rationale behind China's stricter rules over news content lies in Chinese authorities' concerns over public opinion management since news content is deemed as having the power or potential to influence public opinion (as illustrated in the common Chinese phrase "news and public opinion work"). This is exactly why China imposes extra obligations on platforms "with characteristics of public opinion or capable of social mobilization", which are required to conduct security assessments when launching new applications or new technologies (CAC, 2017b). China blocks foreign social media platforms for the same reason, given that global platforms like Twitter and Facebook have proven to be important tools facilitating communications during political turmoil or uprisings (as seen in the so-called Arab Spring).

As the fundamental rationale for China's online content governance, public opinion management, which comprises both public opinion guidance and public opinion supervision, is embodied in all Chinese regulations concerning platform responsibility. For example, the above-mentioned regulation on INIS states that INIS providers must "stick to correct guidance of public opinion, play the role of public opinion supervision, and facilitate a positive and healthy Internet culture" (CAC, 2017a, art. 3). However, in these regulations, the purpose of public opinion management is often framed as promoting public interest, ensuring online safety, and maintaining social order in China (Ibid.).

3. The Chinese Approach Toward Platform Responsibility

China adopts a patchy framework and an iterative approach in setting out platform responsibility for content moderation. During the last decade, China has promulgated around two dozen separate regulations in this area. Some of these regulations concern all types of platforms; and others target a specific type of online platforms (such as instant messaging, microblogging, and livestreaming platforms), a specific technology used by platforms (e.g., blockchain, algorithmic recommendation), a specific service provided by platforms (e.g., online comments, public accounts, and online groups), and a specific issue brought about by platforms (e.g., personal data protection and consumer/user protection).¹² Despite its patchy nature, China's platform regulation has demonstrated considerable consistency in defining illegal and harmful content, platform obligations, and enforcement methods.

3.1 Defining Illegal and Harmful Content

Building on earlier laws and regulations, China's Regulation on Governance of Online Information Ecology (RGOIE), which took effect from 1 March 2020, defined three types of online content: banned (or illegal) content, harmful content, and positive content. It requires content producers and online platforms not to produce or distribute "banned" content, to prevent and resist "harmful" content, and actively to produce or distribute "positive" content (CAC, 2019, art. 6, 7, 11). Content policies of Chinese platforms often combine these requirements and their own rules (such as rules concerning content monetization, and user reports and complaints).

This regulation specifies a series of "banned" content (CAC, 2019, art. 6), which can be classified into three types. The first type is of a "political" nature, including content that is: (1) against the basic principles of China's constitution (such as China's socialist system and the leadership of the CCP); (2) jeopardizing national security or national unification, leaking national secrets, subverting state power, and damaging national interests; (3) smearing national heroes and martyrs; (4) propagating or inciting terrorism and extremism; (5) sabotaging China's national unity or religion policies through inciting hatred and discrimination among different ethnicities or propagating cults and feudalistic superstition; (6) spreading rumors and disturbing economic and social orders. The second type of banned content includes pornography, gambling, and inciting violence, murder, or other crimes. The third type contains defamation, infringing others' legal rights and interests such as reputation and privacy,¹³ and other illegal content according to the laws and regulations (such as copyright-infringing content and selling illegal items). These types of banned content reflect the characteristics of China's legal system, as well as the regulators' key concerns over public opinion management. For example, spreading pornographic content through Internet is a criminal offence in China (Criminal Law, chapter 6, section 9). The ban on smearing national heroes and martyrs is consistent with the party-state's concerns over public opinion management, as heroes and martyrs often represent values endorsed by the authority and involve the interpretation of history.

In contrast, "harmful" content listed in the regulation is mainly concerned with social order and morality. The listed harmful content includes (CAC, 2019, art. 7): (1) exaggerating or sensational titles; (2) sensationalizing scandals, gossips, and misdeeds; (3) insensitive comments on natural disasters or severe incidents; (4) sexual content; (5) violent and graphic content; (6) inciting discrimination among different groups and people from different places; (7)

propagating vulgar and low-taste content; (8) enticing minors to imitate dangerous acts or developing bad habits; (9) other content harmful to online content ecology (art. 6). The emphasis on social order and morality is a unique feature of China's online content governance (Cui & Wu, 2016), revealing a patriarchal state-society relation.

