Financial Censorship Controversy: Financial Services Leading Social Change?

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This case study explores numerous frameworks to describe and assess issues related to the financial censorship controversy from a stakeholder perspective. Recent mass shootings, controversial use of social media, and other high-profile events have made financial censorship in the U.S. a relevant topic. Some major financial companies have taken steps to ban or curtail legal transactions that may indirectly be associated with criminal acts, hateful speech, immoral or extreme opinions while others refrained. The entire financial industry and its stakeholders are deeply concerned about the legal, ethical, and social change aspects of the controversy and key challenges, limitations, and consequences.

Keywords: finance, financial industry, financial regulation, censorship, ethics

INTRODUCTION

A few hours before the September 12, 2019 Democratic debate in Houston, then-presidential candidate Beto O'Rourke blasted financial institutions for not doing enough to combat gun violence and mass shootings. He blamed this latest dark chapter in U.S. life on the unwillingness of financial institutions and the U. S. Congress to take positive action and tweeted:

> *Credit cards have enabled many of America's mass shootings in the last decade—and with Washington unwilling to act, they need to cut off the sales of weapons of war today. Banks and credit card companies must: 1. Refuse to provide services for the sales of assault weapons. 2. Stop processing transactions for gun sales online or at gun shows without background checks. 3. Stop doing business with gun or ammo manufacturers who produce or sell assault weapons (Ernst, 2019).*

Although firms in the financial services sector did not directly address Mr. O'Rourke's message, some card processors like Square had already banned transactions involving legal firearms. Square's spokesperson stated: "We do not believe permitting the sale of firearms on our platform is consistent with our values or in the best interest of our customers" (Ross Sorkin, 2018a). Not all financial industry players agreed that banning controversial legal transactions was warranted. Wells Fargo CEO Timothy Sloan said: "We do not think it is a good idea for banks to decide what product or services Americans can buy [...] It should not be up to me, to us, to decide that. It should be up to the folks following the laws and folks making the decisions" (Andriotis, Demos, & Glazer, 2018). This left industry observers wondering whether firm-by-firm policy, industry-wide regulation, or state and federal legislation was the best approach to resolve the financial censorship controversy.

THE MULTI-FACETED FINANCIAL CENSORSHIP CONTROVERSY

There were many facets to this censorship controversy. What if credit card companies, processors, and banks were to ban or restrict financial transactions related to the sales of legal products like firearms? Absent federal or state regulation, should financial institutions become society's moral arbiters and censor legal financial transactions that irk the ethics of vast swaths of the population? In this age of big data, should data analytics or human judgment become the most effective way of handling financial censorship? Should firms rely on internal company policy or industry-wide regulations? What would be the impact of financial censorship on innovation and the competitive environment? These industry concerns about the pros and cons of implementing realistic industry-wide, self-regulated financial censorship remained unresolved.

INDUSTRY SELF-REGULATION EXAMPLES

Financial censorship for specific legal products, services or organizations were already an industry-wide reality. Money transfer services like PayPal and Square did not allow their services to be used for the sale of firearms, firearm parts, or ammunition. Following the February 2018 mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, Citigroup required that its clients put in place processes to restrict the sale of guns to anyone under the age of 21, halt the sale of high-capacity magazines, and perform background checks on buyers (Ross Sorkin, 2018b). Although financial censorship was not a new phenomenon, it was previously generally limited to products or services with a high risk of fraud, that might contain obscenities, or might be flagged by overzealous regulators during investigations.

LEGAL AND ETHICAL FRAMEWORKS FOR FINANCIAL CENSORSHIP

Advocates both for and against financial censorship recognized there was no easy solution to the controversy because any solution necessarily involved interpretation of the U.S. Constitution, financial regulations, federal and state laws, and ethical principles. Some individuals and groups were purveyors of offensive language that might be considered "hate speech." For example, Rudegeair (2019) reported PayPal stopped processing payments and donations for the website Infowars, founded by provocateur Alex Jones, accused of publishing discredited conspiracy theories. The decision was taken after a PayPal company policy review "found instances that promoted hate or discriminatory intolerance against certain communities and religions, which run counter to our core value of inclusion" (Fung, 2018). In another example, Chase Bank was accused of "de-banking" accounts due to the customers' controversial political opinions (Malkin, 2019). Sometimes credit card companies indirectly enacted financial censorship by pressuring social media platforms. Patreon, a crowdfunding membership platform, terminated the account of one of its creators, stating that Mastercard had required the action. Robert Spencer, the divisive director of Jihad Watch, a website focusing on Islamic extremism, shared a tweet from Patreon stating that Mastercard required them to remove his account (Testa, 2018*)*. Financial censorship based on company ethics did not impact only conservative or right-wing clients. PayPal severed ties with far-left antifa-affiliated organizations in Atlanta, Philadelphia, and Sacramento (Rudgeair, 2019), and Wells Fargo closed the bank account of a Democratic candidate running for agricultural commissioner in Florida who supported medical marijuana, which is legal in the Sunshine State (Flitter, 2018).

CONCLUSION

The entire financial industry was concerned about illegal, immoral, socially ill-advised, and inconsistent use of financial censorship. Although some industry participants disagreed, many private companies advocating social change in the controversial area of financial censorship did not believe they were restrained by amendments to the U.S. Constitution (Ross Sorkin, 2018b). Would voluntary company policies that allowed financial censorship supplant the legislative process without harming civil liberties? Many firms in the financial industry felt it was their civic responsibility to prevent negative events such as mass shootings or to curb hate speech. Firms in the financial industry that believed financial censorship was socially responsible played a central role in the U.S. economy and might be able to shape the behavior of consumers for the betterment of society. Yet, financial censure had the potential to ban or heavily increase the cost of socially pernicious but legal activities. What was the optimal organizational structure and code of conduct that would ensure financial services firms could exercise financial censorship power in a positive, yet legal and ethical manner? What type of innovation and competitive advantage could financial institutions garner when implementing financial censorship policies? Paramount to all sides in this controversy was the identification of what legal and ethical actions key players in the industry should take toward financial censorship in the future to balance the needs of major stakeholders.

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