

UNDER THE MICROSCOPE: EXAMINING THE
CENSORSHIP-INDUSTRIAL COMPLEX AND ITS
IMPACT ON AMERICAN SMALL BUSINESSES

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CONTENTS

OPENING STATEMENTS

Hon. Roger Williams	Page 1
Hon. Nydia Velázquez	3

WITNESSES

Ms. Jenin Younes, Litigation Counsel, New Civil Liberties Alliance, Wash- ington, DC	5
Mr. Benjamin Weingarten, Investigative Journalist & Columnist, RealClearInvestigations & RealClearPolitics, Washington, DC	7
Ms. Carrie Sheffield, Senior Policy Analyst, Independent Women's Forum, Winchester, VA	9
Dr. Mary Anne Franks, Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law, George Wash- ington Law School, Washington, DC	11

APPENDIX

Prepared Statements:	
Ms. Jenin Younes, Litigation Counsel, New Civil Liberties Alliance, Washington, DC	30
Mr. Benjamin Weingarten, Investigative Journalist & Columnist, RealClearInvestigations & RealClearPolitics, Washington, DC	34
Ms. Carrie Sheffield, Senior Policy Analyst, Independent Women's Forum, Winchester, VA	45
Dr. Mary Anne Franks, Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law, George Washington Law School, Washington, DC	50
Questions and Answers for the Record:	
Questions from Hon. Nydia Velázquez to Dr. Mary Anne Franks and Answers from Dr. Mary Anne Franks	54
Additional Material for the Record:	
American Sunlight Project	57
Rumble, CEO, Chris Pavlovski	63
The Free Press	65

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WEDNESDAY, JUNE 26, 2024

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:02 a.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Luetkemeyer, Meuser, Van Duyne, Alford, Crane, Bean, Maloy, Velázquez, Landsman, Scholten, Thanedar, and Davids.

Chairman WILLIAMS. I want Mr. Crane from the great State of Arizona to lead us in the pledge and the prayer. Would you please stand.

Mr. CRANE. All right. We will pray first. Lord, thank you for opportunity to be here this morning. We ask that You continue to bless this nation. We ask that you would continue to bless small businesses in our economy. We ask that you will bless this committee hearing today in Your name. Amen.

All. Amen.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Chairman WILLIAMS. So good morning, everyone. I now call the Committee on Small Business to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

We are going to do things a little differently today because we are expecting votes to be called around 10:30. So we will do our best to get through opening statements introductions, or witness testimony before we recess to go vote. We will then reconvene when votes are complete and begin Member questions at that time. So I now recognize myself for my opening statement.

Welcome to today's hearing, which will examine how the federal government is tipping the scales against certain business online. I would like to start off by thanking our witnesses for being with us today. Your attendance and input on these important issues is greatly appreciated.

The online marketplace is essential for small businesses and generate revenue in the modern economy. Business owners use social

media and online platforms to reach their customers' earned revenue from advertising and promote products. Over a year ago it was brought to this committee's attention that the government has funded certain third-party organizations, which are making it harder for conservative businesses to succeed online.

Now when I first heard about this, it seemed simply un-American and against what we should stand for as a country. Our economy is based on competition, where anyone that has a superior product, price, or customer service is able to build a successful business.

However, during this committee's investigation, we found out that this is simply no longer the case. The committee uncovered a vast networks of non-profits, research groups, and other entities that receive government funding with the goal of stopping misinformation. As these groups attempt to define what is true, there are many voices and businesses whose reach is being reduced simply because they believe something that is against the mainstream narrative.

An example of a viewpoint that would prevent the reach of a business or publisher online would be that the COVID-19 virus is man-made, and came from a lab. Even though this is now a widely not—this is now a wildly accepted theory, about how global pandemic began, this view expressed just 2 years ago would have been censored online and limited the reach of your business.

The issue has extremely consequential First Amendment implications which are working their way through the judicial system, and this hearing will examine how the efforts had been trickling down to affect small businesses.

