

FILTERING PRACTICES OF SOCIAL MEDIA PLATFORMS

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

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FILTERING PRACTICES OF SOCIAL MEDIA PLATFORMS

THURSDAY, APRIL 26, 2018

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC

The committee met, pursuant to call, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte [chairman of the committee] presiding.

Present: Goodlatte, Smith, Chabot, Issa, King, Gohmert, Jordan, Marino, DeSantis, Buck, Roby, Gaetz, Biggs, Handel, Rothfus, Nadler, Lofgren, Jackson Lee, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline, Lieu, Raskin, Jayapal, Schneider, and Deming.

Staff Present: Shelley Husband, Staff Director; Branden Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian and General Counsel; Bobby Parmiter, Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Jason Cervenak, Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Beg Barr, Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Paul Taylor, Chief Counsel, Subcommittee on the Constitution and Civil Justice; Alley Adcock, Clerk; David Greengrass, Minority Counsel; James Park, Minority Counsel; Matthew Morgan, Minority Counsel; Danielle Brown, Minority Legislative Counsel; Joe Graupensperger, Minority Counsel; and Rachel Calanni, Minority Professional Staff Member.

Chairman GOODLATTE. Good morning. The Judiciary Committee will come to order and without objection the chair is authorized to declare recesses of the committee at any time. We welcome everyone to this morning's hearing on "Filtering Practices on Social Media Platforms"; and I will begin by recognizing myself for an opening statement.

Today's hearing will examine how social media companies filter content on their platforms. According to a February 2018 fact sheet published by Pew Research Center, today around 7 in 10 Americans use social media to connect with one another, engage with news content, share information, and entertain themselves.

In a survey released in March, Pew found that Facebook dominates the social media landscape with 68 percent of U.S. adults stating that they use this social media platform online or on their cellphone.

This same survey found that nearly three-quarters of U.S. adults use YouTube, a platform with many social media elements including 94 percent of 18 to 24-year-olds. Also covered in this survey was Twitter, which controls a smaller demographic, but nevertheless attracts 40 percent of 18 to 24-year-olds to its platform.

While it is clear that these numbers show that social media platforms have direct control over incredible volumes of user-created content, the method by which these companies manage this content is far from clear. Facebook, Google, and Twitter in many cases would like to appear as neutral channels.

YouTube, a subsidiary of Google, for example states that its purpose is to give everyone a voice and show them the world. But this goal and those of the others appear wildly aspirational and do not reflect the true nature of the business that these for-profit companies engage in.

In reality, these companies, like all other legitimate businesses, are exercising great care and discretion to ensure that their services are not abused. For example, we know that they monitor content to ensure that no illegal activity such as fraud, piracy, identity theft, and sex trafficking, among others, is being committed on their platforms. This fact should not surprise us. Indeed, they are required to do so.

However, beyond illegal activity, as private actors we know that these companies manage content on their platforms as they see fit. The First Amendment offers no clear protections for users when Facebook, Google, or Twitter limits their content in any way.

Moreover, they maintain terms of service pages which contain rules that users must agree to abide by in order to use their platforms, and at least in some cases, when content is identified as violating a company's terms of service, it is subject to human review.

There is, however, a fine line between removing illegal activity and suppressing speech, and while these companies may have legal, economic, and ideological reasons to manage their content like a traditional media outlet, we must nevertheless weigh, as a Nation, whether the standards they apply endanger our free and open society and its culture of freedom of expression, especially when it is through these channels that our youth are learning to interact with each other and the world.

Speaking before the Phoenix Chamber of Commerce in 1961, Ronald Reagan observed that "Freedom is never more than one generation away from extinction." In a 2017 communication to the Facebook community, CEO Mark Zuckerberg asked the following question, "Are we building the world we all want?" That is the very question presiding over this hearing today, and while I am pleased to ask this question to our distinguished panel of witnesses appearing before us today, it is unfortunate, despite our repeated invitations, representatives from Google, Facebook, and Twitter have declined to testify.

If this is any indication of their efforts to be more transparent, then we all may already have our answer to Mr. Zuckerberg's question. With that, I want to thank all of our witnesses in attendance today and I look forward to your testimony.

It is now my pleasure to recognize the ranking member of the committee, the gentleman from New York, Mr. Nadler, for his opening statement.

Mr. NADLER. Thank you, Mr. Chairman. Priorities matter, Mr. Chairman. Over the course of the past year, the majority has refused to hold hearings to conduct oversight of any kind on any topic related to social media. The majority has turned a blind eye both to discreet cases, like the theft of millions of Facebook user profiles by Cambridge Analytica, and to broader questions, like the fraud policies that allow those user profiles to escape in the first place.

Time and again, House Republicans have attempted to turn the committee's attention away from these issues, either ignoring or hoping to distract from the serious conversations we should be having.

Over the past year alone, the majority has refused our request to hold hearings on how Russian operatives leverage social media to influence the 2016 elections, refused the Congressional Black Caucus's request to hold hearings on how those Russian influence pieces targeted minority voters, blocked the minorities' access to those advertisements when Facebook offered them to us since they were offered on the condition that the chairman join us in requesting them, refused to issue subpoenas or even ask really for information from Cambridge Analytica and Giles Parscale, two consultants for the Trump campaign that appear to have coordinated with foreign actors during the 2016 campaign, premised those briefings with various social media companies but never delivered, decided that we should be the only committee of jurisdiction not to hear from Facebook CEO Mark Zuckerberg, directly, after his appearances before the House Energy and Commerce Committee, the Senate Judiciary Committee, and the Senate Commerce Committee, refused to call Cambridge Analytica whistleblower Christopher Wylie before the committee for a transcribed interview, and, just this week, declined my invitation to participate in an interview with Mr. Wylie after Democrats arranged for the interview on our own.

In short, House Republicans have no time for substantive oversight of the Trump administration or election security or privacy policy or even a discussion about the wisdom of regulating social media platforms, but they have made time for Diamond and Silk. They have prioritized this spectacle over every other conversation we should be having today and should have been having for the last year and a half.

Now, to be clear, Ms. Hardaway and Ms. Richardson are entitled to say whatever they would like about President Trump or anyone else, but the majority has called them here to stand for the baseless proposition that Facebook, Google, and Twitter are engaged in a Silicon Valley plot to censor Conservative voices. Let us review the facts.

Based on what I understand to be a single communication from Facebook, Ms. Hardaway and Ms. Richardson—in an email that the CEO of the company has already admitted was sent in error, our witnesses will claim that Facebook is censoring their posts.

Of course, Ms. Hardaway and Ms. Richardson primarily make that argument on Facebook where they have 1.4 million followers and have posted as 100,000 likes and 60,000 shares. Nearly

350,000 additional users have liked their Facebook page in the past 3 weeks alone.

Most of my colleagues on both sides of the aisle would kill for that kind of reach on social media. The witnesses will complain that Facebook has limited the ability of their followers to interact with their Facebook page, but the data show that their Facebook page received more total interactions in March 2018 when they were supposedly being censored than in March 2017 fresh off President Trump's victory.

So the censorship argument, the central thesis of this hearing, does not hold up under even the most basic scrutiny, which is not to say, Mr. Chairman, that the committee should not have a hearing about how filtering works on private social media platforms.

"Social Media Filtering Practices and their Effect on Free Speech," the title of this hearing, is a fine topic for discussion and one I would encourage you to schedule, but that is not what today's hearing is about and the majority knows it.

The notion that social media companies are filtering out Conservative voices is a hoax, a tired narrative of imagined victimhood as the rest of the country grapples with a feckless President and an out-of-control administration.

The majority designed this hearing to perpetuate that hoax. Conservative commentary, including conspiracy theories of a Conservative bent, regularly rank among the most far-reaching posts on Facebook and elsewhere. To argue otherwise is to ignore the facts or to act in bad faith or both.

And to make matters worse, the majority has prioritized this hoax over matters that the committee should have investigated long ago. Their decision to hold this hearing while still ignoring questions of substance that have been squarely before us for months does real and lasting damage to this esteemed committee.

What are House Republicans so afraid of that they will not even join us in asking questions about Facebook or Russian advertisements or a host of other issues, some that I mentioned earlier, that are clearly a priority for the public? Priorities matter, Mr. Chairman. We should be holding a bipartisan hearing on any one of a long list of other topics. We could have easily worked on that project together. This committee can do better. I yield back.

Chairman GOODLATTE. With unanimous consent, I would like to enter the following into the record, a letter with attachments from Adriana Cohen, a syndicated columnist and Boston Herald radio host, a statement from Corinne McSherry of the Electronic Frontier Foundation, a statement from the Electronic Privacy Information Center, EPIC, and a letter EPIC sent to the Federal Trade Commission in 2011 regarding Google and search results on YouTube, and a statement from the National Religious Broadcasters.

Chairman GOODLATTE. I would like to now welcome our first panel of witnesses. Our first witness is the Honorable Marsha Blackburn from the Seventh District of Tennessee, and our second witness is the Honorable Jim Himes from the Fourth District of Connecticut. Your written statement will be entered into the record in its entirety and we ask that you summarize your testimony in 5 minutes, and Representative Blackburn, we will begin with you. Welcome.

STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mrs. BLACKBURN. Thank you, Mr. Chairman, and Mr. Nadler, and to my colleagues on the committee, thank you for inviting me to testify at this hearing. I am honored to be here and talk about online censorship.

There are growing concerns about how and why Big Tech companies are making decisions to ban, deprioritize, or otherwise filter completely legal speech online. When Mark Zuckerberg testified earlier this month, every time someone asked about censoring Conservatives, he said that Facebook takes down bad content like terrorism. When he gave me that answer, I responded that Diamond and Silk are not terrorism, but this problem is more far-reaching than Diamond and Silk.

Last October, Twitter blocked my campaign launch video from its ads platform due to my pro-life message. This ban threatened the fundamental freedom to engage in political speech. For example, broadcasters are forbidden under section 315 of the Communications Act from censoring the ad of a political candidate even if it has disturbing content or language.

Like social media platforms, broadcasters clearly are private entities with their own First Amendment rights, but even so, we recognize that some speech is so important that we must protect its access to an important platform.

Twitter reversed its decision in my case, but the bans keep coming. Just a few days ago, Google banned a large Lutheran denomination from its ads platform. YouTube banned the entire channel of Spike's Tactical, a well-known firearm manufacturer. When bans get reversed, we are told, "Well, mistakes were made," but why is it that the mistakes nearly always seem to run in one direction?

To make matters worse, many of these decisions are made within the black box of an algorithm. Facebook recently tweaked its algorithm to prioritize content that is, and I am quoting, "Trustworthy, informative, and local," end quote. No one knows exactly what that means, but we do know that since then, there has been a significant reduction in traffic from Facebook to some of the most prominent Conservative sites.

As chair of the Communications and Technology Subcommittee, we held a hearing in November on algorithms. Our findings show that Big Tech platforms are the new public square, and their executives, as the gatekeepers, are the new governors, but these governments do not have a First Amendment. Free speech as a value is endangered even here in America and is nonexistent in most of the world. We need to recognize that the global reach of these companies creates overwhelming pressure against free speech and we need to do a better job of counteracting that pressure.

But section 230 of the Communications Act gives online platforms a broad immunity from liability for user-generated content except for a responsibility to take down certain things, like child sex trafficking, theft of intellectual property, or terrorism. This should translate into more freedom, not less, for their users, but instead, we are seeing more and more content censored by these new governors on some very flimsy pretenses.

As such, perhaps it is time to review some of our fundamental assumptions. I had the ability to fight back. Diamond and Silk had the ability to fight back. But what about the thousands of others being thrown out of our new public squares for no good, definable reason? We are here today to speak up for them and we are here today to speak up for free speech.

I thank the committee for your attention to the issue. I look forward to the discussion. I yield back.

Chairman GOODLATTE. Thank you, Representative Blackburn. Representative Himes, welcome.

**STATEMENT OF HON. JIM HIMES, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CONNECTICUT**

Mr. HIMES. Thank you, Chairman Goodlatte, Ranking Member Nadler, and distinguished colleagues. When I came to the Congress almost 10 years ago, I was overwhelmed by the privilege of working here. Even now, I cannot quite shake the feeling that we serve in the shadow of people like Abraham Lincoln, Sam Rayburn, and Shirley Chisholm. Now I sit in front of this storied committee with a simple message: the truth matters.

This committee shapes our courts. It oversees the enforcement of our laws. It balances our cherished liberties with our need for security. To this committee especially, the truth matters, yet today this committee meets to promote a false narrative. It meets to continue the hoax, now fully rebutted, that Facebook and other social media have mounted a deliberate crusade to filter out Conservative opinion.

Congress and this committee should look hard at Facebook. Over 2 billion people use it. The Kremlin used it to widen American fault lines before an election. It has personal data on all of us. People get their news from Facebook. That is huge power. That power must be constrained by fairness, care, and responsibility, and making sure that happens is our job.

Congress and the social media companies must make sure they contribute positively to American life. Instead, today we will amplify the financially lucrative and politically convenient hoax that Facebook is purposefully censoring Diamond and Silk.

Let us spend a minute on the facts. Diamond and Silk got into a complicated commercial dispute with Facebook about how you can make money on their site. Facebook mistakenly told them their content had been judged unsafe. Facebook publicly and privately acknowledged their mistake, apologized, and reached out to them by phone, on email, and on Twitter to work this out.

And most importantly, as the charts next to me show, Diamond and Silk suffered no decline in their interactions online compared to such Liberal sites as Rachel Maddow and The Young Turks.

[Chart]

Mr. Chairman, I was in business for many years. Assuming that roughly half of Facebook users lean right, what possible business logic is there in alienating half of your customers? There is none. Those are the facts and that is the truth, and the truth matters.

The problem is this particular truth is pretty boring. A commercial dispute does not fire anybody up. It does not play into the carefully manufactured fear of the American right that everybody is out

to get them. Never mind that the right controls the White House, both Houses of Congress, more and more of the Supreme Court, and governorships all over America, never mind Sinclair, never mind the global Murdoch news empire, the right must be under siege, because if there is no siege, there is no fear and there is no anger.

And without fear and anger, well, people might not show up at the polls. Without fear and anger, people might ask themselves why we are mortgaging our children's future rather than improving their education. They might wonder why we have not lifted a finger to shore up Social Security. They might realize that we have done absolutely nothing to rebuild our ports and our highways and our railroads.

I was moved yesterday when President Macron of France spoke to us. From where I sat, you could look just past him and see the Marquis de Lafayette. Do you remember what he said? He said, "You can plan on fear and anger for a time, but they do not build anything." Eventually everyone will know that the charge that Facebook filters out Conservative commentary is untrue, and that charge will go the way of Pizzagate and stand down orders at Benghazi, of Obama wiretapping Trump and the Vince Foster murder, and all of these conspiracies that sprout around here like spring flowers. But in the meantime, we will have put one more dent in our democracy.

Do not take it from this Democrat. Yesterday, Matt Mackowiak, a Republican consultant and a veteran of the Bush administration, wrote in the Washington Times, quote, "our obsession with political theater has brought us to the point where now a respected and important House committee will spend several hours taking testimony from two YouTube celebrities, all done at taxpayer expense."

President Macron said something else yesterday that sticks with me. He said, "Without truth, there is no real democracy because democracy is about true choices and rational decisions." The corruption of information is an attempt to corrode the very spirit of our democracies.

Mr. Chairman and Mr. Ranking Member, let's see past our differences. Let us see past the nonsense. Let us put past our differences to fight that corruption and that corrosion because the truth matters. Thank you.

Chairman GOODLATTE. I would like to thank our first panel of witnesses for being here today, and since we do not ask questions of Members of Congress, we are going to thank you and excuse both of you.

I would now like to introduce our second panel. Our first witness, Google, which has refused to appear today, is ranked first in the world and in the United States for user traffic according to Amazon's Alexa, which tracks such data. In addition to being the top search engine in the world, its subsidiary, YouTube, attracts 30 million daily visitors and boasts a total of 1.3 billion users.

Google has been accused of maintaining bias against Conservative views, both internally and on their platform. For example, PragerU, a channel that features educational videos featuring the world's best thinkers such as Harvard Law professor Alan Dershowitz speaking about the founding of Israel, was unjustly re-

stricted by YouTube through a feature intended to filter out, quote, “Inappropriate content for younger audiences.”

The list of restricted content according to PragerU included videos title, “Why America Must Lead,” “The 10 Commandments Do Not Murder,” “Why Did America Fight the Korean War,” and “The World’s Most Persecuted Minority: Christians.”

According to Dennis Prager, PragerU’s founder, “Watch any of our videos and you will immediately realize that Google/YouTube censorship is entirely ideologically driven. For the record, our videos are presented by some of the finest minds in the western world, including four Pulitzer Prize winners, former prime ministers, and professors from the most prestigious universities in America.” As a result, PragerU has taken legal action in Federal court.

Our second witness today, which has also refused to appear, is Facebook. Facebook’s website, according to Alexa, ranks third in the United States and in the world. It receives 1.4 billion daily active users and boasts that people can, quote, “Express themselves freely,” end quote, on its platform.