In addition, the regulation (RGOIE) lists several types of "positive" content that include propagating major policies and strategies of the Party; highlighting China's economic and social development; effectively responding to public concerns and guiding the public to develop consensus; displaying a multi-facet China and contributing to increase China's international influence, etc. It encourages online platforms to display and present positive content prominently (CAC, 2019, art. 11). The defining of "positive" content aligns with Chinese regulators' rationale for online content governance: platforms are required to prioritize positive content to guide public opinion.

3.2 Protection of Users and Privacy

While China's content governance has centered on public opinion management, government regulators have paid increasing attention to the protection of users (especially minors) and personal data in recent years. For example, the Regulation on Algorithmic Recommendation of Internet Information Services (RARIIS), took effect from March 2022, includes a dedicated section for user protection. The regulation requires algorithmic recommendation service providers (ARSPs) to protect the rights and interests of different types of users, including minors, the elderly, consumers, and workers (who rely on platforms for orders). The RARIIS stipulates that ARSPs (including social media platforms) should not recommend content that may lead minors to imitate dangerous acts or develop bad habits such as addiction (CAC 2022, art. 18); should strengthen the monitoring and moderation of online fraudulent information to protect the elderly (art. 19); and their algorithms should ensure fair treatment of consumers and workers (art. 20, 21).

Another example of user protection is witnessed in the Chinese government's policy document targeting livestreaming platforms (issued in February 2021).¹⁴ A major aim of this guideline document is to protect minors on these platforms. It specifies that platforms should not allow users under 16 to open a livestreaming host account and should seek the consent of the guardians of minors between 16-18 before allowing them to open an account (CAC, 2021b, art. 6). In addition, livestreaming platforms should develop a "minor mode" for minor users and block content that is harmful to them (such as obscene and pornographic content). Another purpose of this policy document is to protect users from excessive and irrational consumption (such as paying a tip over \$ 10, 000 to livestreaming stars)—a prominent phenomenon on Chinese livestreaming platforms. The guideline document requires platforms to set a series of limits regarding tips, such as the total amount of tips from a single user (art. 10). It also requires platforms to not allow minors to tip livestreaming hosts; when a tip is verified from a minor who used an adult account, platforms should refund the money (art. 6).

As for the protection of personal data, China has issued relevant laws, regulations, and policy notices in recent years, including the Personal Information Protection Law (PIPL) (NPC, 2021) and the policy notice on Defining the Scope of Necessary Personal Information for Common Types of Mobile Apps (CAC, 2021b). Among them, China's PIPL establishes a series of basic principles for personal information collection, including informed consent from users, minimum collection (only collecting necessary information), special care for "sensitive" personal data, and consent from parents or guardians of minors who are under 14 (NPC, 2021, art. 13, 28, 31). The above-mentioned

policy notice (CAC, 2021b) defined what is the “necessary” personal information that various types of platforms need to collect when providing basic services. For example, for instant messaging platforms, the necessary personal information includes users’ telephone numbers and accounts of their contacts (art. 3); for social networking platforms, such information only includes users’ telephone numbers (art. 4); while for livestreaming platforms and short-video platforms, no personal information is necessary for providing basic functions (art. 27, 29).

3.3 Major Obligations for Platforms

China’s regulations regarding platform responsibility for content moderation have laid down a series of obligations for platforms, which form the specifics of what the government calls platforms’ “primary responsibilities”. Major obligations include:

Establishing an editor-in-chief: This requirement is for all INIS providers (CAC, 2017a, art. 6), including social media platforms. It means social media platforms, just like traditional media, must have an editor-in-chief who takes ultimate responsibility for content on their sites.

Real-name user registration: While Internet users can use most services provided by platforms without registration, they must register with their real identities before they can post content (although they can still use nicknames for account names). Platforms are required to verify users’ identities through mobile phone numbers (which also require real-name registration in China), ID cards and other methods (e.g., CAC, 2018, art. 7).