The committee uncovered three main ways in which the small business ultimately could get affected by these censorship efforts: First these misinformation organizations flagged with content and acceptable posts on social media websites, thereby eliminating the reach to customers if they get in the cross hairs of these third parties; now secondly, there are government-led pressure campaigns to remove certain businesses from online marketplaces, preventing them from selling their products over the internet; and, finally, these organizations hinder businesses from earning an advertising revenue and other income streams by diminishing a business' reputation in the case of media outlets, their circulation.

To put this plain and simple, the government has been caught collaborating with private entities to censor narratives that they don't like. And yes, your taxpayer dollars are being used to do this.

Main street is constantly working as hard as possible to compete and thrive. The emergence of online marketplaces has provided millions of small businesses with new ways to make money and reach customers. However, we have found out that all businesses online are not given a fair chance to succeed in this new battleground.

So if you do not agree with a company, the customer can choose not to do business with them. But when the government inserts itself in the process to tip the scales against certain businesses, it simply is unacceptable.

So finally, I ask unanimous consent to enter into the record a statement from Rumble CEO, Chris Pavlovski, emphasizing the im-

portance of free speech to not only this country, but to small business upon which our economy depends. So without objection, it is so ordered.

I want to thank you all again for being here with us today, and I am looking forward to today's important conversation. And with that I yield to our distinguished Ranking Member from New York, Ms. Velázquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Good morning, everyone, and thank you for being here.

I must admit, when I heard the title of this hearing, I was terrified. The Censorship Industrial Complex—that sounds frightening. The thought that thousands of universities, NGOs, and government agencies are pondering to silence any dissenting views is a horrifying proposition. Are they really trying to silence our cherished small businesses? Thankfully, the idea itself is fiction, cynically created by the right-wing outrage machine to drum up fear during election season.

There is simply no evidence that anyone in the small business community is being censored by the government for legitimate political speech. Nor is there evidence that the accused universities and NGOs that make up the so-called Censorship Industrial Complex have actually censored anyone.

A quick look into the facts of my colleagues' investigation reveals a baseless effort to stir up anger and fear as we approach election season. It is the oldest trick in the book, and a cynical misuse of committee resources.

Let's take a look at the basic claims of their investigation. First, the major claim is that the U.S. Government funded the development of software that censors conservative media. However, the fact is that a nonprofit organization had already developed proprietary software that can detect patterns of misinformation online.

The Global Engagement Center of the State Department gave an award of \$100,000 for 3 months of work to expand that software to six more languages: Chinese, Japanese, Korean, Vietnamese, Russian, and Ukrainian, to be used in Asia and Eastern Europe. I suspect few of my colleagues will be against the State Department using its resources to detect Chinese or Russian propaganda overseas. However, that is exactly what they are attacking at a crucial moment in history for our national security.

The second major claim is that this software has been used primarily to censor conservatives here in the U.S. Again, this is baseless. The software assembles a list of thousands of websites around the world, a small fraction of which are American, which have a tendency to publish what they call adversarial content. Basically, content created to drive engagement by creating outrage.

Advertisers realized a long time ago that social media algorithms boost this type of content because it helps keep users online, but they do not want to sponsor it. This software fills a niche that advertising agencies were asking for. It is not censorship. It is capitalism, something my colleagues usually, without a doubt, support.

After all, if companies were forced to sponsor content they disagree with, that would be an egregious violation of the freedom of speech.

Let's acknowledge what this investigation truly is an attempt by the majority to weaponize the federal government against universities and nonprofit organizations they disagree with. They want you to believe conservatives across the country are being silenced by some Orwellian censorship regime. That is pure fiction.

In reality, it is they who seek to silence this organization through threat of lawfare, investigation, and by encouraging harassment. It is censorship by proxy.

Mr. Chairman, when it comes to the intersection of social media, free speech, and small businesses, they are plenty of legitimate points of debate.

We could talk about Section 230, or the concentrated private power of just a few tech companies to dictate who speaks what, or whose voice gets heard. We could talk about the reliance of small businesses on these platforms, and the power platforms have to charge high fees. We could even talk about how small firms are innovators, influencers, creators, and engineers of these platforms.

Mr. Chairman, the Censorship Industrial Complex is simply a distraction. My hope will be that you will use the gavel to bring attention to real issues facing small businesses. While we may disagree on tax or regulatory policy or the best way to help small firms access capital, we can actually agree that those are real issues. I yield back. Thank you.