According to a report issued by Media Research Center, this company suppresses pro-life advertisements in addition to Conservative content. For example, quote, “Both Right to Life Michigan and the Wexford/Missaukee Right to Life were unable to advertise on the site because Facebook did not support ads for their business model,” end quote. According the report, Facebook only permitted the ads after media attention.

In addition to the suppression of Conservative and pro-life content, Facebook has been accused of removing content related to a police shooting that sparked overwhelming national attention. In the summer of 2016, the aftermath of the tragic shooting of Philando Castile was livestreamed through Facebook.

According to one description of Facebook’s actions, quote, “It suddenly disappeared from Facebook.” A few hours later, the footage reappeared, this time with a label affixed warning of graphic content. In official statements, Facebook blamed the takedown on a technical glitch but provided no further details. I believe we will learn more about, quote, “enforcement errors,” end quote, and “technical glitches,” end quote, later in this hearing.

Our third witness is Twitter. Like our other invited witnesses on this panel, Twitter refused to attend. According to Alexa, Twitter’s website ranking is 8th in the United States and 13th in the world. In terms of traffic, approximately 8,000 tweets are sent per second.

In addition to the attacks on Representative Blackburn’s pro-life ads, Twitter has been accused of suppressing the pro-life advertisements of Live Action. According to the report issued by the Media Research Center, Twitter demanded Live Action purge not only its Twitter, but also its website of a multitude of content including ultrasounds in order for it to advertise on the platform. Twitter was effectively trying to force Live Action to stop promoting everything it did as an investigative pro-life organization.

While this committee has presented the opportunity for these companies to come and describe their filtering practices and answer questions that members on both sides of the aisle have about these practices, their refusal to appear only creates more questions and more concerns. The committee has resolved to have its ques-

tions answered directly by these companies, and we will pursue whatever means necessary to get those answers.

We now welcome our third panel of distinguished witnesses who I believe are here. Thank you all for joining us today. If you would all please rise, I will begin by swearing you in.

Do you and each of you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you very much. Let the record show that all of the witnesses answered in the affirmative.

Our first witnesses are social media personalities Lynette “Diamond” Hardaway and Rochelle “Silk” Richardson; our second witness, Berin Szoka, the president of TechFreedom; our third witness is Professor Ari Waldman, a professor of law and the director of the Innovative Center for Law and Technology at New York Law School; and our fourth and final witness of the day is David Chavern, the president and CEO of News Media Alliance and the American Press Institute.

Your written statements will all be entered into the record in their entirety and we ask that each of you summarize your testimony in 5 minutes. To help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you have 1 minute to conclude your testimony. When the light turns red, it signals your 5 minutes have expired.

Ms. Hardaway and Ms. Richardson, you may begin. I understand you are going to share your 5 minutes.

Ms. HARDAWAY. Yeah, I think so.

Chairman GOODLATTE. Welcome.

STATEMENTS OF DIAMOND AND SILK, SOCIAL MEDIA PERSONALITIES; BERIN SZOKA, PRESIDENT, TECHFREEDOM; PROF. ARI WALDMAN DIRECTOR, INNOVATION CENTER FOR LAW AND TECHNOLOGY PROFESSOR OF LAW, NEW YORK LAW SCHOOL; AND MR. DAVID CHAVERN, CHIEF EXECUTIVE OFFICER, NEWS MEDIA, ALLIANCE AND AMERICAN PRESS INSTITUTE

STATEMENTS OF DIAMOND AND SILK

Ms. HARDAWAY. We would thank the Judiciary Committee for allowing us the opportunity to voice our concerns about Conservatives being targeted and censored on social media platforms.

Facebook, along with other social media sites, have taken aggressive actions to silence Conservative voices such as ourselves by deliberately restricting and weaponizing our page with algorithms that censor and suppress our free speech. These biased algorithms are tactics designed to pick up on key words, thus telling the pages how to behave in ways that repress and stifle expressed ideas, including shadow banning which blocks our content from being seen by our followers while depriving our brand through the demonetization of our videos.

Followers stop receiving notification of when we posted videos and content followers were also mysteriously unliked from our page. Subtly and slowly, Facebook used one mechanism at a time to diminish our reach by restricting our page so that our 1.2 million followers would not see our content, thus silencing our Con-

servative voices. When we reached out to Facebook for an explanation, they gave us the runaround.

Mark Zuckerberg testified before Congress and stated that the most important thing he cared about was making sure no one interferes in the 2018 elections, but after doing our research, we wondered if Mark Zuckerberg was using Facebook to interfere in the 2018 elections by labeling users' accounts as either Liberal, very Liberal, Moderate, Conservative, or very Conservative.

This is one of the main underhanded ways to censor Conservatives. So if I am labeled as very Liberal without the option to edit it, update, and correct the setting, then algorithms are already put in place which allows advertisers that have Liberal views services and causes to target at me. And you can see the graph on the screen and it shows clearly that our personal accounts have been already labeled.

[Graph]

Diamond and Silk's personal Facebook page has been labeled by Facebook as very Liberal. Even though we are not very Liberal, Facebook does not give us the option to change this label to Conservative, making it less likely for us to see advertisements, news stories, and services for a Conservative point of view. If Facebook labeled our user accounts as very Liberal and got it wrong, how many more other users' accounts have they gotten wrong?

On September 7th, 2017, we received a message on our Facebook page which stated that limits had been placed on Diamond and Silk, and you can see pictures too. You can see on picture three all of the complaints that have come in from our followers where they are not receiving notifications. When watching our videos, it stops. They cannot watch our videos.

We have also noticed how someone with a Liberal point of view that spews hate against the President can garner up to 19 million views with only 539,000 followers, yet we have 1.2 million followers and only receive 13,000 views on a video, and you can see that in picture four.

And then in picture five, you can see the comparison from back then until today. Also, if you look at picture five, part two, when we uploaded a video on March 4, with 1.2 million people, we were only able to reach 37,000 views. But as soon as Mark Zuckerberg and Facebook—this issue came to light and they started taking those algorithms off, we uploaded the same video on April the 12th and it was able to garner 400,000 views.

After looking at our analytical on picture five, part three, after looking at our analytical you can clearly see that the restrictions are back because after the 12th, everything started going back downhill.

In 2016, with less than 1 million followers, our reach page would garner 5 to 8 million people or more within a week. All of that changed when the algorithms were placed back on our page to suppress our reach.

YouTube also demonetized 95 percent of our videos in 2017, categorizing it as hate speech even though our account was in good standards. We also show that Mark Zuckerberg said that he does not allow hate speech, yet when people say the words "I hate" or "we hate," those people also garner views.

Was it an enforcement error for 6 months, 29 days, 5 hours, 40 minutes, and 43 seconds of chatting and emailing about the same issue and being told that my issue would be escalated to a Facebook team, a spam team, the technical team, the appeals team, the internal team, the policy team, only to be told on January the 8th, 2018 that a request was never sent? And we have the proof—see picture 10 and picture 11.

Censorship is no hoax. It is real. It is wrong for these social media giants to suppress and disregard people by diminishing and denying them their free speech. If social media is supposed to be a place for all ideas or to express an idea, then algorithms and tactics should not be in place to suppress some ideas. Thank you.

Chairman GOODLATTE. Thank you, Ms. Hardaway. Mr. Szoka, welcome.

STATEMENT OF BERIN SZOKA

Mr. SZOKA. Thank you, Chairman Goodlatte, the Ranking Member Nadler. Thank you for—

Chairman GOODLATTE. Turn your microphone on.

Mr. SZOKA. Thank you. Thank you, Chairman Goodlatte, Ranking Member Nadler, for inviting me to testify here before your committee today.

Mr. Chairman, it is a particular honor to testify before your retirement. We at TechFreedom have not always agreed with you over the years, but I have always considered you to be among the most thoughtful members of Congress, a true lawyer's lawyer.

I particularly commend you for the work that your committee did over the last year on how to combat online sex trafficking. The legislation produced by this committee was carefully tailored to help prosecutors stop sites like Backpage and ensure that victims receive restitution. Your bill, which I am sorry to say was combined with another less thoughtful bill, would have done so without disrupting the careful balance struck by Congress in section 230 of the Communications Decency Act of 1996.

So I am here today to remind lawmakers why Congress made the right decision in enacting section 230 and to explain why a Fairness Doctrine for the internet would be an even worse idea than was a Fairness Doctrine for broadcasting.

In recent hearings with Facebook's CEO, lawmakers repeatedly asked about Facebook's supposed political bias. As the president of a small nonprofit dedicated to free markets and constitutionally limited government in technology policy, I have never encountered such bias. Yes, we struggled to get our message out, but that is probably because our message is more complicated than the sensationalism coming from advocates for bigger government. We are, after all, lawyers and not activists.

I often hear Conservative groups complain about the bias of social media platforms, but from what I can see after a decade in this field, their real problem is that they just do not use social media well. And let us face it, the young people who use social media best and reshare it most eagerly are overwhelmingly leftwing. This is not the fault of Facebook, Google, YouTube, or any other platform. It has just always been true.

At the Zuckerberg hearing, I was dumbstruck to hear Conservative Senators call for what amounts to a Fairness Doctrine for the internet. First enacted in 1949, the FCC's Fairness Doctrine was supposed to encourage robust debate in broadcasting. Instead, it did the opposite. Broadcasters avoided controversial topics. That enforced bland orthodoxy on radio and television, entrenching what Conservatives still call the mainstream media and stifling alternative voices like talk radio.

It was President Reagan and his FCC who ended enforcement of this insane policy, and yes, eventually Democrats saw the light too. In 2011, it was President Obama's FCC chairman who finally took the Fairness Doctrine off the books forever.

Yet now, apparently out of misdirected frustration, it is Conservatives who are talking about reviving the Fairness Doctrine, and this time for the internet and as a condition for the protections of section 230. This idea would stand section 230 on its head.

In 1995, it was another Republican, Congressman Chris Cox, who recognized that holding websites liable for content created by their users would have the perverse effect of discouraging websites from acting as Good Samaritans.

Section 230 avoids what has been called the moderator's dilemma, ensuring that websites are free to remove objectionable content without increasing their legal risk. Facebook and other social media sites together employ literally tens of thousands of moderators to remove everything from sex trafficking ads to terrorist messaging. This simply would not have happened without section 230's encouragement of non-neutrality.

Consider Canada, where website operators have no general shield from liability for defamation claims over third party content. As one Canadian internet lawyer put it, "The innocent dissemination defense may be available, but it requires a high degree of passivity and ignorance." I do not think anyone in this room really wants passivity from social media platforms. We want them to filter content, and there is just no way to demand their political neutrality at the same time.

What President Reagan said about the Fairness Doctrine in 1987 remains true today. Quote, "History has shown the dangers of an overly timid or biased press cannot be averted through bureaucratic regulation, but only through the freedom and competition that the First Amendment sought to guarantee."

But instead of encouraging competition, a Fairness Doctrine for the internet would actually entrench today's tech giants. No, of course they will not like having to justify their content moderation decisions in court, and yes, they may very well restrict political discussions on their sites just as happened with broadcasting, but today's tech giants would be able to manage vague, arbitrary, and open-ended legal liability far better than any startup.

Congress should avoid doing anything that will hinder competition online, and lawmakers should remember what the Supreme Court said in 1943. Quote, "If there is any fixed star in our constitutional constellation, it is that no official high or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion," unquote. The Fairness Doctrine would do

just that: prescribe orthodoxy. This tired idea should be left in what President Reagan called “the dustbin of history.”

Chairman GOODLATTE. Thank you, Mr. Szoka. Professor Waldman, welcome.

STATEMENT OF ARI WALDMAN

Mr. WALDMAN. Chairman Goodlatte, Ranking Member Nadler, and distinguished members of the committee, thank you for inviting me to testify today. My name is Ari Waldman, and I am a law professor at New York Law School.

My goal today is to help the committee understand Facebook’s editorial role, the dangerous implications of a world without content moderation, and the serious privacy implications of allowing Facebook and other social media companies to exist in a regulatory void. We all may have a First Amendment right, subject to some limitations, to say what we want free of government intervention, but we do not have a First Amendment right to Facebook’s amplification of our words.

So let’s talk a little bit about how and why platforms like Facebook moderate content. We actually know quite a bit about what they do, partly because of the work of my colleague, Kate Klonick, and also because Facebook published 27 pages of their moderation guidelines just a couple of days ago.

First, how? Content moderation is a complex ecosystem of technology and people. Moderation sometimes happens before content is published in that period between upload and publication. This is the automatic process using data-trained algorithms that screen out things like child pornography, copyrighted material, or graphic violence.

But content moderation mostly happens after publication where moderators either proactively remove content that violate platform rules or reactively when users flag content that violates Facebook rules. For this, Facebook employs a large, layered team of people trained to do this work.

Platforms have normative and financial incentives to moderate content. Every platform designs values into its code. One of Facebook’s central values is to bring friends together. As a result, and in response to the manipulation of Facebook by fake news sources, the platform redesigned its news feed to privilege and prioritize posts from our friends rather than from media or business pages. That is why engagement went down for some of those media and business pages, not biased moderation. The result is that lots of content gets filtered out, but no more so from the right than from the left.

When victims of racist, homophobic, and sexist tweets and comments post those comments to call out the aggressors, it is often the victims that get suspended or banned. Activists associated with the Black Lives Matter movement have reported just as many, if not more, takedowns of images, of police brutality, and racism than of any of the takedown anecdotal evidence from the right.

Facebook has a long history of banning photos from breastfeeding mothers. In 2014, the company suspended drag performers for using their drag names. An advertisement for a book featuring a queer vision of Jesus was also rejected. The artist, Michael Stokes,

who is best known for his portraits of soldiers wounded in battle has seen his portraits of queer soldiers taken down and his account blocked. At a minimum, mistakes happen on the left just as they happen on the right.

Consider also what social media platforms would look like without content moderation. Gendered cyber harassment proliferates when platforms like Twitter and 4Chan do nothing. They become havens of hate that function to silence women and others' voices, as my colleague, Danielle Citron, has found. Queer-oriented geosocial dating apps that ignore content violation like racists and transphobic profiles become havens for nonconsensual pornography and cause untold emotional damage to victims.

So why does this happen? Any content moderation that occurs algorithmically is subject to problems inherent in machine learning, biased data, inability to understand context, for example. Data-trained algorithms that determine what we see on our newsfeeds also cannot tell the difference between two media articles of widely different veracity. All they know is that a herd of highly motivated users and tight hyper-partisan networks are clicking on it and sharing it. To the algorithm and to Facebook, this is great.

Engagement is at the core of the business model. The problem is designed in. When humans act, maybe content moderation is more art than science, and Facebook does not employ enough Rembrandts. Mistakes happen. Those mistakes are far more likely, the evidence shows, to burden marginalized populations, not Conservatives.

Content moderation on Facebook is part of a larger narrative about how we lack even reasonable regulation and thus allow Facebook to take a cavalier approach to our privacy, our safety, and our civic discourse. This was on stark display when Facebook allowed data on 87 million of its users to be accessed in violation of its terms of service.

So although the evidence is not there to suggest systemic bias when it comes to content moderation, there is evidence that Facebook, when left to its own devices, cares very little about the safety of our data. It only cares about collecting it. Reasonable steps must be taken to reign in Facebook's near-unlimited power to violate our trust. Thank you, Mr. Chairman.

Chairman GOODLATTE. Thank you, Professor Waldman. Mr. Chavern, welcome.

STATEMENT OF DAVID CHAVERN

Mr. CHAVERN. Thank you, Chairman Goodlatte, Ranking Member Nadler, and members of the Judiciary Committee. Thank you very much for inviting me to testify at today's hearing.

My name is David Chavern and I am the president and CEO of the News Media Alliance, a nonprofit trade association representing over 2,000 news organizations across the United States and the world. Our members include some of the largest news organizations covering events around the globe as well as local publications focusing on issues that impact communities and daily lives and citizens of every State. Quality journalism is essential to a

healthy and functioning democracy, and my members are united in their desire to fight for its future.

Too often in today's information-driven environment, news is included in the broad term of digital content. It is actually much more important than that. While low-quality entertainment or posts by your friends might be disappointing, inaccurate information about the world can be immediately destructive. Civil society depends on the availability of real, accurate news.

The internet represents an extraordinary opportunity for broader understanding and education. We have never been more interconnected or had easier access to information or quicker communication. However, as currently structured, the digital ecosystem gives tremendous viewpoint control and economic power to a very small number of companies. That control and power must come with new responsibilities.

Historically, newspapers controlled the distribution of their product. They invested in the journalism and then printed it in a form that could literally be handed to their readers directly. No other party decided who got access to the information or on what terms. The distribution of online news is now dominated by the major technology platforms. They decide what news is delivered and to whom, and they control the economics of digital publishing. The First Amendment prohibits the government from regulating the press, but it does not prohibit Facebook and Google from acting as de facto regulators of the news business.