Real-time content monitoring and moderation: Under the above-mentioned U.S. and EU “broad immunity” and “conditional liability” models, platforms are generally not subject to a content monitoring obligation (e.g., European Commission, 2020, Recital 28). In contrast, Chinese platforms are required to conduct “real-time” monitoring and moderation of content (e.g., CAC, 2019, art. 9).

Establishing links to government-run user reporting websites: All Chinese IIS providers are required to establish links to user-reporting entries of websites run by government regulators (e.g., CAC, 2019, art. 16). Through these links, users can report illegal and harmful content, rumors (or disinformation), and pornographic content very easily.

Keeping user records: All IISPs are required to keep user records for at least 60 days (State Council, 2000, art. 14.2). For some types of platforms such as microblogging platforms, the required user-record keeping period is 6 months (CAC, 2018, art. 16).

Grading-and-classifying management mechanism: Platforms are required to establish this management mechanism regarding user accounts and user content. Here, “grading” means platforms should assess the credit of user accounts and provide services to them accordingly. If certain users are found to have posted illegal or harmful content on a platform, then their credits should be downgraded by the platform and thus the services they can use will be limited accordingly. For users who have seriously breached relevant laws or regulations such as posting rumors, platforms should add them to a “blacklist” and take corresponding measures (e.g., closing their accounts and preventing them from re-registration under another name) (e.g., CAC, 2021a, art. 13). “Classifying” means platforms should classify user accounts and content into different categories according to factors including the number of followers and the content areas (such as political, economic, and entertainment) (e.g., CAC, 2018, art. 9).

For user accounts producing content in areas such as politics, platforms are required to exercise stricter monitoring and moderation. According to the CAC, this management mechanism aims to achieve a “precise, focused, and dynamic” management of user accounts,¹⁵ forcing platforms to concentrate their moderation resources on key content areas and influential user accounts.

3.4 Enforcement Methods

China adopts a mixed method in enforcing regulations regarding platform responsibility. While civil and criminal laws are applicable, administrative measures are China’s main method in pressuring them to fulfil the “primary responsibilities” for online content governance.

China’s Civil Code has articles about the liability of Internet Service Providers (ISPs) regarding tort damages. According to the law, if an Internet user commits tort, the injured person shall be entitled to inform the ISP and ask it to take necessary measures (such as content deletion or blocking); the notice should include initial evidence and the real identity of the infringer (NPC, 2021, art. 1195.1). After receiving the notice, the ISP should send the notice to the concerned Internet user and take necessary measures based on the initial evidence in a timely way; otherwise, it is jointly liable for the extended damage of the tort (art. 1195. 2). The infringer is also liable for the damage to the Internet user and the ISP for wrong notice (art. 1195.3). If an ISP is aware or should be aware that an Internet user is infringing the civil rights and interests of others and fails to take necessary measures, it shall be jointly liable for the infringement (art. 1197).

Criminal laws are also applicable to platforms for hosting illegal content. So far, it is rare that platform or website executives were prosecuted according to criminal laws. Kuaibo, once a popular but now-defunct video-streaming platform in China, is a case in point that involves criminal laws. The platform, allowing users to watch pirated videos through P2P technology, was found to host a huge number of pornographic videos. In 2016, Wang Xin, the CEO of Kuaibo, was sentenced to 42 months in prison and fined 1 million Yuan (around \$ 150,000); and three other senior executives were also given prison terms.¹⁶ This case attracted great public attention in China and signaled the resolve of government regulators to hold platforms liable for hosting illegal content like pornographic videos. According to a judicial interpretation document from China’s Supreme Court and Supreme Procuratorate, hosting over 200 illegal videos (in the case of Kuaibo, over 30,000 pornographic videos) is classified as “leading to the spread of a great deal of illegal information” and is against China’s Criminal Law (Supreme Court and Supreme Procuratorate, 2019).