Chairman WILLIAMS. The gentlelady yields back. And I will now introduce our witnesses.

Now our first witness here with us today is Jenin Younes. Ms. Younes is litigation counsel for the New Civil Liberties Alliance located here in Washington, D.C. At the New Civil Liberties Alliance, Ms. Younes has played a significant role in First Amendment challenges to the government's involvement in censorship and social media. Ms. Younes graduated from the New York University School of Law where she earned her doctorate of law degree, and from Cornell, which I think we have a colleague that also went to Cornell up here.

Ms. VAN DUYNE. [Inaudible.]

Chairman WILLIAMS. Well, there is two of you. That is scarier—earned her degree of law from Cornell University where she earned her bachelor of art's degree. So thank you for joining us today. And I am looking forward to today's important conversation.

Our next witness here with us today is Mr. Benjamin Weingarten. Mr. Weingarten is investigative journalist and columnist for the RealClearInvestigations and RealClearPolitics. In addition to his role as RealClear, Mr. Weingarten is a columnist and contributor to several print and media outlets, including the Federalist and Newsweek. Mr. Weingarten is also the founder and CEO of Changeup Media, a media consulting production firm helping individuals and institutions create compelling content.

Mr. Weingarten graduated from Columbia University where he earned his bachelor of arts degree in economics and political science. I want to thank you, sir, for being here with us today and look forward to our conversation.

Our next witness here with us today is Ms. Carrie Sheffield. Ms. Sheffield is the senior policy analyst at the Independent Women's Forum located here in Washington, D.C. As a former small busi-

ness owner in the digital media industry, Ms. Sheffield knows the importance of advertising to reach new customers and grow your audience. Ms. Sheffield is familiar with the inequities considered conservatives face in this space. Ms. Sheffield is the author of the best-selling book, “Motorhome Prophecies: A Journey of Healing and Forgiveness.” And like many authors, Ms. Sheffield knows the importance of using platforms like Amazon to sell books and products. Ms. Sheffield earned her bachelor of arts in communication from Brigham Young University, then went on to earn her master of policy from Harvard University.

I want to thank you each for joining us today. I am also looking forward to our conversation. And with that I now recognize the Ranking Member from New York, Ms. Velázquez, to briefly introduce our last witness appearing before us today.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Our final witness today is Dr. Mary Anne Franks. Dr. Franks is the Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law at the George Washington University Law School. She is an internationally recognized expert on the intersection of civil rights, free speech, and technology. Dr. Franks is also the president and latest leader and tech policy director of the Cyber Civil Rights Initiative. A nonprofit dedicated to combating online abuse and discrimination. She holds a juris doctorate from Harvard Law School, and a doctorate and master’s degree from Oxford University where she studied as a Rhodes scholar. Thank you, Dr. Franks, for providing your testimony today.

Chairman WILLIAMS. Thank you, and we appreciate, again, all of you being here today. So before recognizing witnesses, I would like to remind them that their oral testimony is restricted to 5 minutes in length. That is important. And if you see the light turn red in front of you, it means your 5 minutes have concluded, and you should wrap up your testimony. If you keep going, you are going to hear this. That means stop, okay?

So I now recognize Ms. Younes for her 5-minute opening remarks.

STATEMENTS OF JENIN YOUNES, LITIGATION COUNSEL, NEW CIVIL LIBERTIES ALLIANCE, ON BEHALF OF NEW CIVIL LIBERTIES ALLIANCE; BENJAMIN WEINGARTEN, INVESTIGATIVE JOURNALIST AND COLUMNIST, REALCLEARINVESTIGATIONS & REALCLEARPOLITICS, ON BEHALF OF REALCLEARINVESTIGATIONS & REALCLEARPOLITICS; CARRIE SHEFFIELD, SENIOR POLICY ANALYST, INDEPENDENT WOMEN’S FORUM, ON BEHALF OF INDEPENDENT WOMEN’S FORUM; AND DR. MARY ANNE FRANKS, EUGENE L. AND BARBARA A. BERNARD PROFESSOR IN INTELLECTUAL PROPERTY, TECHNOLOGY, AND CIVIL RIGHTS LAW, GEORGE WASHINGTON LAW SCHOOL

STATEMENT OF JENIN YOUNES

Ms. YOUNES. Chairman Williams, Ranking Member Velázquez, and Members of the committee, thank you for having me here today. Over the past several years, investigative journalists, law-

yers, and individual Americans have uncovered a vast federal censorship enterprise that targets American speech on social media.

