

Influence of the UCC Regulation during the Political Campaign in Korea on Free Culture

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Introduction and Background

If there is one thing that cannot be missed in representing Korea other than Kimchi and Taekwondo, it would be its advanced technology of Internet. In the 17th presidential election in Korea, however, we could have hardly taken the advantage of the technological advancement. The vital role of UCC (User Created Content)⁴ in the U.S. presidential primaries makes it more salient how inefficient UCC was as a political communication tool in Korea for the last presidential election.

The voting rate was only 50%, a record lowest in Korean history and visitors to candidates' websites also have decreased compared to the previous elections. Many account for the low voter turnout, such as conservative disposition, the disenchantment with the existing political parties, the desire for change, and foreseeable results of the election, which made the election boring and uninteresting. What made the election even more boring was the lack of creative UCC covering various issues in the election, which could have boosted the election interest. CCC (CAMP Created Content) that was more abundant than UCC (USER Created Content) in the 17th presidential election in Korea exemplifies how the freedom of speech in the digital age is compromised in Korea.

Video sharing sites have become an increasingly important medium for reaching voters as a greater proportion of the electorate logs on. It is believed UCC can influence elections by extending the reach of campaign materials; enabling candidates with little funding to get "face time", reaching young people through entertaining, visual means; democratizing political information while diminishing candidate's ability to control their message; increasing attention to negative advertising; and putting scandals on the agenda and/or

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⁴ UCC (User Created Content), also known as UGC (User Generated Content) or CGM (Consumer Generated Media), refers to various kinds of media content publicly available, that are produced by end-users. The advent of user generated content marks a shift among some media organizations from creating on-line content to creating the facilities and framework for non-media professionals (i.e., 'ordinary people') to publish their own content in prominent places.

User created content has also been characterized as 'Conversational Media', as opposed to 'Packaged Goods Media' (that is, traditional media). The former is a two-way process in contrast to the one-way distribution of the latter. Conversational or two-way media is a key characteristic of so-called Web 2.0 which encourages the publishing of one's own content and commenting on other people's. http://en.wikipedia.org/wiki/User-generated_content

extending their shelf life.⁵

However, the National Election Commission (NEC)⁶ strictly prohibits people from expressing their opinions by any means of communication including UCC. The Public Official Election Acts⁷ state that “No one shall distribute, any materials which contain the contents supporting, recommending or opposing a political party or candidate, from 180 days before the Election Day to the Election Day.” The act left 1,312 internet users prosecuted as ‘cyber election illegalities’, with about 63,000 titles of UCC removed.

South Korea, one of the two nations divided after the Korean War in 1945, had gone through more than half century under oppressive regime. During this period of time, the suppressive government placed restrictions on the fundamental rights of citizens, including assembly, association, and freedom of speech and the press, in the name of the national security and civil order. At the end of 1990’s a TV documentary called ‘Now we can talk’ shed light on the dark period of Korean history by showing the findings on the myriad of unsolved or unspoken questions. In the winter of 2007, another similar program caught our eyes. This time it was an internet program called ‘Now we can see’ which showed a collection of UCCs made and uploaded during the presidential elections, which were removed by the request of NEC.

The Article 1 of the Public Official Election Act articulates that the purpose of this act is “to contribute to the development of democratic politics....in accordance with the free will of the people and democratic procedures.” The democratic politics is reinforced through freedom of speech. And the digital revolution offers unprecedented opportunities for creating a vibrant system of free expression. But it also presents new dangers for freedom of speech, dangers that will be realized unless we accommodate ourselves properly to the changes the digital age brings in its wake. If they are resolved prematurely or inappropriately, they will greatly erode the system of free expression and undermine much of the promise of the digital age for the realization of a truly participatory culture⁸ and of a free culture.⁹ Thus this study attempts to explore how the regulation of political speech could influence culture and creativity.

This paper examines the influence of the NEC regulation in Korea on free culture, especially the creation of UCC, by analyzing the clauses relating to the production and distribution of election-related UCC, and comparing the UCCs that have been removed by the NEC and those that have not been.

RESEARCH QUESTIONS

1. What is the impact of the NEC regulation on the UCC?
 - 1) What kinds of UCCs are prohibited by the Public Official Election Act?
 - 2) What kinds of UCCs have been removed by the request of NEC?

⁵ YouTube Nation(2006), Caroline Heldman at Occidental College

⁶ As an independent constitutional agency in Korea, it stipulates that it manages fair elections referenda, and deal with administrative affairs concerning political parties and political funds

⁷ Article 93 (Prohibition of Unlawful Distribution or Posting, etc. of Documents and Pictures was first introduced in Nov. 14. 1997, and recently amended in Aug. 4.2004

⁸ Jack M. Balkin (2004), Digital Speech and Democratic Culture: A theory of freedom of expression for the information society.

⁹ Lawrence Lessig (2004). Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity. The Penguin Press.

- 3) Are the removed UCCs different from other UCCs? If yes, how?

RESEARCH METHODS

First the wordings of the Article 93 (Prohibition of Unlawful Distribution or Posting, etc. of Documents and Pictures) of Public Official Election Act and the UCC guidelines will be analyzed, in order to examine what kinds of UCC are the target of this regulation.

It is also critical to analyze exactly on what basis some of the UCCs have been removed, while others have not been. Our main interest is in the aspect of creativity in UCCs that were made (and removed) in Korea during the election. For a UCC to support, recommend or to oppose a political party or candidate, it could rip, mix or add¹⁰ other materials. Thus the UCCs will be analyzed on the basis of the creativity that has been added by the maker of the UCC.

The contents of the UCCs will first be analyzed by the following standards;

1. What is the theme of the UCC? – description, comment, support/reject, compliment, reprimand, ridicule, parody
2. What was the subject of the UCC? – candidate, party, both, none

The contents of the UCCs will also be analyzed by the following measures of creativity;

1. Is there something new added to the UCC or the creator just used existing materials made by others?
 - A. Is music added to the video?
 - B. Is there subtitle?
 - C. Any other additions?
2. Is the UCC attempted as a parody of existing materials?
3. How mixed are the new materials with existing materials?

The subject of the comparative analysis is the 64 UCCs that have been removed by the request of the NEC and then re-uploaded on “Now we can see” operated by Pandora TV, and the most viewed UCCs that have not been removed.

SIGNIFICANCE OF RESEARCH

The digitally networked environment makes it possible for many individuals and groups of similar beliefs to band together, express their views, organize, and gain wide recognition. And the solutions that the internet makes possible are radically different from those that dominated the twentieth century debate. It offers the tools for its production and dissemination to a degree unattainable in the mass-mediated environment, no matter how well regulated. This research supplements the limited pool of current literature by presenting an empirical analysis of the impact of the Internet regulation on free culture in Korea. Under the circumstances that presidential election produces more political attention than any other time, and UCC represents best of the characteristics of the Internet; interactivity, anonymity, openness, decentrality and distributability, the result of this research can serve as a useful case study regarding Internet regulation.

¹⁰ This term is originated from ‘Rip, Mix and Burn’, a metaphor that Lawrence Lessig uses for a free culture. Lawrence Lessig (2001), *The Future of Ideas*