In addition to civil and criminal laws, China mainly resorts to administrative measures to enforce platform responsibility. Such measures mainly include government-initiated “Internet-cleaning” campaigns, summoning platform executives, ordering platforms to suspend content updating or even close a service, ordering app stores to remove the concerned apps (usually temporarily), and issuing fines. For example, during various Internet-cleaning campaigns, online platforms are required to self-check their sites thoroughly and deal with problematic user accounts and content. As a result of a campaign targeting the “chaotic situation” around public accounts run by individuals on platforms in November 2018, 9800 public accounts were suspended or closed across platforms.¹⁷ Platform executives (mostly Editors-in-Chief) have been frequently summoned by government regulators, especially the CAC and its local offices, in recent years. During these summoning meetings, government regulators often

pointed out the existing problems with the concerned platforms and require them to redress them.¹⁸ Sometimes, platform summoning sessions are accompanied with a fine in more serious breaches. For example, from January to November 2021, Weibo was frequently summoned by government regulators and fined 44 times, totalling at 14.3 million Yuan (around \$ 2.13 million).¹⁹

It is worth noting that while Chinese regulators also use fines as a punitive measure to ensure platform compliance, the amount is not comparable with some Western regulators. For instance, the EU's DSA imposes fines up to 6% of the global revenue of a platform for serious breaches.²⁰ In contrast, Chinese regulators rarely issue heavy fines on platform companies (the 18.2 billion Yuan fine on Alibaba for *antitrust reason* in 2021²¹ and the 8.026 billion Yuan fine on Didi for violation of network security and data security laws in 2022 being two exceptions).²² For violations of content-related regulations in China, the highest amount of a fine is 500,000 Yuan (around \$74,000).²³ However, unlike their Western peers, Chinese platforms seldom appeal against the decisions of government regulators, despite having such rights according to China's Administrative Procedure Law (amended in 2017). This demonstrates China's authoritarian nature and the asymmetrical power relations between the Chinese government and online platforms, especially given that the government can simply revoke the licence of a platform under extreme circumstance.



4. A Brief Case Study on TikTok

This section conducts a brief case study on the video-sharing platform TikTok, which operates both within and outside China (known as Douyin in mainland China), to illustrate how China's laws and regulations regarding platform responsibility influence the content moderation practices of TikTok in overseas markets. Meanwhile, by examining how the Beijing-based ByteDance, the owner of Douyin and TikTok, adapts its content moderation practices in different jurisdictions, this case study also sheds light on how other nations' laws and regulations shape the practices of a global platform with a Chinese origin.

Douyin and TikTok are very similar platforms—identical in many areas. They share the same logo, recommending algorithm, automatic moderation technologies (but different moderation guidelines), and most user interface features. However, ByteDance has established a “wall” between these two platforms: Chinese mainland users can only download and use Douyin and overseas users can only access TikTok. Thus, the two platforms have different users, user content, and their user data are also stored in different locations (Douyin's data stored in mainland China; TikTok's data stored in Singapore, the United States and soon also in Ireland).²⁴ Douyin (launched in 2016) is China's most popular short-video platform with over 600 million daily active users as of August 2020,²⁵ while TikTok (launched in 2017 in global markets) is the world's leading destination for short videos, boasting over 1 billion monthly users as of September 2021.²⁶

In overseas markets, TikTok has been criticized for its content moderation policies and practices. In liberal democracies, TikTok has been criticized for censoring content that may displease Beijing. In 2019, the Guardian reported that TikTok's leaked internal documents instructing its moderators to censor videos that mention Tiananmen Square (i.e., the 1989 political turmoil in Beijing) and Tibetan independence.²⁷ The platform has also been accused of censoring content from black creators and other marginalized groups,²⁸ and its internal content guidelines were exposed to even require moderators to suppress posts by users deemed too “ugly” or “poor” for the platform.²⁹ In response, TikTok claimed that the leaked moderation guidelines were either outdated or never put into use,³⁰ other alleged censorship incidents were due to mistakes of automatic moderation (in the case of blocking content from black users). Apart from censorship criticism, the platform has also been temporarily banned for hosting “immoral” or “obscene” content in more conservative jurisdictions such as Pakistan, Bangladesh, and Indonesia.³¹