In the words of a White House staffer named Rob Flaherty, this enterprise stems from the highest levels of the White House and involves the efforts of at least a dozen federal agencies, if not more. Politicians and media have attempted to portray these efforts as laudable attempts to fight misinformation, disinformation, and malinformation on social media. Of course what constitutes misinformation, disinformation, and malinformation are determined by the censors.

Government actors have used threats, coercion, pressure, and influence on private social media companies to effectuate censorship of disfavored views, including scientists such as Jayanta Bhattacharya and Martin Kulldorff, and journalists like Alex Berenson. That conduct is the subject of a case that was just decided in the Supreme Court about 10 minutes ago, and I still haven't had a chance to read the decision, *Murthy v. Missouri*.

In the other cases, the government has outsourced private censorship programs—sorry, censorship programs to private industry in attempts to circumvent First Amendment strictures.

The State Department, through its Global Engagement Center, has funded the development, marketing, and promotion of hundreds of tools and technologies designed to combat misinformation and disinformation online. They act with the purpose of depriving our clients, Daily Wire and Federalist, and other disfavored media outlets of revenue and visibility, thereby diminishing their reach on social media and elsewhere. Our clients were severely impacted, along with hundreds of other small independent and conservative-leaning news outlets and journalists.

Why is this a problem? First, Congress created GEC within the State Department to counter foreign propaganda and disinformation efforts. Congress also included a funding limitation. None of the funds authorized to be appropriated or otherwise made available to carry out this section shall be used for purposes other than counting foreign propaganda and misinformation that threatened United States national security. Yet GEC is intricately involved in the development of technologies that are intended to and do result in the suppression of American speech. This use of funds to stifle domestic speech constitutes an unlawful misappropriation of funds. It is also an alter virus action because GEC's mandate is to counter foreign propaganda.

Second, even if Congress wanted to, it could not constitutionally give GEC the authority to fund market and promote companies like NewsGuard and GDI because this activity violates the First Amendment.

Supreme Court jurisprudence has made clear the government cannot use private industry to accomplish what the Constitution prohibits from doing directly.

In a case called *Norwood v. Harrison*, for example, the court said it is axiomatic that the government may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.

Another indication that this program is not and never was about protecting Americans' national security interest is that companies

such as NewsGuard and GDI targeted primarily if not exclusively conservative speech, which should strike any fair-minded person as suspect. Its viewpoint discrimination and its anathema to the First Amendment, which doesn't tolerate government silencing views of political adversaries.

By the way, I am not a political conservative or Republican. I am left-leaning. To say the least, I don't agree with much of the speech that has been the subject of this censorship program. But I recognize that it is extremely dangerous to put government in deciding—in charge of deciding who and what should be heard and who and what should be silenced. That is precisely what the Framers of the Constitution issued when they included the First Amendment in the Bill of Rights. They understood the government actors are just people, and in no better position than I or any American to decide what is true and false.

The First Amendment implicitly recognizes our dignity as individuals. We are not inferior beings who need to be told who or what to believe by a monarch. We are capable of evaluating competing claims in light of our individual experiences and perspectives.

Some say the plethora of information that social media allows to be put forth at a rapid pace requires governmental interference, once again, protect people from bad or false ideas. But social media doesn't change the fundamental premise underpinning the First Amendment. The best way to address problematic or false ideas is through counter speech, not censorship.

Censorship does not make bad ideas or lies go away. It drives them underground where they fester. As the saying goes, sunlight is the best disinfectant. And rapidity with which information may be posted on social media also means that lies and other problematic speech can be combated that much more quickly.