Neither Google nor Facebook are or have ever been neutral pipes. To the contrary, their businesses depend on their ability to make nuanced decisions through sophisticated algorithms about how and when content is delivered. The term algorithm itself makes these decisions seem scientific and neutral. The fact is that, while their decision process may be highly automated, both companies make extensive editorial decisions about relevance, newsworthiness, and other criteria.

The business models of Facebook and Google are complex and varied. However, we do know that they are both immense advertising platforms that sell people's time and attention. Their secret algorithms, and they are secret, are used to cultivate that time and attention, and we have seen many examples of the types of content favored by these systems, namely clickbait and anything that can generate outrage, disgust, passion.

The systems also favor giving users information very similar to what they had previously consumed, thereby generating intense filter bubbles undermining common understanding of issues and challenges.

All of these things are antithetical, actually, to a healthy news business and a healthy democracy. Good journalism is factual, verified, and takes into account multiple points of view. It takes a lot of time and investment. Most particularly, it requires someone to take responsibility for what is published.

Whether or not one agrees with a particular piece of journalism, my members at least put their names on the product and stand behind it. Readers know where to send their complaints. The same cannot be said about the sea of bad information that is delivered

by platforms in paid priority over my members' quality information.

Honorable members of this committee, too much is riding on these issues to let them pass without action. The major technology platforms are no longer new or inconsequential; the choices they make have tremendous influences on the sustainability of the news business and many other industries across our economy.

We offer no easy answer to the ultimate regulation of these companies. In many ways they present absolutely novel challenges to policymakers. However, with respect to the topic for today's hearing, a strong first step would be a simple acknowledgement of the immense filtering and decisionmaking power that both companies possess and exercise today.

Neither company is neutral and it is wrong to pretend they are. And from that flows a clear need for both companies to have enforceable standards on their algorithmic decisionmaking, particularly as to fairness and openness, and systems and policies that award original, quality information and content provided by trusted news organizations employing professional journalists.

With respect to the latter, we wish to express strong support for H.R. 5190, the Journalism Competition and Preservation Act of 2018, recently introduced by Representative David Cicilline. We believe this bill would go a long way towards reducing the imbalances in the current system of content distribution. Thank you very much.

Chairman GOODLATTE. Thank you, Mr. Chavern. We will now begin questioning under the 5-minute rule, and I will begin by recognizing myself. Ms. Hardaway, Ms. Richardson, thank you very much for your testimony and I am sorry you have been through the experience you have been through. Are you aware of other people on the internet—Conservatives, Liberals, anybody—who have also been censored by social media?

Ms. HARDAWAY. Well, we are looking at people like Governor Sarah Palin, just a lot of people that have been censored.

Ms. RICHARDSON. Yes. Even down to the President of the United States has been censored as well with him having over 23 million people on his platform unable to garner a million views on a video. Within an hour before the censoring he was able to do that. Now he cannot do that.

Ms. HARDAWAY. So, yes, there is a lot of Conservative voices that are being censored.

Chairman GOODLATTE. Do any of your friends or family or fans reach out to you when they tried to view your content but could not?

Ms. HARDAWAY. Oh, absolutely. We get tons of either emails—go down the side of our Facebook page on our polls.

Okay, "You all did not show up in my news feed."

"I cannot find you all," or "I put you in search. I could not find you all."

"It took me a long time to find you all."

"You all are not coming up."

Ms. RICHARDSON. We also put out a video where somebody made a video where they tried to follow our page, and the way that Mark Zuckerberg and Facebook have their settings set, you click on fol-

low but it defaults back to just standard. It would not let people stay on follow. And then whenever you click on follow to follow our page, for some people that were able to do so, they did not get a notification whenever we post our posts on our Facebook page.

Ms. HARDAWAY. And can I just clarify? Facebook says in their ruling that if you like and follow a page, that you are supposed to receive a notification whenever we drop content. What is the purpose of them following and liking a page? That is the purpose of them following and liking a branding page, because they are going to see and view your content.

So it is not fair for Facebook and Mark Zuckerberg to think that they can dictate to people and tell people what they can and cannot see in their newsfeed. I thought this was a platform for all ideas.

Chairman GOODLATTE. Thank you. I think all of our witnesses have had very valuable testimony, and I agree with a great deal of it. Mr. Szoka, I agree with you. We should not have a standard set for the internet like we used to have for broadcast media.

Mr. Waldman, I agree with you that these companies are going to do this. They are going to be expected to do it. But I am most fascinated by Mr. Chavern's testimony and I want to get into the issue of what we do about it when people are wronged, like Ms. Hardaway and Ms. Richardson have been wronged.

Right now, citizens can hold newspapers and other media groups legally accountable if they do certain things in their newspaper, whether it is publishing false information, showing indecent content, they use materials or photos they are not authorized or did not pay to use, and so on. Tech platforms are currently making in-depth decisions like newspapers make about what information users receive and how they receive it, often driven by financial and other unknown motives.

So, Mr. Zuckerberg himself has repeatedly said that his platform is responsible for the content that they host. Should the tech platforms be subject to the same content regulations and civil penalties and libel and slander that those who produce the content are responsible for?

Mr. CHAVERN. Well, thank you very much. I think we ought to acknowledge that these are novel businesses, right? People say are they media companies? Are they publishers? They are really attention businesses. They want more of your attention and they will feed information to get more of that attention.

I think we all have to be concerned about paths that would lead to them having more overt control over content or being in the content businesses. I am not sure I am excited about—

Chairman GOODLATTE. How do we avoid that?

Mr. CHAVERN. Well, I think we can start by making them responsible for the power and decisions they have today.

Chairman GOODLATTE. And how do we do that?

Mr. CHAVERN. We will start by the algorithms, as we say—these rules that they determine. They sort of talk broadly about them but nobody really knows what is in them. They are secret rules and if you have secret rules, you do not get the benefit of the doubt.

I think they have to start by being much more transparent about their decisionmaking and actually having enforceable standards

about that decisionmaking, about things like fairness and openness.

That is the first place to start, because that is what they do today and they have to be responsible for what they can do today and they really are not. They have rules that nobody knows what they are. They have impacts that we can only vaguely tease out. They have to be responsible for their moderation of the content.

Chairman GOODLATTE. Should that come about by legislative action or by judicial decisions based upon breach of contract or libel or slander or—

Mr. CHAVERN. I think, frankly, there are many ways to get there but we are going to keep having hearings like this as long as nobody knows how the secret rules are being applied. If you have secret rules, you are always not going to get the benefit of the doubt. And we are going to have to, either through legislation or through their own actions or could be other options, get to where there is much more transparency about their decisionmaking. They are responsible for prioritizing quality content, but as indicators of trust and not other kinds of content and ultimately answerable for these decisions they make, because currently right now they are not. I mean, we are just sort of guessing about what their algorithms do.

Chairman GOODLATTE. Thank you. Mr. Nadler.

Mr. NADLER. Let me begin by clearing up one important item. Essential thesis of this hearing seems to be that social media companies use complex algorithms to suppress Conservative voices on the internet. Set aside for the moment whether or not you approve of filtering practices and content moderation generally.

Mr. WALDMAN, yes or no: Is there any compelling evidence whatsoever to support the notion that Facebook, Twitter, or Google intentionally suppress Conservative content on their platforms?

Mr. WALDMAN. No.

Mr. NADLER. Thank you. Mr. Chavern, I hear your concerns about the effect of content filtering on the news media but yes or no: Do you have any evidence that Facebook, Twitter, or Google intentionally suppress Conservative content?

Mr. WALDMAN. We have not looked, I have not analyzed that.

Mr. NADLER. So the answer is no?

Mr. WALDMAN. No.

Mr. NADLER. Thank you. Mr. Szoka, you represent an organization that represents a Conservative point of view. Yes or no: Do you have any evidence that Facebook, Twitter, or Google intentionally suppress Conservative voices on the internet in particular?

Mr. SZOKA. No, Congressman.

Mr. NADLER. No. Thank you. Absent any evidence on this front, let's move on. I would like this panel's help with the subject matter this committee should be addressing today.

Mr. Waldman, earlier this week we met with Cambridge Analytica whistleblower Christopher Wylie. According to Mr. Wylie, SCL Group, a British company acting under the name Cambridge Analytica in the United States, operated as what Steve Bannon called a propaganda machine in the service of Mr. Bannon, the Mercer family, and eventually candidate Donald Trump.

That propaganda was built in large part on information that Cambridge Analytica misappropriated from millions of Facebook

users. We should be holding a hearing on this topic, but the majority did not even send staff to listen to Mr. Wylie's testimony when we had him the other day.

Mr. Waldman, what does Cambridge Analytica tell us about Facebook's privacy policies and why should this committee prioritize those issues?

Mr. WALDMAN. Cambridge Analytica's ability to access 87 million, information on 87 million shows us that Facebook does not really care about our privacy. What allowed Cambridge Analytica to access that information was that the quiz, the psychological quiz allowed the designer to scrape information through Facebook's API. And the only reason why that exact situation, the exact Cambridge Analytica situation cannot reoccur today is because Facebook decided to just fix that and just stop third-party apps from allowing them to scrape information that way.

So, that shows us that we are entirely at the mercy of Facebook's good graces to decide if they are going to allow this or if they are not going to. So, in this situation we are allowing Facebook to exist in kind of a regulatory void, as I mentioned, that leaves our data insecure.

Mr. NADLER. Thank you. And what precautions, policies, or security protocols can Facebook and other social media giants use or require to prevent unauthorized third parties acquiring user data for commercial, political, and nefarious purposes?

Mr. WALDMAN. Well, I think we have to start at Facebook actually enforcing its rules. We learned shortly after the Cambridge Analytica fiasco that Facebook has an internal procedure where people are supposed to check up on the data usage of third-party applications. There is an entire team about it.

One of the former employees wrote an op-ed, I believe, in The Washington Post, that described yes, this was my job, but I was told that I really should not be walking through all the steps that I am supposed to. So all they did was call someone up and say, "Hey, are you using this data in the wrong way," and then never followed up.

So, at first we have to make sure that Facebook is engaging the tools that they have in order to make sure that this data is not being used improperly.

Mr. NADLER. Thank you. Now, looking back at the election in 2016, the Russian disinformation campaign may have reached over 126 million Facebook users; accounted for more than 1,000 videos in YouTube and included hundreds of thousands of messages and posts on Twitter. That accounts just for the three companies that were invited here today and whom I suspect would have come had Republicans shown that they take this subject matter seriously.

Mr. Waldman, the Russian company indicted by the special counsel's office for conspiracy to defraud the United States, the conspiracy at the heart of the special counsel's work, spent an estimated \$100,000 on Facebook ads. What information does this committee need from Facebook in order to determine the impact and reach of that ad by—quickly, if you could, because my time is running out.

Mr. WALDMAN. Sure. We need what money was spent, where the money came from, what companies were involved, and what banks

were involved; the way they were targeted; the algorithms used; and how that information was propagated.

Mr. NADLER. Okay. I have one final question of a more general nature, again to Professor Waldman. Everybody here; Mr. Szoka, Professor Waldman, Mr. Chavern has said there is no evidence that they have seen that Facebook intentionally discriminated against Conservative views. But let's assume they had. Let's assume they had. Facebook is a private company. Sinclair discriminates against Liberal views. Is there any difference in principal? Should we permit—let's assume we decide that Facebook was completely discriminating against Liberals or against Conservatives. Should we do anything about that?

Mr. WALDMAN. There is an editorial—

Mr. NADLER. And the same question for Sinclair, for example.

Mr. WALDMAN. There is an editorial—

Mr. NADLER. Or Fox.

Mr. WALDMAN. There is an editorial role here. That is what companies that host content do if they embed those particular values into their design. I am not sure that it is this Congress's or this committee's role to say that Facebook has to have X-amount of voices from the Conservative side and X-amount of voices from the Liberal side.

Mr. SZOKA. Congressman, I think I have made it clear that I think the fairness doctrine in whatever context is a terrible idea. The government has no business policing speech, period, but I do want to emphasize, Congressman Blackburn noted earlier that there are certain rules on the books about broadcast speech. Those rules have survived scrutiny only because the Supreme Court has refused to grant full First Amendment rights to broadcasters. I think that decision, *Red Lion*, from 1969, is outdated.

But I just want to emphasize that we run into a real danger in these discussions of people saying well, why can we not have a certain regulation that exists for broadcasting? Why can we not have that for the internet or newspapers? And the answer is very clear because the internet, newspapers, and all other media other than broadcasting are fully protected by the First Amendment. Those rules would never survive First Amendment challenges if brought in court when applied to the internet.

Mr. NADLER. Thank you. My time has expired.

Chairman GOODLATTE. Thank you. Without objection I would like to submit two publications for the record. One is "Censored: How Online Media Companies Are Suppressing Conservative Speech," by the Media Research Center; and the other is in an op-ed by Patrice Onwuka in *The Hill* titled "Diamond and Silk Offer Chance for Bipartisan Pushback on Social Media Censorship," in which it notes that in 2016 a coalition of over 40 left-leaning groups called on Zuckerberg to ensure that Facebook implements an anticensorship policy that honors and respects black lives. And in 2017 over 70 social justice groups wrote to Zuckerberg, again calling out the consistent and disproportionate censorship of Facebook users of color. Without objection they will be made a part of the record.

Chairman GOODLATTE. The chair recognized the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman. Mr. Chairman, I do not have any questions, but I do have a statement that I really address to the missing panel, and you have to wonder what were they afraid of?

Mr. Chairman, the censorship of Conservative voices by social media has become more frequent and the consequences more serious. Social media companies have repeatedly censored, removed, or shadow-banned Conservative journalists, news organizations, and media outlets that do not adhere to their political views.

Google's new fact-checking feature appears to target Conservative websites. Several Conservative-leaning outlets, such as The Daily Caller, are routinely vetted by Google for their content. Equally partisan sites, such as Vox, The Huffington Post, Daily Kos, Mother Jones, and other leftwing outlets and blogs are not given the same treatment.

In March Twitter censored a Drudge Report tweet of the 2020 campaign slogan "Keep America Great" as politically sensitive content. Unfortunately, we can expect to see a lot more of these examples in the future. Facebook recently announced this month that it would cut news articles' share of the newsfeed from 5 percent to 4 percent. Facebook would boost certain trusted news outlets and suppress other less trustworthy sources.

The term trustworthy is defined by Facebook, of course. A tech website, The Outline, found that the algorithm changes implemented by Facebook have disproportionately harmed Conservative publishers on its social media platform. They are getting fewer readers while their Liberal counterparts have not been impacted to the same degree.

And who are making these decisions? The Media Research Center found that Liberal Twitter advisors outnumber conservatives 12 to 1. Twelve U.S. members of Twitter's trust and safety council, which helps guide its policies, are Liberal, and only one is Conservative.

Also alarming are the guidelines being written by these companies to define what is hate speech and what is fake news. Facebook's newly published community standards, which guide what content is allowed and what is prohibited, defined these terms for the American people. The Media Research Center has outlined how these hate speech guidelines can target Conservatives.

For example, expressions of contempt, such as "I oppose gay marriage," could put social Conservatives at risk. These new guidelines appear to protect illegal immigrants. Saying illegal immigrants should return to their country of origin would result in a violation of guidelines on Facebook. And if someone called an illegal immigrant who has not paid taxes but gets government benefits a free rider, that would be considered hate speech, according to Facebook.

According to a 2017 Gallup poll, almost 60 percent of Americans are worried about the problem of illegal immigration. So, if those Americans were to post their concerns on Facebook, they would be accused of hate speech. A majority of Americans could be censored under Facebook's guidelines.

As private companies, social media can censor or suppress anyone they want. That is their First Amendment right to freedom of

speech. But they should be held accountable by the American people, and the public should realize they are getting slanted information. If social media companies continue to silence Conservative viewpoints, millions of Americans should either support alternative platforms or boycott the biased media.

Thank you, Mr. Chairman, and I will yield back.

Chairman GOODLATTE. Sure. Thanks. The gentleman recognizes the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman. I think there are important issues to be examined when it comes to social media platforms. I do not know that the topic of today's hearing is really one of them. But I do have a question and I do not know whether you, Professor Waldman, or Mr. Szoka, are the right witnesses to answer.

One of the reasons why the influence of the Russians resonated so well from their point of view was the use of bots in amplifying false narratives. And the question is what jurisdiction, if any, do we have to regulate, essentially, bots, false personas on a platform?

I am not sure this is a great hook, but it occurred to me that all of the social media platforms have value based on their reach. And if, for example, you have a 2 billion person follower but 40 percent of them are not real, that that is an issue that relates to your stock value and really is a misrepresentation of value to investors.

I wonder if you have thoughts on how we might either regulate or work with social platforms to reduce or eliminate false persona or bots on social platforms.

Mr. SZOKA. Congressman, thank you for the question. I just want to note at the outset that when we do that, we run the risk of restricting anonymous speech online. And I will note that Facebook and Twitter have chosen very different approaches, and that to me is the free market at work. Facebook is a community where everyone is supposed to use their real name; Twitter is not. And Twitter is, for that reason, much more vulnerable to the use of bots.

