

Hosting Postings: Is Facebook Responsible for Its Content?

Adapted from the writings of Rav Ariel Ovadia

Is a facilitator liable for the actions of others?

People of the 'book

In the past 30 days, 3 out of every 10 people on the planet—some 2,227,000,000 souls—accessed their Facebook accounts. This is a staggering fact.

On November 27, at the inaugural hearing of the “International Grand Committee on Disinformation” in London, lawmakers from nine countries took turns castigating Zuckerberg and his company for disseminating “fake news.” Not showing up for the meeting probably didn’t help his case.

Arguably, the company’s troubles are largely self-inflicted. Along with other social media companies, it chose not to be a passive forum where users publish what they will. Instead, it actively polices its platform, banning and promoting viewpoints according to its own values and politics.

By contrast, there are other services that provide a forum for communication but do not concern themselves with its content. Phone companies take no interest in what is said on their lines, so it occurs to no one to punish them for the activities of prank callers or telemarketers or terrorists planning attacks. Ditto for email providers and the postal service. Because these entities claim no jurisdiction over the content they transmit, they are not held accountable for it.

From the Torah perspective, which approach is correct? If I hang a bulletin board, must I monitor what is posted there?

Lifnei Iveir

The Torah (Vayikra 19:14) prohibits placing a stumbling block before a blind man. This means that one may not create an opportunity for another Jew to sin (Avoda Zara 6a). *Chazal* prohibited *mesayeia lidvar aveira*, assisting in a transgression, even where the sinner could have done it on his own (Tosafos and Rosh, Shabbos 3a).

While the Shach (Y.D. 151:6) is lenient in the case of a *mesayeia* to a *mumar* (one who completely disregards Torah law), this doesn’t seem to be the consensus of the Acharonim (see Dagul Meirevava ad loc.).

Hall monitor

The owner of a wedding hall asked R’ Moshe Feinstein (Igros Moshe Y.D. 1:72) whether he could rent his facility to people who would serve nonkosher food or have mixed dancing at their event. R’ Moshe replied that this is permitted because the hall will not be the cause of the *aveira*, only its location. Otherwise, he argues, why doesn’t Halacha forbid the sale of dishes to Jews who don’t keep kosher? Facebook, it would seem, is no worse than a ballroom owner.

Feed the Evildoer

A similar scenario is discussed in the Mishna in Ma'aser Sheini (5:1). R' Shimon Ben Gamliel says that outside of the *shemita* year (when all may freely enter any field and eat its produce) one doesn't have to make it known to the public that the fruit of his vineyard is forbidden because of *kerem revai* or *orla*. The Gemara in Bava Kama (69a) explains that we follow the maxim *hal'itayhu l'rasha v'yamus*—"feed the evildoer and he will die." I need not see to it that someone who will steal my grapes doesn't violate additional *issurim*. The Rambam codifies this in Hilchos Ma'aser Sheini (9:7).

There is a debate among the Acharonim how far this principle goes. The Rash Sirilio holds the most lenient view, that one never has to be concerned about the potential additional transgression of an evildoer. The Chazon Ish (Demai 8:9) writes that the Mishna is only lenient where the potential violator would have to steal the item with which he would transgress.

R' Shlomo Zalman Auerbach (Minchas Shlomo, Bava Kama ibid.) and other *Acharonim* maintain that so long as one is not partaking in the *aveira* actively, he is exempt, so he is not required to intervene.

The most stringent view is that of the *Chavos Ya'ir* (142), who forbade placing nonkosher food in a place where it could be stolen and eaten by a Jew.

(A jarring story, recorded in Kovetz Pa'amei Yaakov, demonstrates how far the approach of the Chazon Ish can legitimately be taken: A chemist had his lunch stolen every day at work. To unmask the thief, he put poison in his food, put it in the office fridge, and waited to see which of his co-workers developed symptoms. When the culprit got sick, the triumphant chemist administered the antidote, doubtless sure he had lost his lunch for the last time. R' Yitzchok Zilberstein, asked about the incident, concluded that allowing the thief to harm himself was permitted based on the "feed the evildoer" concept. R' Chaim Kanievsky concurred.)

Our Facebook question would seem to hinge on this *machlokes*: According to the Chazon Ish, because the service enables forbidden conduct, it is the provider's responsibility to prevent it. To R' Shlomo Zalman, however, because the sinner is helping himself, as it were, one need not intervene. It would seem that even the Chazon Ish would agree if the platform's rules forbade the behavior in question.

Arvus

We are all *areivim* (guarantors) for each other's Torah observance. Would that require us to prevent another's violation in a case like ours? R' Yerucham Fischel Perla (Parsha 57) and other *Acharonim* understand that *arvus* doesn't apply when a person is in any case transgressing other *issurim*. Additionally, R' Yitzchak Elchanan Spektor

(Ain Yitzchak O.C. 1:11) writes that *arvus* only obtains when one knows that a sin is being committed.

Going beyond

The Mishna in Ma'aser Sheini concludes that the pious would always refrain from causing other people to sin, even where it is permitted and even at a cost to themselves. The Rambam cites this, and Igros Moshe (O.C. 1:52) writes that one should strive to attain this level. In conclusion: If you establish a communications platform and you publish rules that ban forbidden speech, you are not required to intervene against violators (unless someone is endangered). Nevertheless, it is an act of piety to do so.