The above criticism over TikTok's content moderation illustrates how China's laws and regulations may have influenced the platform's overseas practices. For example, keywords like “Tiananmen Square [turmoil]” and “Tibetan independence” are taboos on Chinese Internet, indicating that TikTok, at least at its initial stage, may have adopted a keyword filtering system that was influenced by China's regulations. Even TikTok's bizarre rule regarding being “too ugly” can also be traced back to its Chinese origin, as Douyin was once famous in China for its very posh content creators—a strategy to attract users when the platform was newly launched. Such discriminatory content policy wasn't an issue in China, partly because government regulators' focus has been on public opinion management (as discussed earlier). As a result, Chinese platforms usually pay much more attention to politically sensitive content (i.e., content that may damage the image of the party and government) than to other types of problematic content

such as discrimination, obscene and vulgar content. This may also explain why TikTok hosts lots of content deemed as immoral or obscene in countries like Pakistan, since Douyin and TikTok share their recommending algorithms and automatic moderation technologies.

However, content moderation policies and practices of TikTok have also been shaped by laws and regulations of overseas markets, to a much greater extent. Currently, TikTok's Community Guidelines, which include sections about minor safety, dangerous acts and challenges, suicide and self-harm, adult nudity and sexual activities, bullying and harassment, hateful behavior, illegal activities and regulated goods, violent and graphic content, and etc.,³² are not that different from those of Facebook and YouTube but very different from those of Douyin. Also, like its Western peers, TikTok publishes quarterly transparency reports, including its Community Guidelines enforcement reports.³³

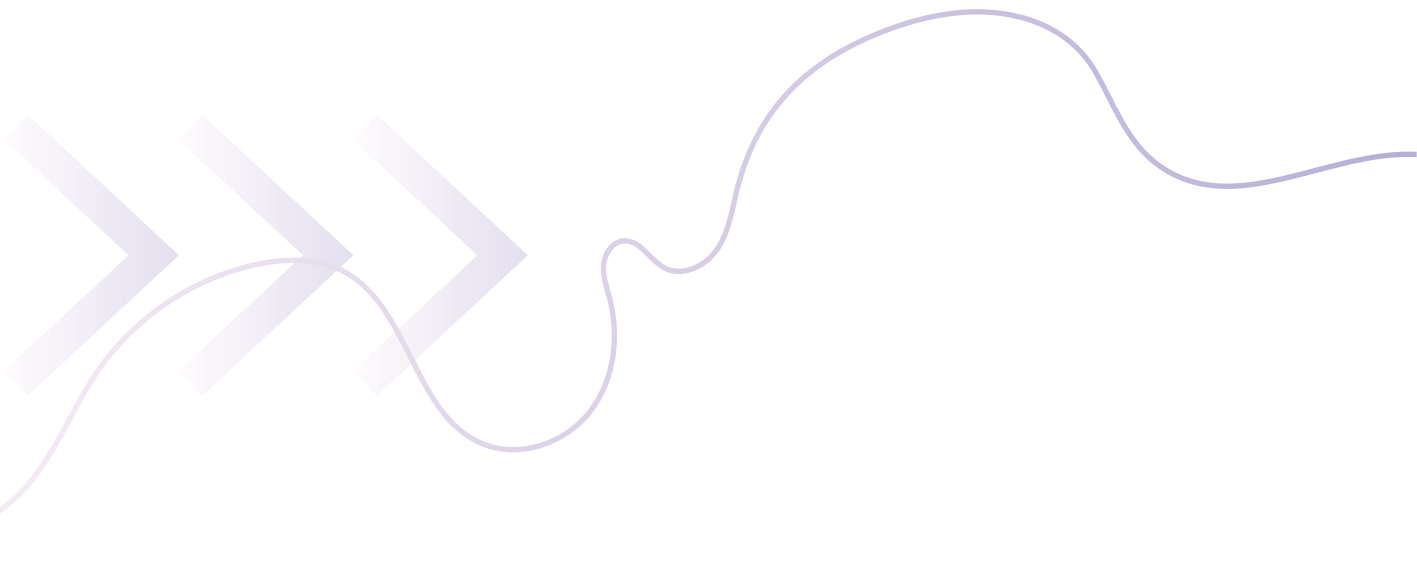
To survive in overseas markets, TikTok has been distancing itself from China. The strategy of establishing a "wall" between TikTok and Douyin has made TikTok not liable to China's laws and regulations. More importantly, TikTok has adopted a "localization" content moderation policy to ease various censorship accusations. In March 2020, ByteDance dismantled its entire Beijing team which was responsible for overseas content moderation, and assigned the task to overseas teams.³⁴ This approach is embodied in TikTok's Community Guidelines, which state that "We prize the global nature of our community and strive to take into account the breadth of cultural norms where we operate".³⁵ A news release also emphasized that "Our global guidelines are the basis of the moderation policies TikTok's regional and country teams localize and implement in accordance with local laws and norms."³⁶ Besides, ByteDance appointed Shouzi Chew from Singapore as TikTok CEO and Vanessa Pappas, former head of TikTok US, as the platform's COO.³⁷ In other words, although TikTok is still owned by the Beijing-based ByteDance, its content moderation is actually managed by overseas teams. For this reason, on China's online Q&A platform Zhihu (China's equivalent of Quora), there are discussions about whether TikTok is still a Chinese company since the platform hosts lots of "anti-China content" and its Chinese owner does not have (or voluntarily gives up) control over its content moderation policies.³⁸