Ms. LOFGREN. If I may, I am not talking about anonymity. I am talking about false persons. Now, if you are Twitter and you say, you know, I have got a billion followers but half a billion do not exist, what does that say about your share value?

Mr. SZOKA. Well, the problem, Congressman, is distinguishing the fake follower from a real person. You know the old joke that on the internet no one knows you are a dog—you could also say no one knows you are a bot. It is not easy to identify those accounts, and the more we pressure those companies to do that, the more we put them in a position of being accused of censorship, because they will inevitably make mistakes.

So, of course, there are things that they could be doing, but this is a difficult technological problem and I am frankly very uncomfortable with the idea that the government, whether it is through the SEC, which indeed has started sending letters to companies. They sent one to Yahoo yesterday about a failure to notify its investors about a data breach. There are many—

Ms. LOFGREN. Well, a data breach is a very different issue.

Mr. SZOKA. They are very different.

Ms. LOFGREN. My time is almost up. I want to let Professor Waldman, who looks like he has something to say on it also to comment.

Mr. WALDMAN. Thank you, Congresswoman. I remember that cartoon, and the internet is a lot more mature today. Our technology—

Ms. LOFGREN. Actually, everyone knows you are a dog, so.

Mr. WALDMAN. The internet is a lot more mature today. The technology is a lot better today. I take the example—I think there is a role for regulatory agencies like the FTC to play, but we can also take the example of now Senator but then Attorney General Kamala Harris in California, who recognized issues with the technology companies that she had a responsibility to regulate.

Got them in a room together and decided these are the tools that we need to work together on. We need to make sure that gendered cyber harassment is not proliferating nonconsensual pornography, et cetera, and together, using the stick of potential AG enforcement under California Online Privacy Protection Act and other regulatory tools, she got companies together to come to an agreement about how they are going to use technology to make their platforms safer. I think we could do that too. Let's try to first work with technology companies—

Ms. LOFGREN. Well, I come from Silicon Valley, so—

Mr. WALDMAN. Yeah, of course.

Ms. LOFGREN. So, I am, you know, this is not a new concept to me. But the real question, I guess, is in terms—I do not think it is that difficult to identify bots, honestly. I mean, you know, maybe at some future date people will become more creative and it will be more difficult, but it is not so difficult now.

And the question is what is the standard of knowledge for the companies, especially publicly traded companies, and what is their liability exposure in terms of securities. And maybe we need a securities expert to help answer that. My time is expired, Mr. Chairman. I yield back.

Chairman GOODLATTE. The chair thanks the gentlewoman and recognizes the gentleman from Ohio, Mr. Chabot for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman, and I will go to Ms. Hardaway and Ms. Richardson, I think better known as Diamond and Spice, first, if I can. Diamond and Silk. My apologies. Hopefully I get the rest of it right.

Ms. HARDAWAY. That is all right.

Mr. CHABOT. Mr. Nadler introduced and asked the other three gentlemen about whether there was any evidence of Facebook or others blocking Conservatives and they indicated no, they did not really have anything there. But he did not ask you those questions and it is my understanding that you have personal knowledge of this; in fact, experienced this yourselves, being blocked because it actually happened to you. Is that correct?

Ms. RICHARDSON. Yes, that is correct. And very deep in the settings of Facebook there is a setting called your categories, which Facebook labels individual account as either Liberal, very Liberal, Conservative, or very Conservative.

Our personal Facebook account has been labeled very Liberal, thus meaning that anybody that is advertising or wants to adver-

tise, that is the only type of advertisement that we will see on our Facebook page.

So, if you are in a Conservative and you are advertising as a Conservative, your reach will not be far. The reason being is because there are individual Facebook pages that have been labeled as very Liberal.

Now, with this particular setting, we cannot change it, we cannot correct it, we cannot update it. This has been a default setting set by Facebook for individual personal pages. With that setting set, if you cannot change it, then guess what? Facebook controls what you see.

Ms. HARDAWAY. That is right.

Mr. CHABOT. Let me move on, if I can. It is my understanding that you comment, talk about a whole lot of different things, and one of those is President Trump, is my understanding.

Ms. HARDAWAY. Yes, we do.

Mr. CHABOT. And I think, in general, you tend to agree with and agree with some of his policies and have been generally pro-President Trump. Is that accurate?

Ms. HARDAWAY. We love our President. We love his agenda. We love this country.

Mr. CHABOT. And others have found fault with that, is my understanding. You have been criticized by some for that point of view. Is that correct?

Ms. HARDAWAY. But that is their problem—not ours.

Mr. CHABOT. Right.

Ms. HARDAWAY. That is right. Because this is our platform.

Ms. RICHARDSON. That is right. We do not solicit our page to them.

Mr. CHABOT. Right.

Ms. RICHARDSON. They come to our page and there is something called troll farms, where people come to our page and deliberately—and they thumb down our page. Facebook has a mechanism sitting there that when you thumb down our page you come to our page deliberately, thumb it down. Then there is an algorithm that is put in place where if you get too many thumbs down, now your page is restricted, blocked, your posts disappear, and then shadow banning is there, where we can see our posts but anybody else cannot see our posts.

Ms. HARDAWAY. Right.

Mr. CHABOT. And do you think it is unsafe or it is hate speech to offer a positive view of our President?

Ms. HARDAWAY. Excuse me?

Mr. CHABOT. Do you think some people—certainly you do not think that it is unsafe or hate speech to be positive about the President. Right?

Ms. HARDAWAY. It is not unsafe or is it hate speech.

Mr. CHABOT. Right.

Ms. HARDAWAY. To love this country and love and stand behind the President of the United States. When Obama was in office, if we had to get behind him, why not get behind this President right here?

Mr. CHABOT. Yeah. Let me follow up. And then some other things that you talk about: You have talked about, I think that you

believe that we should control our borders. As a country we have a right to do that.

Ms. HARDAWAY. Absolutely. Do not you—

Mr. CHABOT. Yup.

Ms. HARDAWAY. Is not this place controlled? When I came up here today security had to check us out.

Ms. RICHARDSON. That is right.

Ms. HARDAWAY. We just could not walk up in here. Do not you secure your house? The border should be secured.

Ms. RICHARDSON. And another thing—if illegal aliens do not have a right but if illegal aliens can come here to American and obtain the American dream, why cannot Diamond and Silk?

Ms. HARDAWAY. That is right.

Mr. CHABOT. Very good. And some other things that you discuss, my understanding is, things like protecting the unborn. Is that something that you have discussed in the past, that you think we ought to protect those that have a right to have life? Is that something that you—

Ms. HARDAWAY. Absolutely.

Ms. RICHARDSON. Everybody has a right to life.

Ms. HARDAWAY. Yeah. And, first of all, those are our beliefs.

Mr. CHABOT. Right.

Ms. HARDAWAY. And we have a right to those beliefs.

Mr. CHABOT. Right.

Ms. HARDAWAY. What is wrong with the way we believe? Why is it now in this country whatever used to be right is wrong and what is wrong now is right? If I have a belief, that is my belief, but nobody has a right to censor my free speech.

Mr. CHABOT. Yeah.

Ms. HARDAWAY. Nobody has a right to do it. And to maliciously and deliberately do it is what really irritates me. It just irritates me.

Mr. CHABOT. Very good. Thank you. I yield back, Mr. Chairman.

Chairman GOODLATTE. Chair thanks the gentleman. Recognizes the gentleman from Georgia, Mr. Johnson, for 5 minutes.

Mr. JOHNSON of Georgia. Thank you, Mr. Chairman. We could be here for a lot of reasons this morning. We could be looking into the manipulation of Facebook by the Russians to help Donald Trump get elected. We could be looking into the Russian interference with the presidential election. We could be looking at Russian hacking into State election processes. We could be talking about, in this committee, legislation to protect the Mueller investigation. None of those areas has this committee been involved with during the last 15 months that we have been in session.

We could be talking about gun control. We could be talking about the Dream Act in this committee. No hearings whatsoever, but what we are dealing with today, we are giving a platform to Diamond and Silk, and you ladies are very impressive to me. You have taken something and you have moved forward with it, exercising your First Amendment rights and you have made a ton of money off of Facebook. Is that not correct?

Ms. HARDAWAY. Absolutely not, because Facebook censored us for six months.

Mr. JOHNSON of Georgia. Well, now, Donald Trump introduced you all at a rally last year and he introduced you all saying that you were very popular and you had made a ton of money based on your affiliation with him. Is that not correct?

Ms. HARDAWAY. Let me tell you what he was talk—

Ms. RICHARDSON. That is not what he said.

Ms. HARDAWAY. He was calling those things that were not as though they were, is what he was doing then.

Mr. JOHNSON of Georgia. Okay. But he has given you—

Ms. HARDAWAY. But Facebook censored us for—

Mr. JOHNSON of Georgia. Hold on one second.

Ms. HARDAWAY [continuing]. For 6 months.

Mr. JOHNSON of Georgia. Hold on one second, ma'am. The point I am trying to make is you all have been bashing Facebook and you have been making a ton of money. Is that not correct?

Ms. HARDAWAY. No.

Ms. RICHARDSON. Excuse me.

Ms. HARDAWAY. No, no, no, no, no.

Mr. JOHNSON of Georgia. You have not been—

Ms. HARDAWAY. I will say it to the community.

Mr. JOHNSON of Georgia. You have not been making a ton of money based on your bashing of Facebook?

Ms. HARDAWAY. No, no, no. We did not bash Facebook. What we did, was we brought it to the light—

Mr. JOHNSON of Georgia. But have you been making a ton of money?

Ms. HARDAWAY [continuing]. On how Facebook has been censoring Conservative voices like ourselves for 6 months.

Mr. JOHNSON of Georgia. Have you been making—

Ms. HARDAWAY. Twenty-nine days, 5 hours, 43 minutes and 40 seconds. That is what they did.

Ms. RICHARDSON. Now, I can tell you something. We did—

Mr. JOHNSON of Georgia. Have you been making money? Have you been monetizing or—

Ms. RICHARDSON. They will not let us monetize on Facebook.

Mr. JOHNSON of Georgia. So you have not been—

Ms. HARDAWAY. They stopped it.

Ms. RICHARDSON. They stopped it.

Ms. HARDAWAY. For 6 months, 29 days.

Mr. JOHNSON of Georgia. So, they have been messing with your money, then?

Ms. HARDAWAY. Exactly.

Ms. RICHARDSON. That is exactly what I was going to say.

Ms. HARDAWAY. They limited our page, is what they did.

Ms. RICHARDSON. And you, too, did also by de-monetizing 95 percent of our videos for no reason at all, deeming it as hate speak.

Mr. JOHNSON of Georgia. But you are still selling merchandise on—

Ms. HARDAWAY. But even if we sell merchandise, that does not have anything to do with Facebook. Facebook censored our free speech and shame on the ones that do not even see that we have been censored. Yeah, when the Black Lives Matter people complain about it, oh, everybody is up in arms.

Let me just say this here. If the shoe was on the other foot and Mark Zuckerberg was a Conservative and we were Liberals, oh, all fences and all chains would have broken loose. You know it and I know it. But what I find appalling is that these Democrats, they do not want to take up for our voices because we support the President.

Ms. RICHARDSON. Democrats would be in the street right now marching and calling him all types of racist.

Mr. JOHNSON of Georgia. I would like to give you a little bit more time. I would like to give you a little bit more time but I have got to move on. I have only got a minute left.

Ms. HARDAWAY. Okay.

Mr. JOHNSON of Georgia. But I appreciate you all for your entrepreneurial spirit.

Ms. HARDAWAY. That is part of the American dream.

Ms. RICHARDSON. And we want to attain it too.

Mr. JOHNSON of Georgia. And we are giving you a tremendous platform with this hearing to make a ton of money when it is over.

Ms. RICHARDSON. That is right. And I hope everybody who is on Facebook can follow us and—

Ms. HARDAWAY. Yes. That is right. That is right. Because that is what it is supposed to be about.

Ms. RICHARDSON. That is what it is supposed to be about.

Ms. HARDAWAY. It is supposed to be about the attainment of the American dream. We are African American women.

Ms. RICHARDSON. That is right.

Ms. HARDAWAY. If illegal aliens can come over here and build businesses. Why cannot we? We were born on this soil. Oh, you do not have a right to silence my voice. Absolutely not.

Mr. JOHNSON of Georgia. I have always heard, though, that diamonds are a girl's best friend.

Ms. HARDAWAY. They are and they are hard, too, and if I have got to be hard and be firm with you, I will. You are not going to brush us off and dismiss us—

Ms. RICHARDSON. No, you are not.

Ms. HARDAWAY [continuing]. Like we do not have merit here. These people censor us for no reason. They put limitations on our page for no reason, and that was wrong.

Mr. JOHNSON of Georgia. But rather than diamonds, you are seeking money with Facebook. Is that not correct?

Ms. HARDAWAY. Well, you know what? If Facebook is a platform for you to make money, then so be it. Everybody else does it.

Ms. RICHARDSON. That is right.

Mr. JOHNSON of Georgia. Well, I respect—

Ms. RICHARDSON. And do not stop us from making any.

Ms. HARDAWAY. And do not make us feel guilty because we and other people that have built their brand page want to make money. We spent plenty of money.

Ms. RICHARDSON. That is right.

Mr. JOHNSON of Georgia. All right. Okay. I am with you on that. I am just astounded that this committee would stoop to this level to be positioning you all to make more money.

Ms. HARDAWAY. We really thank the committee for allowing us.

Ms. RICHARDSON. For little voices like ours. It is little voices like ours.

Ms. HARDAWAY. Because it was not you. You did not do it.

Chairman GOODLATTE. The time of the gentleman has expired. I thank the exchange. The gentleman asked the questions; the ladies answered his questions. And the chair now recognizes—

Mr. JOHNSON of Georgia. I thank the chairman.

Chairman GOODLATTE. The chair now recognizes the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. Let me see. I am almost tempted to yield my time back to Mr. Johnson, but—

Ms. HARDAWAY. Bring it.

Ms. RICHARDSON. Come on.

Mr. KING. Instead, before I forget, I have some documents I would like to ask consent to enter into the record. The first one is from Mr. Jim Hoft of The Gateway Pundit, St. Louis. And he is the one who initiated the beginnings of this hearing today. He has taken a pretty hard hit himself in multiple different ways, and I have watched as his views have gone from, been dropped down from 33 percent—Facebook page was 33 percent of the overall views—down to 3 percent.

Ms. RICHARDSON. That is right.

Mr. KING. One-eleventh of what it was. That would be evidence of censorship, in my opinion. A number of other comments in there that I would like to introduce that into the record along with a Christian publisher says Google banned it over faith we express, which illustrates that quoting the Bible can get you censored in this country.

And there are multiple charts here delivered by Gateway Pundit of other—here is Gateway Pundit's traffic. Here is the President's traffic, which the gentleladies expressed in their testimony. The Young Conservatives' traffic, which went from around five and three-quarter million down to essentially nothing.

In a similar period of time, multiple other sites, Conservative sites all of them, the graphics in the charts—it is the best material out here that quantifies this impact, I think, produced by Mr. Jim Hoft, and I hope that one day he can come and testify before this Congress as well, because my private conversation with him has been very powerful. And I ask unanimous consent to introduce these documents into the record, in hearing no objection.

Chairman GOODLATTE. Without objection, will be made a part of the record.

Mr. KING. I am sorry. Thank you, Mr. Chairman. And now, where do I go with this? My first thoughts are this. I am thinking about a situation like Jim Hoft and Gateway Pundit—the fourth most influential Conservative pundit throughout the last election cycle—watching his traffic be cut to one-eleventh of what it was just on Facebook alone.

And I do not see that Jim Hoft has as much television presence, perhaps, as Diamond and Silk have. So I wanted to ask you, Ms. Hardaway or you, Ms. Richardson, if you did not have a spot on Fox News, if you had to rely on just watching your traffic go down on YouTube and on Facebook and on Twitter and wherever else, would you have a chance to have a voice to express this or could

it be that because you had another outlet this issue came up far enough that now America is watching?

Ms. HARDAWAY. Absolutely.

Ms. RICHARDSON. Absolutely.

Ms. HARDAWAY. Because we had another outlet—because the Republicans, certain Republicans spoke out about it and took up for the little voices like ourselves, is how this came to light.

Ms. RICHARDSON. That is right.

Ms. HARDAWAY. It is not—when they deemed us unsafe to the community, it would have been that. They told us we could not appeal. We would have been out. And this is what happens, oftentimes, with people in our country, particularly minorities, where these big giants, they take and they put their feet on your neck.

They pull the rug right up from under you and then dare you to move. You know, they tell us to pull ourselves up by our boot straps, but how can we do that when they take those same straps and use them to hang us out to dry? That is not fair and that has got to stop in this country. And it stops today.

Ms. RICHARDSON. With everybody.

Mr. KING. You know, I really appreciate the way you look at the American dream. I want my right to earn the American dream.

Ms. HARDAWAY. That is right. That is right.