Those who think there is nothing wrong with the government censorship regime exposed through this case as well as *Murthy v. Missouri* should think long and hard about what this means when power changes hands. Do you want President Trump's administration funding tools and technologies designed to censor speech he disfavors? It is time Americans recognize the danger we face, not from misinformation, disinformation, or malinformation, but from our government deeming itself arbiter of the truth and inserting itself into the marketplace of ideas so as to silence those that it disfavors. Thank you.

Chairman WILLIAMS. The time is up. I now recognize Mr. Weingarten for his 5-minute opening remarks.

STATEMENT OF BENJAMIN WEINGARTEN

Mr. WEINGARTEN. Chairman Williams, Ranking Member Velázquez, and Members of the committee, thank you for the opportunity to testify.

Free speech and a free press are bedrock features of our republic. The Censorship-Industrial Complex therefore imperils our republic.

Disturbingly, the U.S. Government has played an indelible role in fostering this censorship regime—one that has purged unauthorized opinions and inconvenient facts en masse.

Today’s hearing highlights one insidious instance of it: federal funding, direct and indirect, via the State Department’s Global Engagement Center, of entities in NewsGuard and GDI that threaten the viability of media companies that dare to dissent from establishment orthodoxy.

The relationships this committee is probing and the stonewalling it has faced should concern all Americans. GEC’s stated mission is to counter “foreign...propaganda and disinformation efforts.” NewsGuard says it aims to “systematically defund sources of harmful misinformation”—foreign and domestic. It does so by rating and reviewing thousands of outlets for “reliability” and creating what it calls “exclusion lists”—blacklists for brands to provide ad agencies and ad tech partners for use in determining where not to place ads.

GDI, likewise, says it seeks to “reduce” disinformation by “remov[ing] the financial incentive” it says works behind it, ad revenue. It took arms ad-tech companies with a “dynamic exclusion list”—reportedly containing 2,000 “risky” publications, including American ones. Perversely then, a foreign-facing agency has supported entities that exist to put disfavored domestic outlets out of business. Those NewsGuard and GDI have targeted suggest they have been smeared and stigmatized for taking positions on matters from COVID-19 to the war in Ukraine, contrary to those of the political establishment, consequently incurring financial and reputational damage.

NewsGuard’s alleged viewpoint discrimination can be seen in the significantly higher scores on average that it has lavished on left-leaning sources over right-leaning ones—and in the Kafkaesque correspondences dissident sources left and right have had with its readers when challenging seemingly unmerited scores.

GDI’s blacklist isn’t public, but its 2022 report on “disinformation risk” among U.S. sources betrays a similar bias. There, it lists among its 10 least risky publications nine liberal—too progressive corporate media outlets—and The Wall Street Journal. Its 10 riskiest publications include nine conservative or libertarian outlets and RealClearPolitics. Many maligned by NewsGuard and GDI report plummeting ad revenues—which GDI’s executives have gloated about. Some say they have lost traffic.

Our experience at RealClearPolitics and RealClearInvestigations may be more troubling. RCP’s bread and butter is curating compelling analysis—from sources left and right, corporate and independent—on key issues of the day, so readers can weigh both sides. We score a 62 on NewsGuard’s 100-point scale based on the subjective assessments of NewsGuard’s journalists, who analyze a sample of other journalists’ work to render judgment on whole outlet.

Amazingly, NewsGuard dings us in part for our quote, unquote, “undisclosed” conservative bent. The implication is that it either dismisses the feature of viewpoint diversity that we promote, or worse, sees viewpoint diversity as a bug.

RCP, mind you, ranks below NPR, The Washington Post, and Politico, all of which garner perfect NewsGuard scores despite their biases and bumbles. These scores influence not only advertisers but up to half a billion readers through NewsGuard’s partnerships. They appear next to sites in search results on browsers equipped

with NewsGuard's extension. A low rating is a digital Scarlet letter.

RealClear investigations curates deep dives from sundry sources and publishes our own from journalists with diverse perspectives—some antithetical to my own. NewsGuard has branded us biased as well, albeit while giving us an 80. The rater would seem to see bias in our pursuit of stories and angles competitors miss or ignore. It took RCI to task for unmasking the whistleblower behind the first impeachment of President Trump—in the face of political pressure, our silent peers folded under.