5. Conclusion

This paper examined China's general principles and its approach to platform responsibility, both of which have distinct Chinese characteristics. Regarding China's platform responsibility, it is important to understand China's fundamental rationale for online content governance: public opinion management. Following this rationale, China exerts stricter control over all online information services that host "news" content, which de facto blocks foreign social media platforms from operating in China. The Chinese characteristics of platform regulation are also embodied in its defining of illegal and harmful content, its heavy platform obligations, and administrative measures for enforcement, all of which reflect China's authoritarian nature and the asymmetrical power relations between the government and private platforms. China's requirements for platforms to proactively monitor, moderate and sometimes censor content, especially political sensitive content, make it almost impossible for foreign social media platforms to survive without full compliance.

The case study on TikTok (and its separate sister platform Douyin) shows China's laws and regulations may have influenced the platform's content moderation policies at its initial stage of global expansion. It also suggests that while the origin of a platform may play a role in its content moderation policies and practices, global platforms like TikTok seem to have no options but adapt to overseas laws and regulations to ensure their long-term success. While TikTok may be more vulnerable in this regard due to its China origin, regional and local jurisdictions (especially the EU) are taking legal steps to pressure more powerful US-based platforms like Facebook and YouTube to play by their laws and regulations.



6. References

- CAC. (2017a). Regulation on Internet News Information Services.
http://www.cac.gov.cn/2017-05/02/c_1120902760.htm
- CAC. (2017b). Regulation on Security Assessment of New Technologies and New Applications of Internet News Information Services. http://www.cac.gov.cn/2017-10/30/c_1121878049.htm
- CAC. (2018). Regulation on Microblogging Information Services.
http://www.cac.gov.cn/2018-02/02/c_1122358726.htm
- CAC. (2019). Regulation on Governance of Online Information Ecology.
http://www.cac.gov.cn/2019-12/20/c_1578375159509309.htm
- CAC. (2021a). Regulation on Public Accounts Information Services of Internet Users.
http://www.cac.gov.cn/2021-01/22/c_1612887880656609.htm
- CAC. (2021b). Policy Notice on Defining the Scope of Necessary Personal Information for Common Types of Mobile Apps.
http://www.cac.gov.cn/2021-03/22/c_1617990997054277.htm
- CAC. (2022). Regulation on Algorithmic Recommendation of Internet Information Services.
http://www.cac.gov.cn/2022-01/04/c_1642894606364259.htm
- Cui, D., and Wu, F. (2016). Moral goodness and social orderliness: An analysis of the official media discourse about Internet governance in China. *Telecommunications Policy*, 40 (2-3): 265-276.
- European Commission. (2020). Proposal for a Regulation of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC.
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0825&from=en>
- Hassid, J. (2008). Controlling the Chinese media: An uncertain business. *Asian Survey*, 48(3): 414-430.
- MacKinnon, R., Hickok, E., Bar, A., & Lim, H. I. (2015) *Fostering freedom online: The role of internet intermediaries*. Paris: UNESCO Publishing.
- NPC (The National People's Congress of the People's Republic of China, China's legislative institution). (2020). *Civil Code of the People's Republic of China*.
<http://www.npc.gov.cn/npc/c30834/202006/75ba6483b8344591abd07917e1d25cc8.shtml>
- NPC. (2021). *Personal Information Protection Law*.
<http://www.npc.gov.cn/npc/c30834/202108/a8c4e3672c74491a80b53a172bb753fe.shtml>
- Pan, J. (2017). How market dynamics of domestic and foreign social media firms shape strategies of internet censorship. *Problems of Post-Communism*, 64(3-4), 167-188.