Mr. KING. And is there any difference in your mind between, say, Facebook and Twitter and YouTube—those, we will call them utilities—not necessarily public utilities, but utilities. Is there any difference between them and, let's say, UPS and FedEx? If you are making your living selling things and shipping out on FedEx, is that any different than it is making your living by pitching a message out through Facebook?

Ms. HARDAWAY. Absolutely, because listen, these platforms have it where you can monetize. You can make money off of these platforms. So, if you are building your brand and you are pumping money into building your brand, it is not fair for somebody to change the rules in the middle of the game. And I think that is what is happening with certain American—with the American people, some of them. You change the rules in the middle of the great game and then people are left out to dry. That is not fair.

Mr. KING. Let me clarify this question. What if you are producing a product, and maybe it is a home, little garage factory, or a larger factory, and you are shipping that product out on FedEx and FedEx decides you are Conservative, so we are not going to deliver your product to your customers. Is there a difference between what is going on with Facebook and what would be going on under that circumstance?

Ms. HARDAWAY. Well, that would be to me discrimination.

Ms. RICHARDSON. Yeah. It is on both—discrimination on both sides.

Ms. HARDAWAY. On both sides. And listen, wait a minute. This is for all voices. No voices should be censored.

Ms. RICHARDSON. None.

Ms. HARDAWAY. This could be bipartisan. I do not care if you are on the left or the right, the deal is, is that no voices should be silent, and you should not be discriminating. It is a platform to express ideas, express all ideas.

Ms. RICHARDSON. All ideas.

Ms. HARDAWAY. Not just one side.

Ms. RICHARDSON. That is right.

Ms. HARDAWAY. Not just put it where it is one-sided, where I am just seeing Liberal group views, where you have my account deemed Liberal when I am very Conservative. I am a Republican, but you do not have that up there. And why are you making those decisions for me? Why did not you give us the opportunity to put in what we are, our political affiliation? And what does our political affiliation have to do with Facebook? Just think about that.

Mr. KING. I want to let you know that I tweeted you out to see if you were blocked on mine and you are still alive on my Twitter, so thank you very much. Appreciate your testimony and I yield back.

Chairman GOODLATTE. Would the gentleman yield for a—

Mr. KING. I would yield to the chairman.

Chairman GOODLATTE. I just want to thank the gentleman for yielding and take note that it would be nice if these three companies were here to explain themselves and their policies and whether they truly are fair to people all across political spectrums, because I put in the record Liberal organizations that were concerned about this too. They set themselves up as a platform. They need to promote free speech, not stifle it.

Ms. HARDAWAY. Right.

Mr. NADLER. Would the gentleman yield for a second?

Chairman GOODLATTE. The gentleman controls the time, but I yield him.

Mr. KING. I yield. I yield.

Chairman GOODLATTE. It is up to you.

Mr. NADLER. Thank you. I just want to point out one thing. Ms. Hardaway and Ms. Richardson have had interesting testimony about their interactions with Facebook, and maybe Facebook has treated them unfairly and maybe not. I do not know. But that does not establish a pattern, which is the subject of the hearing. Every one of our other witnesses said there is no evidence that Facebook is discriminating against Conservative views in any way.

There may be Liberal people who have had the same types of problems or not, and I have sympathy for our two witnesses, Ms. Hardaway and Ms. Richardson, for their difficulty with Facebook. But the basic thing is here no pattern has been established showing anything at all other than there was—that these two ladies have had a problem with Facebook. Maybe Facebook for some reason does not like them or whatever. But in any event, no pattern has been established. I thank the gentleman for yielding.

Mr. KING. Reclaiming my time. The documents that I introduced into the record do establish that pattern.

Ms. HARDAWAY. That is right.

Ms. RICHARDSON. Exactly.

Mr. KING. And I hope you pay attention to that. And I thank you and I yield back.

Chairman GOODLATTE. The time of the gentleman has expired. The chair recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, thank you so very much, and let me also acknowledge my commitment to the First Amendment for all of the witnesses that are here, and our pointed questions to Ms. Hardaway and Ms. Richardson, obviously, because they come with important critiques that we need to address, and we need to address it fairly and we also need to get the facts.

Before I do that, Mr. Chairman, I would like to pause on my time because I would like to acknowledge Takala Ann Allen and Madison, who are take-your-daughters-to-Congress, and I think Ms. Husband with a young lady here in the back. And I want them to stand and I want to acknowledge that this is Madison's birthday. Ladies, stand up.

I know you can hear me. There you are. Thirteen—and you stand up, too. Thank you. Thank you so very much. I could not imagine a better place for them to view democracy. You may be seated. This is democracy in a judiciary committee meeting room. Let me—

Ms. [unidentified speaker]: Will my colleague yield for just one second? I would like to introduce my daughter as well.

Ms. JACKSON LEE. I would be happy to yield. Mr. Chairman, are you pausing on my time, please? I need to—she wants me to yield for her to introduce her daughter.

Chairman GOODLATTE. Oh. Yeah. It will not count against your time.

Ms. JACKSON LEE. Okay.

Mrs. HANDEL. Tatiana, stand up. From Philadelphia. Thank you for being here. Thank you.

Ms. JACKSON LEE. Thank you and be happy. In any event, I think it is important to note two things. One, there is a question of this hearing as to establish whether there was a pattern. I think that is very important. I think we would probably have to have 10 hearings and I do not view this hearing as particularly important.

I do want to take note of the fact, Mr. Chairman, that the Senate has just passed, out of committee, the special counsel legislation, of which it would be appropriate for us to hold a hearing on the special counsel legislation to protect Special Counsel Mueller. That is in fact a bipartisan bill with a number of Republicans on it. So, I hope—and let me make a formal request that we do so and mark up that bill that had been introduced by Mr. Nadler.

I would also like to introduce into the record articles from Ms. Hardaway and Ms. Richardson dealing with expressions of dismay or disagreement with a number of entities. I ask unanimous consent to introduce exclusive “Diamond and Silk Crash Hillary Clinton's Race-Baiting”; “She Is Not Our Slave Master”; “Diamond and Silk Criticize Michelle Obama”; and then of course “A Message for Oprah”. I ask unanimous consent to put these in the record?

Chairman GOODLATTE. Without objection.

Ms. JACKSON LEE. Thank you. And I think that it is clear that there is a First Amendment protection that you all deserve as I deserve it, as the witnesses deserve it. So let me pose these questions. Ms. Hardaway, have you ever been paid by the Trump campaign?

Ms. HARDAWAY. No. We have never been paid by the Trump campaign.

Ms. JACKSON LEE. You have never been paid by the Trump campaign.

Ms. HARDAWAY. We have never been paid by the Trump campaign.

Ms. JACKSON LEE. Not \$5.00? Not \$100?

Ms. HARDAWAY. We have never been paid—

Ms. JACKSON LEE. What about \$1,274.94?

Ms. HARDAWAY. We have never been paid by the Trump campaign.

Ms. JACKSON LEE. Let me ask a specific question—\$1,274.94?

Ms. HARDAWAY. We have never—

Ms. JACKSON LEE. Thank you.

Ms. HARDAWAY [continuing]. Been paid.

Ms. JACKSON LEE. Ms. Hardaway, my understanding is that you received the now-infamous email from Facebook, the email calling your page unsafe on April 8th, 2018?

Ms. HARDAWAY. No.

Ms. JACKSON LEE. Is that correct?

Ms. HARDAWAY. No, no, no, no, no. That was not April the 8th. We received that on April the 5th, 2018.

Ms. JACKSON LEE. Thank you. Now, on April 11th you appeared on “The Ingraham Angle” on Fox News to discuss this matter. The host, Laura Ingraham, asked did you get contacted by Facebook and has this been reversed? Had you been contacted by Facebook?

Ms. HARDAWAY. We were contacted via Twitter on April the 12th.

Ms. JACKSON LEE. You responded, “We have not been in communication with Facebook. We have not been contacted. We have not spoken to anyone over the phone.”

Ms. HARDAWAY. That is true. We had not been in contact with them. We have not spoken to anyone over the phone.

Ms. RICHARDSON. Right. They say it was in direct communications with us and we had not been in direct communications with them.

Ms. JACKSON LEE. But did you, on that show, say that you were not contacted?

Ms. HARDAWAY. We were not contacted. We were contacted on the 12th. We were contacted on the 12th via Twitter.

Ms. JACKSON LEE. All right. So, are you saying that you did not lie on that show or you did lie?

Ms. HARDAWAY. We did not lie on that show. We did that show on the 11th. We were contacted by Twitter on the 12th—by Facebook on the 12th via Twitter. And when we looked in our verifies, there they were.

Ms. JACKSON LEE. Is it your testimony today that as of April 11th, when you went on Ms. Ingraham’s show and said that Mr. Zuckerberg had lied about trying to contact you, that Facebook never reached out to you or Ms. Richardson about this issue?

Ms. HARDAWAY. Mark Zuckerberg said that they were in direct communication with us, like they had spoken to us. They did not do that.

Ms. JACKSON LEE. Did you get information from Zuckerberg or Facebook—

Ms. HARDAWAY. No.

Ms. JACKSON LEE [continuing]. By, however, any means of communication?

Ms. HARDAWAY. No.

Ms. RICHARDSON. No.

Ms. JACKSON LEE. You just said you got it through Twitter.

Ms. HARDAWAY. We got it through Twitter on the 12th, on April the 12th.

Ms. RICHARDSON. The next day.

Ms. HARDAWAY. Hold on for a moment. Ms. Jackson, do not try to mince my words. Let me explain to you this here. April the 5th, 2018, they took and they deemed us unsafe to the community and told us it was not appealable.

Ms. JACKSON LEE. And you got in contact and—

Ms. HARDAWAY. That was April the 12th, is when they—

Ms. JACKSON LEE. Ms. Hardaway, I am the one asking questions. You are in a judicial committee hearing, and I respect you and you are going to respect me. Now, my question is have you gotten contact from Facebook? And Ms. Richardson may want to answer it. Have you?

Ms. HARDAWAY. No.

Ms. RICHARDSON. No.

Ms. JACKSON LEE. All right. And you are saying, under oath, that you did not, and so the Twitter is not communication? That is a tool of communication.

Ms. HARDAWAY. The way you are asking that question is a little confusing and you are mincing words right here.

Ms. JACKSON LEE. Have you gotten any communication from Facebook?

Ms. HARDAWAY. On April the 12th via Twitter.

Ms. JACKSON LEE. And what mode was that?

Ms. HARDAWAY. That was via Twitter.

Ms. RICHARDSON. Via Twitter.

Ms. JACKSON LEE. All right. And so you got information. So your testimony that you did not is not truthful.

Ms. HARDAWAY. That is truthful.

Ms. JACKSON LEE. Let me move on to Professor Waldman.

Mr. GOHMERT [presiding]. Time of the gentlelady is expired.

Ms. JACKSON LEE. I asked that my introduction of my two young ladies not be attributable to my time.

Mr. GOHMERT. How you use your time is yours and that did count on your time.

Ms. JACKSON LEE. That is not the case.

Mr. GOHMERT. Yes, it is.

Ms. JACKSON LEE. Professor Waldman, I would like you to answer this question.

Mr. GOHMERT. Time of the gentlelady has expired.

Ms. JACKSON LEE. If Facebook attempts to answer the question or respond—

Mr. GOHMERT. The time of the gentlelady has expired.

Ms. JACKSON LEE. Is that legitimate that Facebook can in fact—

Mr. GOHMERT. The time of the gentlelady has expired.

Ms. JACKSON LEE. Is that legitimate that Facebook can in fact—

Mr. GOHMERT. The time of the gentlelady has expired.

Ms. JACKSON LEE. Be held to a standard when they are trying to correct problems?

Mr. GOHMERT. If we are going to get through all the witnesses we have to observe these time guidelines. We cannot give everybody 2 extra minutes.

Ms. JACKSON LEE. Mr. Chairman, I asked for the chairman to have gotten out of the seat when he said yes, and the staff is standing here and they need to be able to speak up. I want this question answered by Mr. Waldman.

Mr. GOHMERT. Thank you, madam.

Ms. JACKSON LEE. Mr. Waldman, will you answer that question, please?

Mr. GOHMERT. Time of the gentlelady is expired. There may be time after everybody else has—

Ms. JACKSON LEE. Mr. Waldman, please answer the question. You are not going to be penalized.

Mr. GOHMERT. Time of the gentlelady has expired.

Mr. WALDMAN. Facebook has an opportunity to make those decisions for its own [inaudible]. They do not do it in a biased way.

Chairman GOODLATTE. At this time we will recognize Mr. Biggs for 5 minutes.

Ms. JACKSON LEE. Thank you, Mr. Waldman.

Mr. BIGGS. Thank you, Mr. Chairman. This has been very interesting. I want to make clear, I keep hearing the Democrats say that all three of the male witnesses has testified that they have seen no evidence of any kind of bias against Conservative thought on these platforms. That is true, I think, with Mr. Szoka and Mr. Waldman. Mr. Chavern indicated, I think, that he had not indicated—

Mr. CHAVERN. We had not examined the question.

Mr. BIGGS. They had not examined the question, so that to me is kind of a misrepresentation that we have heard consistently from our friends across the aisle all hearing. So, thank you for clarifying that, Mr. Chavern.

I also want to add some additional information with regard to what we have seen here today. There are other reported instances besides Diamond and Silk's. I appreciate all five of you being here today.

The Sportsman's Shop is an instance that they had, they noticed one day their Facebook advertisements promoting the sale of American flags had been removed. And after reaching out to Facebook they noticed that all of their advertising capabilities had also been made unavailable. This is a problem and Facebook provided the indication that anything linking to sales of firearms would be blocked henceforth, but not with companies like Dick's and Cabela's. This is kind of a—to me that is an indication of bias.

Gizmodo has reported as well that news curators within Facebook have also admitted that they do suppress Conservative thoughts and ideas, and there has been some work done by other researchers, who have indicated that just under half of U.S. adults use Facebook for news. They are massively influential in news but when they changed their platform, we saw from January 2018 a steady decrease in the top 25 biggest publishers on Facebook. They moved from many of the Conservative links, such as Fox News, Western Journal, et cetera—they moved consistently post change further down that list.

Now, I do not think anybody has isolated the variables necessarily, to say that the audience may have changed, but it does provide some correlative indicia that the result of that algorithmic change by Facebook impacted the dissemination of Conservative thought and ideas, and that is what we are trying to get at today. We are not trying to get into the issue of privacy. That has been going on and other issues, and that is an issue that we can take care of as well.

George Upper, the executive editor of *Western Journal*, has said, "This algorithm change, intentional or not, has in effect censored Conservative viewpoints on the largest social media platform in the world. This change has ramifications that in the short term are causing Conservative publishers to downsize or fold up completely, and in the long term could swing elections in the United States and around the world towards Liberal politicians and policies."

Mark Zuckerberg said that, "We have ruled out a number of changes to newsfeed that try to boost in the ranking broadly trusted news sources." The one thing that is interesting here is he does not indicate his definition of broadly trusted news sources until he gets to this: *Wall Street Journal* or *New York Times*. And he says, "Even if everyone reads them, the people who do not read them typically just do not think they are good, trustworthy journalism."

And I do not know if that is true, either. But the point is they control this massive platform. They make money off this massive platform, and they then in turn regulate that platform themselves as right now I think it is their right to do. I think it is their right to do. The problem is they hinder, and perhaps deliberately so, the ability of others to pursue their ideal.

Now I just wanted to quick point out, I think that it is very interesting because this was reported April 25th in Google—or excuse me, in *Western Journal*—that Google rejects permission to publishers that—

Mr. GOHMERT. The time of the gentleman has expired.

Mr. BIGGS [continuing]. Because they mention Bible and Jesus.

Mr. GOHMERT. The time of the gentleman is expired. Thank you. The chair recognizes Ms. Jackson Lee for a unanimous consent request.

Ms. JACKSON LEE. Mr. Chairman, I thank you very much. I just wanted to indicate to the witnesses that I want to make sure the First Amendment applies to all. I want to put it into the record, however, for Ms. Hardaway and Ms. Richardson that it may be these numbers up or down, but they have 650,000 on Twitter; 1.5 million on Facebook at this time; 140,000 subscribers on YouTube; but I think they have grown in their Facebook numbers in the last 3 weeks upwards of 350,000. Let's let the First Amendment be the guiding post for these hearings.

Mr. GOHMERT. Was that a unanimous consent request? It does not sound like it.

Ms. JACKSON LEE. That is a unanimous consent. I asked—it is a unanimous consent. I am submitting these numbers into the record.

Chairman GOODLATTE. Well, they have already testified to something different, so I would have to object to that being submitted.

Ms. JACKSON LEE. Well, I have a right to put the materials in the record.

Mr. GOHMERT. Absolutely.

Ms. JACKSON LEE. Thanks. So, I ask unanimous consent.

Mr. GOHMERT. But with the testimony of others not as if that is—yeah, so we will allow that into the record.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

Mr. GOHMERT. And I did want to make sure the gentlelady understood the time of the gentlelady was paused for 30 seconds earlier, so with the introduction, the applause, you did get an extra 30 seconds in addition to another minute and a half after the gentlelady—so the gentlelady had 2 more minutes than anybody else will have today.