As for GDI, beyond landing on its risky list, RCP may be on its secret blacklist, too.

Now RealClear has thrived despite these entities, but the Censorship-Industrial Complex has made a highly competitive business harder, and placed us at a competitive disadvantage. Our ad revenue has declined materially, forcing us to devote substantially more time and resources to fundraising. We have seen a meaningful drop in certain search rankings. And we've taken a reputational hit.

Even if the risk raters were unobjectionable, the fundamental issue would remain. Through funding and supporting such entities, government has abridged our freedom of speech and of the press by proxy. Taxpayer dollars should not back those who would silence Americans by destroying our media businesses. Thank you.

Chairman WILLIAMS. The gentleman yields back. I now recognize Ms. Sheffield for her 5-minute opening remarks.

STATEMENT OF CARRIE SHEFFIELD

Ms. SHEFFIELD. Mr. Chairman, Ms. Ranking Member, thank you for inviting me today. My name is Carrie Sheffield, and I am a senior policy analyst at the Center for Economic Opportunity at Independent Women's Forum. We are a nonprofit organization committed to increasing the number of women who value free markets and personally liberty.

Prior to my current role, I founded Bold TV, a small business which I ran from 2015 until selling its assets in 2019 to an educational nonprofit. Bold TV is a digital media news network featuring newsmakers across politics, business, and lifestyle.

At Bold TV, we utilize tools from Facebook Live, Instagram, Twitter, Amazon Fire, Apple News, YouTube, and other tech and content distribution partners to grow our audience.

Just prior to my departure, our viewership was approximately 30 to 70,000 views on each Bold TV program which approximately 10.16 million organic impressions for the first 6 months of 2019.

In addition to social media monetization tools, Bold TV also maintained a website using a private marketplace ad exchange network for revenue.

I am also an author with my first book, *Motorhomes Prophecies*, published in March by Hachette Book Group. My publisher uses ad exchanges to sell books. Ad exchanges are the lifeblood of small businesses, both for selling and promoting their content to external audiences. A recent survey from the Connected Commerce Council of more than 2,400 businesses found that among small and mid-

size businesses, SMBs, 40 percent of SMB publishers say that digital ads drive over half of their overall revenue.

The survey also found 71 percent of SMB publishers, including 72 percent of Black and 65 percent of Hispanic-led SMB publishers say they could not have launched and sustained their business without digital advertising revenue. Seventy-nine percent of SMB publishers say digital ads helped them compete with much larger competitors.

My media experience leads me to believe government censors and interferes with small businesses. This impacts businesses' abilities to use digital ads and sell products in the online marketplaces such as Amazon, Etsy, or eBay.

For example, under the leadership of Chairwoman Lina Khan, President Biden's Federal Trade Commission seeks to punish authors by like myself by harming our ability to sell books on Amazon at lower prices to customers.

The government can also interfere with advertising revenue by supporting companies that attack the credibility of businesses. This can occur through government reliance on organizations, such as the Global Disinformation Index, GDI, a media-rating website.

GDI appears to be a tool for the U.S. Government to circumvent our First Amendment rights and censor American small businesses. Evidence suggests the U.S. State Department gave taxpayer funds to GDI, which then downrated conservative media organizations, including the Daily Wire and the Federalist.

In response, the Federalist and the Daily Wire jointly fired a lawsuit in December. The complaint alleges the Biden administration used U.S. funds to tap GDI which has relationships with social media giants and deep-pocketed advertisers.

Federal election data shows State Department employees for many years have favored Democrats over Republicans with their political contributions. For example, during the 2016 cycle, State Department employees gave Democrats almost eight times the amount of money they gave Republicans. This disproportionate financial support could indicate motivation for the alleged viewpoint discrimination against conservative media.

At Independent Women's Forum and our sister 501(c)(4) organization, Independent Women's Voice, we rely heavily on digital tools to reach our audiences. Last year we witnessed suppression over political differences from tech platform Eventbrite. Eventbrite banned our page, Let Women Speak, organized by our IWN Austin chapter. Eventbrite claimed we violated community guidelines for perpetuating hate speech. Eventbrite believes in silencing women's voices in the high stakes national conversation on protecting female safety in sports, prisons, and battered women's shelters.