State Council (China's cabinet). (2000). Regulation on Internet Information Services. http://www.cac.gov.cn/2000-09/30/c_126193701.htm

State Council. (2014). State Council's Notice on Authorizing the CAC to be the Regulator of Internet Information Content Governance. http://www.cac.gov.cn/2014-08/28/c_1112264158.htm

Supreme Court and Supreme Procuratorate. (2019). The interpretation from Supreme Court and Supreme Procuratorate about several issues of law application on dealing with criminal cases of illegal use of Internet Information Services and facilitating Internet crimes. http://www.cac.gov.cn/2019-10/25/c_1573534999086260.htm

Wu, G. (2000). One head, many mouths: diversifying press structures in reform China. In: Lee, C. & Li, J. eds. Power, money, and media: communication patterns and bureaucratic control in cultural China. Evanston, IL: Northwestern University Press: 45-67.

Zhao, Y. (2012). Understanding China's media system in a world historical context. In: Hallin, D. C., & Mancini, P. eds. Comparing media systems beyond the Western world. Cambridge, England: Cambridge University Press: 143-173.



7. Endnotes

- 1 China's domestic version of TikTok.
- 2 MediaResearch.cn. (27 July 2020). The Report on the Development of China's New Media. http://xinwen.cssn.cn/sy_50320/zdtj/zxxsgd/202007/t20200727_5160945.shtml
- 3 The "primary responsibility" requirement is a basic principle of China's platform governance and included in many Chinese regulations concerning platform responsibilities. See for example: the Regulation on Governance of Online Information Ecology (2019), article 8.
- 4 For example, WeChat is owned by Tencent, Weibo by Sina, and Douyin by ByteDance.
- 5 For example, in 2018, the NRTA (once referred as SAPPRFT) ordered ByteDance to permanently close a popular joke app for hosting vulgar content. Please see: <https://technode.com/2018/04/10/toutiao-joke-app-removed/>
- 6 The CAC. (15 September 2021). The CAC issues "Guidelines on further pressuring websites and platforms to take primary responsibilities for content governance". See http://www.cac.gov.cn/2021-09/15/c_1633296789845827.htm
- 7 Gov.cn. (25 April 2016). Xi Jinping: Speech at the Symposium on Cybersecurity and Informatization. http://www.gov.cn/xinwen/2016-04/25/content_5067705.htm
- 8 This was confirmed by executives from a Chinese major platform and a major official news website (source: primary interviews during 2011-2022).
- 9 The lists of licensees can be accessed on the websites of the CAC and its provincial offices.
- 10 In practice, some major Chinese platforms like Toutiao (among China's most popular news-aggregating platforms) operated for years without an INIS license. Toutiao, launched in 2012 by ByteDance, successfully obtained an INIS license in 2021.
- 11 BBC. (14 October 2021). Microsoft shutting down LinkedIn in China. <https://www.bbc.co.uk/news/technology-58911297>
- 12 All relevant laws and regulations are listed on the CAC website and can be accessed: <http://www.cac.gov.cn/zcfg/More.htm>
- 13 In China, cyber bullying is a sub-type banned content under "infringing others' rights and interests". https://www.12377.cn/jbxzqx/5e1f6a2ec69011ec8d16e14afc798563_web.html?smallHarmType=5e1f6a2ec69011ec8d16e14afc798563
- 14 The CAC. (9 February 2021). Notice on Guidelines of Strengthening the Governance of Online Livestreaming Norms. http://www.cac.gov.cn/2021-02/09/c_1614442843753738.htm
- 15 The CAC. (15 September 2021). The guideline on further pressuring websites and platforms to fulfil the primary responsibilities for content governance. http://www.cac.gov.cn/2021-09/15/c_1633296790051342.htm