Ms. JACKSON LEE. Mr. Chairman, thank you so very much.

Mr. GOHMERT. At this time the chair recognizes Mr. Deutch for 5 minutes.

Mr. DEUTCH. Thank you, Mr. Chairman. And thanks very much to all of our witnesses for being here today. Mr. Chairman, I represent the city of Parkland, Florida, where on Valentine's Day this year a young man walked into Marjory Stoneman Douglas High School with an AR15 and killed 17 people in 6 minutes and 20 seconds.

For hours students across the campus ran in fear, hid for their lives, hid in closets, inside locked classrooms. Now, the student survivors of Marjory Stoneman Douglas have received a lot of attention, not merely because of the attack and because they were there that day, but because of how they have responded. And that is because they have grown up in a world where mass shootings are relatively common. In many deeply disturbing ways they were prepared for this event.

And in the days after, having grown up in an active shooter world where they all had active shooter training and, nevertheless, watched their friends die beside them—in the days after the shooting they did not hold back. They documented the reactions of their classmates as amateur reporters. They spoke out across the media. They called out this Congress's failure to do anything to stop these tragedies or this committee's only action on gun laws, opening up every State in the country to the lowest common denominator through concealed carrier reciprocity.

I am tremendously proud of these students, but some people have used social media platforms to attack them. They have been called crisis actors. They have been called tools of the left. They have been disparaged and they have been defamed.

David Hogg, 17 years old at the time of the shooting, was depicted as Adolph Hitler. Emma Gonzalez was shown ripping up—this was a video she posted—ripping up a target. Then there was the photoshopped image of Emma Gonzalez ripping up the United States Constitution. This is real. This is bogus.

And yet, and yet, this was circulated over and over and over again on the internet to willing viewers who were ready to accept it. The images went viral. Millions of users saw them in minutes. Truthers have spread lies, claiming that the event never happened. That the 17 people who were gunned down in my community did not die. That made the rounds on the internet. Just like they did

and continue to do about the 20 6- and 7-year-olds who were slaughtered at Sandy Hook. That is all published on the internet.

So, I appreciate the conversation on free speech, but I would like to inject another concept into today's debate. That is the concept of morality. I would ask Professor Waldman first, is there a consideration of morality by the tech companies whose platforms are used to spread this vile and outrageous and offensive garbage that attacks kids and denies the very existence of a horrific event that tore the heart out of my community?

Mr. WALDMAN. Facebook likes to call itself a neutral platform only when it suits them, in situations like this where terrible pictures get proliferated through their platform. But they know as well as we know that the problem is designed-in. Facebook likes when those images get spread around because they want the additional engagement. They want the clicks. They want the hyper-partisan networks to spread this around. So, they are not thinking about what is right and what is wrong.

Mr. DEUTCH. Well, let me ask you a question. Are they under any obligation—I already asked about the moral obligation—is there any legal obligation to protect either the individuals attacked or others from this sort of ugly and defamatory content?

Mr. WALDMAN. They are under no legal obligation to do so.

Mr. DEUTCH. And is it—Mr. Chavern, if they are publishers and all of our witnesses have acknowledged the role that the technology companies play in distributing news. If they are distributing news, do they have some editorial responsibility to ensure that this type of, in this case, of the manipulated images, that this never appears and that the invocation of Nazi imagery also not appear. Is there any obligation to do that?

Mr. CHAVERN. Well, they express editorial control, and this gets to the heart of my testimony in the sense that that kind of content through propulsion and the algorithms crowds out the content of my members; crowds out, by the way, the journalism that was done in your community about what happened, such that there was a built-in preference for content that drives attention but may not be accurate or correct.

Mr. DEUTCH. This last question. Is it censorship to expect that this image, this false image, be taken down the moment it appears?

Mr. CHAVERN. I think I would come at it a different way in that I think there is a responsibility to give at least much emphasis on content from responsible sources than to what we have is the opposite, is highlighting irresponsible sources.

Mr. DEUTCH. Irresponsible and—

Mr. GOHMERT. The time for the gentleman has expired. I recognize myself for 5 minutes.

There is a story from Facebook—I mean about Facebook on Fox News, where they list a number of things, like Lawrence Southern [phonetic sp] was suspended because of criticizing censorship, giving a specific example of that.

The administration of a pro-Trump group was banned for saying Trump is not anti-Muslim, but he is anti-ISIS.

Facebook locked the kids out that posted videos supporting Rudy Giuliani's criticisms of Obama, calling it suspicious activity.

Facebook approved Christian hate groups—and I am not even going to mention the names, they are so vile—coming after Christians but shut down Christian groups quite often. And examples are given like Kirk Cameron’s movie, “Unstoppable”.

Christopher Campbell was blocked for 30 days for expressing his opinion that attacks in Cologne, Germany and the right to bear arms.

Canadian censor—was censored for criticizing Prime Minister Justin Trudeau’s response to refugee shootings.

I mean there are lots of examples. And if you could indulge me, Mr. Szoka, Mr. Waldman, and Mr. Chavern, if you would look over to your right at these two ladies, I just—well obviously Mr. Waldman can then like to—well, thank you.

But anyway, I just wanted you to see evidence of improper censorship. They are walking evidence of Facebook censorship. I know you say there is not any evidence, but there is and it has been given here today. It will continue to surface in the future.

And I would like to also point out just an observation I have had: Alan Keyes, Clarence Thomas, they are heroes of mine, and they can let you know that nobody—and Silk can substantiate it—I do not think there is anybody in America that suffers more vile reproach and bigotry than black Conservatives. And if you throw Christianity on top of black and Conservative, you are just at the bottom of the pile. Alan Keyes has certainly experienced that. Clarence Thomas has as well.

I did want to ask Ms. Hardaway and Ms. Richardson, you paid Facebook for your posts to be boosted on their platform. Correct?

Ms. HARDAWAY. Sometimes we do.

Mr. GOHMERT. But you had an agreement for content promotion with Facebook. Was there not an example where you paid them to boost your platform and it was not boosted?

Ms. HARDAWAY. Well we paid them to boost our platform, but it did not reach. And the reason why it did not reach is because they have labeled accounts as very Liberal that is not very Liberal. So, of course, your stuff is not going to reach.

Ms. RICHARDSON. And they also placed limits on our page. They have a little red sign there on the top of our Facebook page that stated that it was limited.

Ms. HARDAWAY. Right. They did that. And I just need to clarify something, because I do not like to be called a liar. Facebook did not reach out to us until—via Twitter on April 12th. The last time we heard from Facebook was on April 5th, when they deemed us unsafe to the community.

Mr. GOHMERT. Well when the Twitter was posted, was that posted only to you, where only you could see it? Or was that for everybody to see?

Ms. HARDAWAY. We have a verified account, so when we went into our verified, that is when we saw it. And we were very transparent, because we put it out there online for everybody.

Mr. GOHMERT. But other people could see that.

Ms. RICHARDSON. Yes.

Mr. GOHMERT. So it was not just a communication to you; it was communication to the world.

Ms. RICHARDSON. It was on—that is right.

Mr. GOHMERT. You were not singled out. They did not specifically communicate to you?

Ms. HARDAWAY. No. We were no—

Mr. GOHMERT. They put something out to the world to make it look like they were—

Ms. HARDAWAY. Absolutely. Because they had got caught in the hot seat. Mark Zuckerberg had lied. Maybe he got it from his PR people. We do not know. But they were never in direct communication with us. And I just clarified that.

Mr. GOHMERT. Let me just point out. You know, FedEx, UPS, they hold themselves out as getting your package where you want it to go. But suppose they started saying, “You know what? If you are a Conservative, if it is a Conservative destination, we are not going to deliver it.”

I mean it seems like Facebook, YouTube, some of these are holding themselves out to be a public platform and be a public square, when actually they censor, they set up algorithms to determine who gets more—I mean it would be like saying you have a public square, but we are going to put you on the public square in a soundproof booth.

So, in my last 10 seconds, let me just say I am not for more government regulation, but I do think since they are deciding what goes on and what gets censored, they should be liable. And I am working on laws to make that happen.

And with that, I would recognize Mr. Jeffries for 5 minutes.

Mr. JEFFRIES. Thank you, Mr. Chairman. And I thank all of the very distinguished witnesses for your presence here today.

A question for Mrs. Hardaway. Have you ever publicly expressed an opinion about the presidency of Barack Obama?

Ms. HARDAWAY. No, because I was not into politics or anything like that. So when you say—wait a minute. Hold on. When you say public—well, not when he was in office.

Let me back up. If I had something to say, it was during the election when they were running.

Mr. JEFFRIES. And what was that opinion?

Ms. HARDAWAY. That I did not think he was a good President. He did not do anything for the black community. Look at the people from Chicago, and he was from Chicago. So I had a very vocal opinion. But while he was in office, like before the election, I did not publicly say anything because I just was not into it—

Mr. JEFFRIES. Appreciate that.

Ms. HARDAWAY [continuing]. Until Donald Trump came along.

Mr. JEFFRIES. Now are you familiar with a governmental entity called the Federal Election Commission?

Ms. HARDAWAY. The FEC, I am.

Mr. JEFFRIES. And are you aware that presidential campaigns are required to submit what is called campaign finance disclosure reports with the FEC?

Ms. HARDAWAY. Yes.

Mr. JEFFRIES. And those FEC disclosure reports detail contributions made to the Trump campaign. Are you aware of that fact?

Ms. HARDAWAY. It could be. I mean, okay.

Mr. JEFFRIES. And the FEC reports also publicly disclose what is called expenditures or disbursements made by the Trump campaign. Are you aware of that fact?

Ms. HARDAWAY. Well, I keep hearing it. I heard somebody put out a news article that that was out there, but—

Mr. JEFFRIES. Okay. Let me enter into the record, Mr. Chairman, I ask unanimous consent for what is called the post-general election FEC report, filed by the Trump campaign on May 12, 2017.

Ms. HARDAWAY. Can he tell me how much—

Mr. JEFFRIES. Sir? Mr. Gohmert?

Mr. GOHMERT. Without objection. Thank you very much.

Mr. JEFFRIES. Now Ms. Hardaway, I think you stated on the record today at least three times, “We were not paid by the Trump campaign.” Is that correct?

Ms. HARDAWAY. That is correct.

Ms. RICHARDSON. That is correct.

Mr. JEFFRIES. Okay. Now are you aware that your testimony today is under oath, subject to the penalty of perjury?

Ms. HARDAWAY. Yes. We are aware of that.

Mr. JEFFRIES. Okay. Now the FEC report dated May 12, 2017 states that on November 22, 2016, the campaign of Donald J. Trump for President, Incorporated paid Diamond and Silk \$1,274.94 for field consulting. Are you familiar with that?

Ms. RICHARDSON. We are familiar with that particular lie. We can see that you do look at fake news. What happened is—and what should have happened is you should have come to our mouths to see what exactly happened before a false narrative was put out there about the \$1,274.94.

So, let me explain right now to you and the world—

Mr. JEFFRIES. Hold on one second, because I want to give you an opportunity to explain, which is why I am asking the question.

Ms. RICHARDSON. Right.

Mr. JEFFRIES. I am actually trying to figure out, are you calling this FEC document fake—well actually, let me get some—

Ms. HARDAWAY. We are not calling them fake.

Ms. RICHARDSON. We are not calling them fake.

Mr. JEFFRIES. Let me give you an opportunity to respond. I am struggling. I am really just trying to figure out. Right? Because you have an FEC document that clearly indicates that the two of you were paid for field consulting by the Trump campaign. That is just one document. There may be others that are out there.

And presumably this was a document filed with genuineness and authenticity by the campaign of the President that you so love. And so I am just trying to figure out—

Ms. HARDAWAY. We understand that this was—

Mr. JEFFRIES [continuing]. Who is lying here? Is it the Trump campaign, or—

Ms. RICHARDSON. No. Wait, wait, wait.

Mr. JEFFRIES [continuing]. Is someone not telling the truth?

Ms. RICHARDSON. Nobody is lying. However, there may have been a mistake from the Trump campaign when they wrote what the \$1,274.94 was for. Actually, this was because we was asked to join the Women for Trump tour back in 2016. And Ms. Laura Trump

asked that our airline tickets be refunded back to us because we paid for those tickets when we went from New York to Ohio.

I have the email right here which substantiate what happened on September 11th, whenever Laura Trump wrote to Alan to tell them to reimburse us. So that \$1,274—

Mr. JEFFRIES. I appreciate that explanation. Now let me just ask you one final question—

Ms. HARDAWAY. No. It was for a reimbursement.

Mr. JEFFRIES. I understand.

Ms. RICHARDSON. That is right. Not field consultant.

Ms. HARDAWAY. We have never been paid by the Trump campaign.

Mr. JEFFRIES. I appreciate that, and I am just trying to figure out whether, consistent with what the President indicated, he urged you to monetize your support for him. And I am just trying to figure out—

Ms. HARDAWAY. He urged us to monetize our platform and there is nothing wrong with that. As you as an African-American, you are not going to make us feel guilty because we are going to get out here and we are going to take advantage of these platforms and monetize, just like everybody else do.

I do not see you walking up to a white person and say, “Oh, you should not be monetizing that.”

Mr. JEFFRIES. No. No.

Ms. HARDAWAY. So why are you, as an African-American—

Mr. JEFFRIES. Let me just—

Mrs. ROBY [presiding]. The gentleman’s time has expired.

Ms. HARDAWAY [continuing]. With us monetizing.

Mr. JEFFRIES. I respect your game.

Mrs. ROBY. The gentleman’s time has expired.

Ms. HARDAWAY. It is not a game. It is not a game.

Mr. JEFFRIES. I am trying to get an understanding of whether—

Mrs. ROBY. The gentleman’s time has expired. I now recognize myself for 5 minutes. First, I want to thank Chairman Goodlatte for calling this hearing and also being open to listening to all of the witnesses’ testimony here before the committee today on this very important issue that we must get right.

The rights we hold as Americans should be upheld whether we are speaking words in an open forum, writing words in a book, or typing words online. So we have to uphold our First Amendment and its protections in all aspects of our society.

While I did not get the opportunity to ask my colleague, Marsha Blackburn, a question, I am very glad that my friend and colleague had the opportunity to come before our committee today and discuss her own personal experience as well as her work here in Congress to be an advocate for an open and fair internet.

As Representative Blackburn explained, she had her pro-life message about fighting the disgusting practice of the sale of baby body parts stricken from Twitter because it was deemed inflammatory and would cause a negative response.

It is appalling to see that the very unborn children who cannot yet speak for themselves and has an advocate fighting for them to only be erased by others. I am proud to be unapologetically pro-life,

and I strongly believe that our online platforms must be neutral public forums which would allow us to continue to speak out for the unborn.

I am glad that all of you are here today and have had the chance to express your own unique circumstances with content uploaded on various online platforms. Your perspective is extremely valuable to this very important conversation.

I would like to direct my question to Mr. Chavern—did I say that correctly—today. And I apologize, there are a lot of hearings going on right now, so you have seen members come and go. But I had the opportunity to hear firsthand from Michael Galvin and Ray Kroft the president and editor respectively of my hometown paper in Montgomery, Alabama, the Montgomery Advertiser. And as members of the news media alliance they have shared with me some of the concerns that you have expressed in your testimony today.

I would like to ask you to use the remainder of my time to expand upon how apps and tech platforms are impacting local and regional journalism. With that said, before I turn it over to you to finish out my time, I just think that this is a very important conversation again, and I am grateful for the opportunity.

I hope that this is the beginning of more conversations. As we have seen across many different platforms, as technology continues to progress it is important that Congress is listening and taking notes.

And so, I will leave you the rest of my time to expand upon your testimony, but although the chairman is not here, he knows that I hope that we will continue to have more conversations along these lines.

And again, I thank you each for being here with us today.

Mr. CHAVERN. Thank you very much. Very kind of you.

Fundamentally, as the communications and media world is progressing, Google and Facebook are the primary distribution mechanisms for news online. That is how people get their news. But the rules under which Google and Facebook manage their content emphasize low-quality news options and make it very difficult for people who are actually in the business of journalism and paying journalists and doing real reporting from making that a sustainable business.

And if present trends continue, you have these huge incentives for really low-quality, bad information online that pushes out actually verified quality journalism. And that is not just bad for our business. Right? That is extremely bad for our civil society.

You know, we will get to a place—people's curiosity about the world, what is happening in their communities, will always be there. The question is what will satisfy it? Will actually professional journalism satisfy it, or will it be free garbage that feeds inherent need for people to feel passionate and angry about something.

Mrs. ROBY. So setting a good example—my time is about to expire, but again, I look forward to continuing this conversation down the road. And again, I appreciate you all being here today.

Mr. CHAVERN. Thank you.

Mrs. ROBY. I now recognize Mr. Lieu for 5 minutes.

Mr. LIEU. Thank you, Madam Chairperson.

This is a stupid and ridiculous hearing. The only reason I am still here is I want to enter some facts into the record; at least try to salvage some of this hearing.

So, I want to put in the record an article from USA Today, December 5, 2017. It talks about the top two U.S. elected officials. Can I put that in the record? Okay. I will enter it later.

The top three elected officials. Number one, Donald Trump; number two, Vice President Pence; number three, Speaker Ryan. The notion that social media is somehow censoring Conservative folks is ridiculous. And three witnesses today have testified that that is not happening. And we do not do laws by anecdote; at least I hope I do not. And we should not.

But there is a more fundamental problem. The First Amendment applies to the government. Can we just get that clear? It does not apply to the strict content of private companies. So let us just go through something very simple. And I will ask you, Mr. Szoka. We do not tell Fox News what to filter. Right?

Mr. SZOKA. Correct.

Mr. LIEU. And we cannot tell Facebook what content to filter; the government cannot. Right?

Mr. SZOKA. Correct.

Mr. LIEU. That would just be flat out unconstitutional. Right?

Mr. SZOKA. Yes, sir.

Mr. LIEU. We cannot force Facebook to carry Diamond and Silk if they choose not to. Is that right?

Mr. SZOKA. Correct.

Mr. Lieu. You know, I have seen places that regulate content on the internet and the media. North Korea, Russia, Iran. We do not want to be like that. Why are we having a hearing about regulating content? It is unconstitutional to begin with. But let us go a little further into this.

Everyone has a right to monetize. So Facebook monetizes. You know how they do—you know how I can get stuff out on Facebook and make sure lots of people see it? I pay for it. You pay for ads. And then they send it out. They do not care. The notion that somehow Facebook has to carry certain people and promote them is ridiculous. They do not have to do that. Twitter does not have to—these are private companies. They are not like UPS or FedEx. They are like publishers. They are like the media. And the fact that we are here debating should we regulate content of the internet is completely ridiculous.

I do not know why the Republicans want to even think about doing this. What makes America great is we get to say stuff and not have the government intervene. And yes, do I think it is bad that there is no regulation on the internet? Probably. But you know what is far worse? Is to have the government regulate it. Who is going to decide? How do we even write a bill about how we force Facebook to carry certain people or not? Or Twitter to carry certain people or not? Or to promote people more or less? I do not know how you could write a bill like that.

And this entire hearing makes no constitutional sense to me. So I want to get some more facts into the record here. So Mr. Szoka, the Communications Decency Act. It is true, is it not, that that is

largely one of the things that caused the internet to expand and grow?

Mr. SZOKA. It is the law that made the internet possible.

Mr. LIEU. And one of the prime features of that act is we are not going to go ahead and regulate and sue companies based on content. Is that not right?

Mr. SZOKA. That was a Republican idea in 1996.

Mr. LIEU. Exactly. And when we tried this regulation of the media through this stupid fairness doctrine, it was Reagan that said, as you said, it should go into the trash of history. Right?

Mr. SZOKA. Yes, sir.

Mr. LIEU. I always thought that the Republicans stood for a limited government; not having the government intervene into the aspects of private companies. I do not know why we are here at a Republican controlled judiciary committee talking about intervening into what Google or Facebook or Twitter or any other type of community should do or should not do. We should let the marketplace and ideas go out there.

But guess what? If Facebook is not into that, if they want to write algorithms that promote certain things—let's say they want to write an algorithm that promotes cats. Can the government stop them from doing that?

Mr. SZOKA. Thankfully not.

Mr. LIEU. And let's say Facebook figures out, you know, promoting cats gets a lot more people to sign on to Facebook than promoting Diamond and Silk. Can the government intervene and stop Facebook from doing that?

Mr. SZOKA. No.

Mr. LIEU. And let's say Twitter figures out, you know, we are going to promote nice, cuddly images of furry animals rather than dismembered body parts. Can the government say you can not do that?

Mr. SZOKA. No.

Mr. LIEU. And let's say Google has decided, you know, we are just not going to carry people that talk about Pizzagate anymore. Can the government say you cannot do that?

Mr. SZOKA. No.

Mr. LIEU. Okay. I yield back.

Mr. ROTHFUS [Presiding]. The gentleman yields back. The Chair recognizes themselves for 5 minutes.

Mr. SZOKA, you submitted testimony. In your testimony you gave a thoughtful analysis of congressional intent. Can you describe the approach courts have taken to determining when interactive computer service providers have immunity under section 230?

Mr. SZOKA. Thank you, Congressman. That is an extremely thoughtful question. This is exactly where people get confused.

Section 230 is not an absolute immunity. It does not exclude criminal prosecution, and it depends on two things. First of all, you are only immune against civil litigation or State criminal prosecution for content created by third parties. Once you take a role in helping to create the content, once you become responsible for development of that content, even in part, you are no longer immune.

So if Facebook starts actively creating content or editing user content in a way that changes meaning, or creates its own political

content as it creates videos today, none of that is protected by section 230.

Mr. ROTHFUS. Is there consensus among the courts on that analysis?

Mr. SZOKA. This is crystal clear. The courts have touched upon the term neutrality, but if you read those cases, it is very clear that they meant something completely different. What they meant was that the tools, for example, that Roommates.com used were tools that were not “neutral” because they required users to actually commit housing discrimination. That was a nonneutral search tool, but that is very different from political neutrality.

The whole point of the statute is to give service providers immunity in making decisions about removing objectionable content. That is crystal clear.

Mr. ROTHFUS. Well how does—again, neutrality does not appear in the statute. But how does it factor in to 230?

Mr. SZOKA. Well, if anything, section 230 is designed to encourage nonneutrality, to say to service providers, website operators, that they can make whatever decisions they want about removing content, and it is up to them. The only—

Mr. ROTHFUS. Do you ever cross a line, though? Does it ever cross a line where an algorithm or something can be doing that?

Mr. SZOKA. There is one other line in the statute, which is that the immunity we are talking about here, section 230(c)(2)(a), requires good faith. There is not a lot of case law on that because most of the case law is on the prime immunity, 230(c)(1). But good faith has been—for example, the courts have said things like if you were acting in anticompetitive ways, that would not prevent an antitrust suit against you.

But there is no case law to suggest that good-faith requirement requires political neutrality. And I think that implying that would be unconstitutional. It would put the government in the position of determining what speech is appropriate and what speech is not.

Mr. ROTHFUS. One of the things that, you know, I have been concerned about is the violent and extremist content that is out there. Your testimony referenced a news story that Facebook added 3,000 employees last year to help screen for violence. Again, this is an issue that we have in our culture.

What is your assessment of social media platforms’ screening procedures for filtering and removing content that displays extremist or violent content?

Mr. SZOKA. That they probably need to do more. I am a civil Libertarian, but as Congressman Lieu mentioned, this is not an issue of the First Amendment. I think these platforms have a moral responsibility to filter out content like that. And that is why section 230 is there, so they can make those decisions without fearing increased legal liability.

But it is not for the government to dictate to them how they do so.

Mr. ROTHFUS. You know, one of the things I have seen over the last 10, 15 years in our culture is this demonization, where the right demonizes the left, or the left demonizes the right. You cannot even have a policy difference anymore.

And I am wondering, Ms. Hardaway and Ms. Richardson, do you feel as though you have been demonized?

Ms. HARDAWAY. Oh, absolutely. Our brand has been tarnished; we have been lied on; they are saying it is a Facebook hoax. This is not a hoax. People's lives and livelihood have been damaged from what these giant techs do to people. They pull rugs from up under them. And then I hear people say well, oh, this is a private entity. This is not public.

Well they went public in 2012.

Mr. ROTHFUS. This is a separate issue. There is a cultural thing going on out there where it is not okay just to have a disagreement anymore.

Ms. HARDAWAY. Right. Right.

Mr. ROTHFUS. You know, people have legitimate policy disagreements in our country.

Ms. RICHARDSON. If this was a platform for all ideas, then anything about my political—I should not be categorized through Facebook based on my political affiliation.

Ms. HARDAWAY. Right.

Ms. RICHARDSON. There should not be a mechanism placed there with Facebook to say what my political affiliation is.

Ms. HARDAWAY. And we should start learning how to agree to disagree so that we can get along in this world, so that we will not bicker back and forth. We should use this here as a bipartisan effort to bridge the gap so that we all could have free speech. And we should act like it does not exist. We should act like that we are not being censored. That is what really irritates me and infuriates me.

Mr. ROTHFUS. My time is expired. The chair recognizes the gentleman from Maryland, Mr. Raskin, for 5 minutes.

Mr. RASKIN. Mr. Chairman, thank you very much. I wanted to echo our colleague, Mr. Lieu, and saying that I am a little bit astonished that we have descended to the level of political theater and spectacle in this committee when there are so many important issues that we have not dealt with. For example, a universal criminal mental background check on firearm purchases, which is supported by 97 percent of the people, or what we can do to defend the Mueller investigation against continuing political attacks.

But in any event, we are where we are. And I wanted to start with something Mr. Gohmert had said. He quoted a Fox News story about apparent reprisals or intimidation against a Facebook employee for political purposes. And then I quickly pulled up an article about political intimidation or reprisals against a Fox News employee for political reasons because she wanted to do reporting about climate change.

Is there anybody on the panel who thinks that the government should be compelling Fox News to allow for the use of the words climate change or for stories about climate change if they do not want to run it? Is there anybody thinks that that is the role of the government? Okay.

And is there anybody who thinks it is the role of the government to be compelling Facebook to follow some other ideological or political policy? Okay.

So we all seem to agree, then, that the First Amendment is what operates in this field. And then the question of the government's role turns on the role of Section 230 of the Communications Decency Act, to which we have started to discuss.

As I understand it, there is two parts to it. One is that the internet service providers and social media are not legally responsible for third-party content. But the other part of it is that they are not responsible if they decide to censor content based on it being pornographic, vulgar, profane, or—I think it is written in very vague, broad terms—or any other objectionable reason.

I wonder if anybody wants to quickly opine on the constitutionality of that provision, because essentially what we are doing is we are taking what we have defined as a media entity that is protected by the First Amendment in other contexts, but then we are uniquely and selectively insulating them from legal liability for certain kinds of things, even not just in the case, I think, Mr. Szoka, you are talking about, where they did not know about what was going on, but if they do know what is going on, they could still be insulated legally from it.

And I wonder if anyone thinks that that creates constitutional due process problems from the standpoint of someone who believes they have been libeled, or someone who thinks that they have otherwise been a victim of illegal conduct by one of the covered entities. If both of you take a shot at it.

Mr. SZOKA. So I take your point. I want to emphasize here that section 230 does not stop anyone from suing the person who has defamed them. So that is just off the table.

The question is can you hold a third party responsible.

And I would just emphasize that Congress understood that if you held the third party responsible, you would discourage them from being Good Samaritans.

Mr. RASKIN. But that is true of newspapers and TV just as well. I mean in *New York Times v. Sullivan*, the Supreme Court said the *New York Times* could be held accountable if it knew that it was publishing defamatory content.

This seems to insulate the internet providers even when they know that something, for example, is defamatory, saying well, they have got a right to publish it anyway.

Mr. SZOKA. And the crucial difference here is the Congress understood in the bipartisan bill of 1996 that if you treated online service providers as if they were newspapers, at the scale of the internet where you could have billions of users and decisions that are made in real time, that you would not be able to have the newspaper screen content the way that service providers online screen content, the way that newspapers screen letters to the editor, because of the scale involved. And that as a practical matter, you would simply see online discussion of controversial topics cease. That user forums would no longer be available.

Mr. RASKIN. But you would agree, then, that does make it sound a lot more like a public utility, the way that Ms. Hardaway and Ms. Richardson are talking about it. They are making it sound there as if well, we are going to create special rules for them because everybody uses it and the volume of traffic is such—

Mr. SZOKA. No, sir. This protection applies to websites large and small. The smallest blog is actually the best, sir. They are the ones that need section 230.

Mr. RASKIN. No. I agree. It is all the blogs. But it is on the internet as opposed to, you know, the newspapers are responsible for what they publish, whether it is the New York Times or it is a community newspaper; whether it is a big reporter or small reporter.

Mr. WALDMAN. If I may, I respect Mr. Szoka's opinion. And Mr. Szoka is one of our greatest experts on section 230; he works on it a lot.

I have a slightly different view. I think his history is right. One of the reasons why Congress got together back in the 1990s to make this law, those reasons do not really apply. The internet was quite different in the mid-1990s than it is now. We have a far more mature and a technologically different world that minimal changes to section 230 would not upend these kind of—not upend the kind of robust internet speech world that we have now.

It would, however, allow some changes; would, however, pull back on this overbroad interpretation that the courts gave right after section 230 and allow more marginalized voices to have themselves heard.

Mr. ROTHFUS. The gentleman's time has expired. The chair recognizes the gentlewoman from Washington, Ms. Jaypal, for 5 minutes.

Ms. JAYAPAL. Thank you, Mr. Chairman, and thank you to our witnesses for being here. I very much appreciate it.

I will say that I share my colleague's frustrations that this committee has turned into a bit of a theater, and I am embarrassed, quite honestly, that this is where we are as a Judiciary Committee with the tremendous responsibilities that we have.

I would remind the public that the Senate Judiciary Committee literally just approved, in a 14 to 7 vote, bipartisan legislation that protects special counsel Robert Mueller's investigation. That is what the Senate Judiciary Committee did in a bipartisan vote, because the Senate, on both sides of the aisle, seems to understand that we have deep responsibilities here as a committee.

And for this committee to have a hearing that is supposedly on Conservative biases has allowed some important information to emerge, but in completely the wrong frame. We could be discussing serious issues around these platforms, and as we have been having some discussion with some of our witnesses, how do we address some of these big questions? Because really, there are tradeoffs; there are pros and cons. And we have consistently had to balance how we think about free speech, which has been a preeminent right in this country, with some of the challenges that come with that free speech.

And so, Mr. Chairman, we have submitted on our side numerous requests and letters to have this committee focus on hearings around Russian interference into our elections. We have consistently asked for this committee to have hearings about the fact that 17 intelligence agencies in this country concluded that there was interference in our elections.

We have consistently asked for—and I asked Attorney General Jeff Sessions when he testified before us—can we count on you to work on election security so that we can ensure that our elections are protected. And he said yes, we need to do that. We have not done that yet.

That still has not happened. We have not even had a hearing on that topic. You know, and we could be having a hearing as the Senate did on this bipartisan legislation. We have the same bipartisan legislation introduced in the House. But we have yet to see any movement in this committee on that.

And if we were truly serious about looking at how these filtering practices affect people on both sides, as you ladies said, that this should not be a partisan issue, then we would have not just Diamond and Silk here, but we would have Black Lives Matter, civil rights groups, groups representing Muslims, immigrants, the LGBT community. Because if we are going to talk about supposed censorship, not just of Conservative voices, then we should talk about how this is appearing on the other side.

We should be, for example, talking about things that are discussed in this letter that I would like to ask unanimous consent, Mr. Chairman, to introduce this letter to the record. This is a letter from numerous civil rights groups to Mr. Zuckerberg and Ms. Sandberg about their concerns about censorship—or promotion of certain views on Facebook and what Facebook's responsibility should be.

Mr. ROTHFUS. Without objection.

Ms. JAYAPAL. Thank you, Mr. Chairman. And in this, though, they take a very different approach to what we have seen from Diamond and Silk. They actually say look, we understand this is complicated. We would like to discuss this with you. We would like to address these concerns in a setting that allows us to have a real conversation. They are not trying to use this to get more followers to their sites; they are not trying to monetize in different ways, you know, what is happening on these platforms. But they are saying let's have a real discussion. And I wish we were doing that today.

There has actually been great testimony. There are things each of you have said that I really agree with. And I would like to turn to Mr. Waldman, because I was reading your written testimony, and in your written testimony you note that social media content posted by people belonging to marginalized groups are often "squeezed at both ends" by content moderation.

Can you just explain a little bit more? And we do not have much time, but you have about 45 seconds or so.

Mr. WALDMAN. Thank you. Thank you for the opportunity to expand on that.

Very briefly, the point I was trying to make is that when there is too much content moderation, or too much "censorship", the voices that tend to be more victimized by that censorship or by that moderation, tend to be marginalized voices; the clear voices, women, those who are dissenting from a majority view.

When there is too little content moderation, when you turn platforms into the worst darkest corners of fortune, it is anyone who has the largest and loudest megaphone that gets to control the nar-

rative. And that also victimizes and silences women and LGBT individuals through harassment.

So this story, if we are going to talk about content moderation, the focus I think needs to be on how do we get voices that are so rarely heard, marginalized voices, to be heard on these platforms.

Ms. JAYAPAL. Thank you.

Mr. ROTHFUS. The gentlewoman's time has expired. The chair recognizes the gentleman, Mr. Cicilline, for 5 minutes.

Mr. CICILLINE. Thank you, Mr. Chairman. I would like to first associate myself with the remarks of many of my colleagues that the Judiciary Committee that has the responsibility of addressing legislation to protect the special counsel investigation, comprehensive immigration reform, common sense gun safety legislation, protecting our electoral system, and criminal justice reform, just to name a few. And we cannot seem to get a hearing and a serious examination of any of those issues, but here we are today.