- 16 Sixth Tone (13 September 2016). Streaming App CEO Sentenced to 42 Months for Lewd Content. <https://www.sixthtone.com/news/1329/streaming-app-ceo-sentenced-42-months-lewd-content>
- 17 Beijing News. (12 November 2018). The CAC Campaign on the Chaotic Situation of Public Accounts: Punishing 9, 800 Accounts and Summoning Weibo and Wechat. <https://baijiahao.baidu.com/s?id=1616941232655485724&wfr=spider&for=pc>
- 18 Ibid.
- 19 The CAC. (14 December 2021). The CAC Summoned and Punished Sina Weibo. http://www.cac.gov.cn/2021-12/14/c_1641080795548173.htm
- 20 European Commission. (20 May 2022). Questions and Answers: Digital Services Act. https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2348
- 21 Bloomberg. (10 April 2021) China Fines Alibaba Record \$2.8 Billion After Monopoly Probe. <https://www.bloomberg.com/news/articles/2021-04-10/china-fines-alibaba-group-2-8-billion-in-monopoly-probe#xj4y7vzkg>
- 22 CNBC. (21 July 2022). China fines Didi more than \$ 1 billion for breaking data security laws. <https://www.cnbc.com/2022/07/21/china-fines-didi-more-than-1-billion-for-breaking-data-security-laws.html>
- 23 The CAC. (14 December 2021). The CAC Summoned and Punished Sina Weibo. http://www.cac.gov.cn/2021-12/14/c_1641080795548173.htm
- 24 TikTok. (6 April 2022). Delivering on our European data governance strategy. <https://newsroom.tiktok.com/en-eu/approach-to-data-governance-europe>
- 25 ByteDance. About our products (Douyin). <https://www.bytedance.com/zh/products>
- 26 TikTok. (27 September 2021). Thanks a billion! <https://newsroom.tiktok.com/en-us/1-billion-people-on-tiktok>
- 27 The Guardian. (25 September 2019). Revealed: how TikTok censors videos that do not please Beijing. <https://www.theguardian.com/technology/2019/sep/25/revealed-how-tiktok-censors-videos-that-do-not-please-beijing>
- 28 MIT Technology Review. (13 July 2021). Welcome to TikTok's endless cycle of censorship and mistakes. <https://www.technologyreview.com/2021/07/13/1028401/tiktok-censorship-mistakes-glitches-apologies-endless-cycle/>
- 29 The Intercept. (16 March 2020). Invisible Censorship. <https://theintercept.com/2020/03/16/tiktok-app-moderators-users-discrimination/>
- 30 Ibid.
- 31 New Straits Times. (17 August 2021). Bangladesh court orders ban on TikTok, PUBG, Free Fire to 'save children'. <https://www.nst.com.my/world/region/2021/08/718633/bangladesh-court-orders-ban-tiktok-pubg-free-fire-save-children>
- 32 TikTok. Community Guidelines. <https://www.tiktok.com/community-guidelines?lang=en>

- 33 TikTok. (13 April 2022). Community Guidelines Enforcement Report.
<https://www.tiktok.com/transparency/en-us/community-guidelines-enforcement-2021-2/>
- 34 The Wall Street Journal. (15 March 2020). TikTok to Stop Using China-Based Moderators to Monitor Overseas Content. <https://www.wsj.com/articles/tiktok-to-stop-using-china-based-moderators-to-monitor-overseas-content-11584300597>
- 35 TikTok. Community Guidelines.
<https://www.tiktok.com/community-guidelines?lang=en> (accessed 27 June 2022).
- 36 TikTok. (8 January 2020). Adding clarity to our Community Guidelines.
<https://newsroom.tiktok.com/en-us/adding-clarity-to-our-community-guidelines>
- 37 TikTok. (30 April 2021). TikTok names CEO and COO.
<https://newsroom.tiktok.com/en-us/tiktok-names-ceo-and-coo>
- 38 Zhihu. Does TikTok still belong to China (question and discussion)?
<https://www.zhihu.com/question/487405502>





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