And it has been 2 weeks since Facebook CEO Mark Zuckerberg appeared before our colleagues in the Senate Judiciary Committee, the Senate Committee on Commerce, and the House Committee on Energy and Commerce in the wake of the Cambridge Analytical scandal.

It has been over a month since Facebook met with our staff and left many questions related to this scandal unanswered. As I noted in the context of request that Mr. Zuckerberg appear before this committee on this matter, Facebook's breach of America's trust is a direct consequence of its dominance online that must be investigated by this committee.

More than 200 million Americans have Facebook accounts, and three-quarters of them visit the site daily. And more than half of Americans access news through Facebook and its subsidiaries, Instagram and WhatsApp, and controls nearly a quarter of the digital advertising market, which is highly concentrated.

Facebook also collects and mines every person's data across the internet, even for people without Facebook accounts, and creates shadow profiles with untold data points about people who have deleted their accounts or never signed up for Facebook in the first place.

At the same time, Facebook has become too big and complex for any executive team to manage responsibly; has provided a back door through which America's enemies can attack our vital social and democratic institutions as the nonpartisan Open Markets Institute has noted.

We should have an active role in examining these issues to ensure that our system of competition is working effectively. Increasingly it is clear that privacy and competition are interdependent conditions for protecting rights online.

Rather than examining these serious issues and considering legislation intended to address these concerns, this committee is holding a hearing intended to perpetuate an entirely debunked narrative about two online social media personalities.

This is a sad day for our committee. Nonetheless, I will do my best in my questions to make this time useful. So I am going to turn first to you, Mr. Chavern. I would like to begin by asking you

about the impact of Facebook's gatekeeper power over America's access to trustworthy sources of news.

And thank you for your reference to our legislation, and what affect does this centralization of America's access to quality journalism have on public trust, the marketplace of ideas, and our democracy. And I know you represent a number of publications around the country, so your views on this are particularly important.

Mr. CHAVERN. Thank you very much. If I could give you an example. Recently Facebook announced that they were going to accord higher priority to "local news". That may or may not be a good thing. It will certainly change the news that people are exposed to, and it will have economic impacts, maybe good or bad, on a whole range of publishers.

What do we not know? We do not know what priority means. Is that a little bit or a lot? How does that work? We do not know what local means, by the way. And we have no say or insight or ability to have a conversation about it. They established the rules in very vague ways and then apply them to, in particular, what I care about, the news publishing business, and change the news experience for citizens across the U.S.

Mr. CICILLINE. And how would the Journalism Competition and Preservation Act, which I introduced and you referenced, allow publishers to band together to negotiate with platforms to improve the quality, accuracy, attribution, and interoperability of news help protect a free and diverse press?

Mr. CHAVERN. Well the one great thing we do as an industry is we provide a lot of great quality content on to the platforms. One thing we cannot do under the current law is collectively talk to them about things like what just happened with the algorithm. And the Act would allow us to do that and even the playing field even just somewhat to a better future for journalism.

Mr. CICILLINE. Thank you. Professor Waldman, you noted in your written testimony that a recurring theme of Mr. Zuckerberg's testimony was a desire for Facebook to give Americans more control over their data. In fact, you note that he used the word control 54 times in his testimony.

But is the truth not that Facebook and other technology companies have the final say about whether people can move their key information to competing service, or communicate across platforms. And do you agree that limitations on people's control over their data can block new competitors, including platforms that might be more protective of consumer's privacy and give consumers more control of their data from entering the market.

Mr. WALDMAN. I agree. I think Facebook's obsession with, or Mr. Zuckerberg's obsession with giving people control is completely illusory. In fact, what he means is allowing us to click left to right, or toggle left to right on an "I Agree" button about terms of service, and then we agree, give over control, and then we never have control again.

Mr. CICILLINE. And do you agree that giving people the tools to easily switch and communicate across services with the right security protection in place will remove barriers to meaningful choice and competition on line, that idea of portability.

Mr. WALDMAN. I think that is worth further exploring. And I think Europe, in its general data protection regulation, has been exploring that for years. And that is going to take effect in just under a month.

Mr. CICILLINE. Thank you so much. Thank you, Mr. Chairman. I yield back.

Mr. ROTHFUS. The gentleman's time has expired. The chair recognizes the gentlewoman from Florida, Ms. Demings, for 5 minutes.

Ms. DEMINGS. Thank you so much, Mr. Chairman. And thank you to our witnesses for being with us.

Before I get into my question, I cannot agree more with my colleagues from Rhode Island and Washington State and probably others who made the statement before I arrived that we have some critical big issues that we deal with on this committee and, you know, Russian interference, protecting the special counsel, election security, but here we are. So thank you for being here at our invitation.

My question is for you, Dr. Waldman. There are numerous instances of reporting inauthentic accounts on Facebook and various other social media platforms. In most cases, this reporting is based on publicly available open-source information.

If researchers that are unaffiliated with these social media platforms are able to identify so many examples of inauthentic accounts on public data sources, should the companies not, themselves, have access to far more information, including metadata associated with the creation of a page profile account or bought, that they could use to identify and remove inauthentic accounts?

Mr. WALDMAN. Absolutely. And we know that they have this ability. A couple of years ago Facebook decided to aggressively enforce its real name registration policy of all communities against drag queens, because they were using their drag names as opposed to their real names.

So we absolutely know that Facebook has the ability to identify what are real accounts, what are not real accounts, and when accounts violate their terms of service.

Ms. DEMINGS. Could you give, based on your knowledge and experience with this, could you give some examples of just what Facebook could be doing more of to combat this problem?

Mr. WALDMAN. Sure. So there are multiple problems that I think Facebook has the tools to combat. So with respect to fake news, the proliferation of fake news on the platform, Facebook could be doing a lot more about identifying where the money from these posts come from; and identify, oh, this is a foreign government paying for it, this is a foreign entity paying for something, and then not allowing those sources to exist.

There are also studies done by professors at Northeastern University as well as the University of Indiana that have identified that a lion's share of fake news comes from just a handful of sources, most of which are on the right. And if all Facebook did was say these sources which are well known as proliferating rumor, conspiracy theory, et cetera, are simply not going to be allowed on our platform, we would go so far to resolving the problem of fake news and its deleterious effect on our civic discourse.

Ms. DEMINGS. Thank you so much, doctor. And with that, Mr. Chairman, I yield back.

Mr. ROTHFUS. Thank you. And I guess I get a couple of questions here. So, Mr. Waldman, Professor, you say basically the whole problem is right-wingers?

Mr. WALDMAN. Oh, I never said that. I said that there are—

Mr. ROTHFUS. You said if you eliminated this few group of people on the right, that it would go a long way toward—

Mr. WALDMAN. It would. So the key point there is going a long way, not that it would solve the whole problem.

Mr. ROTHFUS. Is a long way one percent, 99 percent?

Mr. WALDMAN. The researchers at the University of Indiana identified that 72 percent, if I remember correctly, of fake news, the proliferator on Facebook during the 2016 election came from just a handful of sources, I believe it was eight, seven of which were identified with far rightwing ideas.

Mr. ROTHFUS. Seventy-two percent sound right to you, or is it 72 percent of a particular group of “fake news” studied?

Mr. WALDMAN. I am not an expert in this area, but the main point here is that this is a problem; these sites have to grapple with themselves. And quite frankly, I do not think this is a job for Congress, to be interrogating websites as to their content management practices.

Mr. ROTHFUS. You know, we do not build aircraft here, but the FAA every time, and the National Transportation Safety and so on, every time there is a plane crash, we have an obligation to look into it. So I think for our two star witnesses here, do you think that we have a requirement to look into when things go wrong, essentially a plane crash of objectivity by new media?

Ms. HARDAWAY. I do, especially with us being Americans. And these are the representatives that are supposed to represent Americans. And to offend us and make us think that we do not matter, this is exactly why we voted for someone like Donald Trump. This is exactly why. Because of stuff like this here.

This here, what we are talking about, is real. It was done to us. And yes, it is your obligation to look into this, to make sure that it is fair across the board.

Ms. RICHARDSON. That is right. And if it is done to us, it could be done to you tomorrow. So it is for everybody, not just Diamond and Silk.

Mr. ROTHFUS. I think you make a good point. The professor has his opinion and his facts, his sampling. But in the case of Mr. Zuckerberg, when he said the Facebook team made an enforcement error with regard to what happened to you two, what do you think the error was? And I will just give you some multiple choices. Do you think it was a coding error in their algorithm; human error; or an employment decision error?

Ms. HARDAWAY. It was an employment lie. It was a lie. A straight up lie. And just to go back real quick with the Congressional Black Caucus, the notice that they wrote whenever they wrote to Mark Zuckerberg talking about censorship with the black voices.

That letter was written August 22, 2016 to Mark Zuckerberg about censoring black voices. I just want to make sure that is en-

tered in. But this goes clear across the board, clear across the board. This here was a lie. We have been back and forth with Mark Zuckerberg and Facebook for 6 months 29 days 5 hours 40 minutes and 43 seconds, talking about——

Mr. ROTHFUS. You are accurate——

Ms. HARDAWAY. We have checks, we have emails back and forth.

Ms. RICHARDSON. Back and forth. They never gave us an answer. They put restrictions on our page; they censored our voices; they did not let our followers and our likes get their notifications; we did not show up in their news fake feeds. And that is a fact. And it is being done to other people as well.

Ms. HARDAWAY. Exactly.

Mr. ROTHFUS. So if I can summarize in my usual way, basically your free speech was limited in a modern age in which Facebook is a huge part of free speech, is it not?

Ms. HARDAWAY. Exactly.

Ms. RICHARDSON. It was censored with those algorithms that they put on our pages.

Ms. HARDAWAY. And it is going to come down to the point that if measures are not put in place, we are going to have a dictator here.

Ms. RICHARDSON. That is right. Because, see, Facebook is an entity that he can control the whole world. So if you are taking and you are censoring some speech and letting others rise, oh, we got dictatorship. This is not even. This is not an even playing field.

And all we are asking, even out this playing field. Do not silence some and uplift others. Even it out.

Ms. HARDAWAY. Especially having a bogus mechanism put in place that categorize people's political affiliation. And you have me categorized as very Liberal in my personal account. And we are Conservatives.

Ms. RICHARDSON. That is right.

Mr. ROTHFUS. You know, it is one of those real challenges when they label anybody rather than allow each and every individual belief. I always say, you know, what would happen to poor Teddy Roosevelt if he came back today, because he was a proud Liberal and did a lot of things that were very individualistic.

Well my time will be the last time, so I will run over a little bit. Professor, you know, I cast a hypothetical for a moment and I want to make sure I give you an opportunity. When you talk about the study out of Indiana and 72 percent, is it reasonable to believe that is 72 percent of a very small amount of what somebody decided was fake news; in other words, President Trump finds an awful lot more fake news perhaps than other people do. How do you know that they considered the entire universe of deliberate inaccurate activity? And I put that to any of our witnesses.

Mr. WALDMAN. Well it seems as if we exist in a world right now where everyone's opinion about something can be considered fact and that is simply not true. The way social science research works is that you identify a corpus of data, and then you do a study on it, and then you analyze that information.

So in these studies, what social scientists have done was say use websites like Snopes or PolitiFact, or websites that are recognized by people on both sides of the aisle as doing a good job in identi-

fyng what news story is say true, or what news story is a conspiracy theory.

So based on that analysis or categorization of the data, then they determine what is and what is not.

Mr. CHAVERN. Yes, sir. I think this focus on averages misses the reality of how this works. So what actually happens on a day-to-day level is that users drive a lot of this. Users can complain; they can report content that they think is fake. And if someone reports, for example, as Gateway Pundit did that the students in Florida were actors, were faking the whole thing, right? Someone is going to report that. And it is not surprising that that site is going to be downgraded because users are reporting their content is fake.

These ladies have reported Pizzagate as a true fact, and they have spread misinformation that has caused people to report them. It is not for me to say whether they should be taken down, and frankly, it is not for them to say.

Mr. ROTHFUS. I want to understand that in an organization, Facebook, that has no fact checking the way a normal historic newspaper would, where they actually hire people to “fact check” complaints that can come from self-serving individuals can drive the decision that something that somebody has done is wrong. And that is what you are saying is it is based on the opt in of people. Is that really fact checking?

I mean, to be honest, the New York Times printed 17 separate lies about me and retracted four of them, and the only reason they did not retract the others is they called it essentially poetic license when they said that my district office was overlooking a golf course and a country club. Well, you could not see it from the building. But if you were on Google Earth, you could see that there was a golf course less than a mile away. Unfortunately, I was overlooking a freeway with a lot of freeway noise. And they said yeah. But, you know, it had to read poetically.

Now if that is the New York Times, you are telling me that people who simply are angry and complain is the way we are going to get to fairness. Is the original intent not—and I am going to ask a purely First Amendment question—that free speech is a right to say things which people do not like, and which at the time people may say is inaccurate, such as the world is round; such as bleeding people is not good for health. There are plenty of controversial things that were considered untrue at the time they were said.

Mr. Chavern, you look like you are finally going to come in and join this for a moment.

Mr. CHAVERN. Yeah. Happy to. I think—listen, and these companies have rules that prioritize some kinds of speech and not others, and they are allowed to have the rules. But you are also allowed to ask how the rules work, and ask if they are fair and what impacts they have on society. And these are not startup companies anymore. They are massive enterprises that control people’s access to—

Mr. ROTHFUS. Are they not effectively monopolies? Do they not have monopolistic power? If you are not on Facebook, you may in fact be unelectable or unheard-of or and the like?

Mr. CHAVERN. Well there is definitely an argument that their access to data makes it very hard for anybody to compete with them.

I mean how are you ever going to get enough data to compete with them?

But the reality, just look at facts of the role they play in the economy. Look at the facts of the role they play in the news business. They are the primary distribution mechanism online between these publishers and readers. And their rules decide how that news is delivered.

Mr. ROTHFUS. Ladies, you know, one of the amazing things to me is that nobody seems to want to call this very simply free speech except you two; that understand that because you happen to be Conservative, you found yourself—your speech being deliberately looked at much with greater scrutiny; maybe not exclusive to somebody on the left, but certainly you have been poorly treated. And I think that has been well documented.

Ms. HARDAWAY. If I can also add that, you know, these platforms allow us the opportunity to build our brand on their platform. We do not solicit our page. People come to our page to like and follow our page because they like and want to hear our content.

It is not fair for someone else to come deliberately to our page, thumb down our page, and then the repercussion of that is our page being blocked. If anything, Facebook, YouTube, Twitter, and these other entities should put in measures that the person blocked themselves from seeing our content if they do not want to see it, hear it, or read it.

Mr. ROTHFUS. Let me ask you one question, and I think it was asked before I came back from—and I apologize because I was at the White House with 45 Wounded Warriors being honored. So I did miss the first part of this for a very good and appropriate cause.

But, you know, there has been the question of whether or not you “put up fake news.” Ask you straightforward, have you ever done something that knowing more now you might have written it differently?

Ms. HARDAWAY. Well, we do not—no. Because we normally make videos. And these articles are what third-party articles that we may put up occasionally. But we normally make videos. We do our Facebook live. And we talk about politics and what is going on in the world. We do whatever the next man is doing.

Ms. RICHARDSON. And we are basically stating our opinion about what is going on.

Mr. ROTHFUS. So it is fair to say that except for expressing your First Amendment rights to an opinion, you have never knowingly put up anything that was false or deliberate. As far as I know you have never been sued for any kind of defamation and the like?

Ms. HARDAWAY. Because anything that we put out, if we are not sure-sure about—allege. I will always allege, unlike some of these fake news sources that just put it out about us. But they do not allege nothing, as if it is true. And I am, like, none of that is the truth. None of that is true.

Mr. ROTHFUS. But it is only fact when MSNBC says it is fact. Right?

Ms. HARDAWAY. No.

Ms. RICHARDSON. According to the left.

Mr. ROTHFUS. Well, I want to thank all of you for your indulgence for an extra 7 minutes, which is the benefit to going last.

I do not think this is the last we are going to hear of it. I will tell you, in closing, that I think that we are going to have to—Congress and this committee are going to have to make sure that the First Amendment rights of people who choose to use large-scale, very powerful medium that is theoretically open to everyone, that we have to ensure that it is. We do that with broadcasts for elections. To be honest, I mentioned Teddy Roosevelt.

You know, there was a time when Andrew Carnegie thought that it was just fine to decide whose ore he wanted to make sure could not be delivered on his railroad until they went bankrupt and then sold to him.

Monopolies can gain a tremendous amount of power and advantage if they are not stopped early. And a monopoly of freedom of speech is, by definition, the most dangerous.

So, on behalf of the committee and our chairman, I would say that this is not the last hearing we are going to have. And I thank you all for your participation. We stand adjourned.

[Whereupon, at 1:02 p.m., the committee was adjourned.]