While IWN has no evidence, the government pressured Eventbrite to remove our event, it is worth noting two important facts: First, IWF has is vocally and visibly opposed to the Biden administration's illegal rewrite of Title IX's protections for women, prohibiting sex-based discrimination.

Second, the Sixth Circuit Court of Appeals ruled the Biden administration violated the First Amendment by pressuring technology companies to suppress or remove social media posts.

In conclusion, America cannot function as a healthy republic without freedom of speech. Commercial freedom and freedom of expression go hand in hand. As the Supreme Court has noted for more than a century, businesses are voices for people.

I am grateful to this committee for investigating this issue and look forward to working with your team in the days ahead to ensure a robust marketplace of ideas flourishes in America.

Chairman WILLIAMS. The lady yields back. And I now recognize Dr. Franks for her 5-minute opening remarks.

STATEMENT OF DR. MARY ANNE FRANKS

Ms. FRANKS. Thank you. As noted in my introduction, I am a law professor at the George Washington Law School, and I specialize in the intersection of the First Amendment Technology and Civil rights. I am also the president of the Cyber Civil Rights Initiative, which is the leading U.S. nonprofit organization focused on combating image-based sexual abuse.

I am speaking only on my own behalf today. I am drawing on the expertise that I have developed in both of these roles to offer explanations of settled First Amendment doctrine, and to emphasize how harassment and intimidation campaigns against misinformation researchers, especially when it is instigated by government officials, chill freedom of expression and jeopardize national security.

The First Amendment, broadly speaking, protects speech from government suppression. It does not protect speech from criticism or competition. It does not guarantee any speaker a platform or a profit. The same First Amendment that protects one person's right to speak also protects the right of another person to reject, to discredit, or ignore that speech.

The fact that critical speech may lead to negative consequences for those who are criticized, such as a decline in popularity or in revenue merely indicates that the speech is effective, not that it is censorship.

Competition is not censorship. Counterspeech is not censorship. Research is not censorship. Providing information to businesses about other businesses is not censorship.

Efforts to convince consumers, advertisers, and the public that certain content is false, is fraudulent, harmful, extremist, harassing or exploitative, is not censorship.

None of this changes just because the government may have provided funding for the speech in question. While the Supreme Court has held that "government officials cannot attempt to coerce private parties in order to punish or suppress views that the government disfavors," the government is allowed to speak on its own behalf, and to take sides in controversial matters.

The government is allowed, for example, to promote military enlistment and war bonds during wartime without also having to promote messages that discourage those efforts. The government is allowed to fund certain messages or perspectives and not others.

In the 1991 case of *Rust v. Sullivan*, Chief Justice Rehnquist, writing for the majority, stated that the First Amendment allows the government "to selectively fund a program to encourage certain activities it believes to be in the public interest, without at the

same time funding an alternative program, which seeks to deal with the problem in another way.”

The individuals, organizations, and research institutions that are fighting to maintain the integrity of our elections, our public health systems, our information ecosystem, are speakers, not censors. Their speech is more urgently needed now than ever as we face unprecedented threats to our democracy from both outside and inside the United States.

If there were any doubt as to the significance of this speech, it has been dispelled by the increasingly desperate and aggressive attempts to silence it. Misinformation researchers have been vilified, defunded, harassed, and threatened, including by Members of Congress—government officials using taxpayer dollars to instigate hearings, subpoenas, lawsuits, document requests, and investigations to literally shut down speech that they do not like. And unlike the federal funding programs attacked in this hearing, these actions by government officials are not merely encouraging speech that they prefer, but punishing the speech that they fear.

These efforts have been chillingly effective. It was announced recently that the Stanford Internet Observatory, a cross-disciplinary program that provided in-depth analyses of social media’s role in child exploitation and the spread of false information about elections and vaccines “may shut down amid the political and legal attacks that have,” as The Washington Post says, “cast a pall on efforts to study online misinformation,” attacks that have included “lawsuits, document requests and threats of physical harm,” including the targeting of student volunteers.

This is what censorship looks like: Government-led efforts to directly suppress disfavored speech as well as to leverage third parties to assist in those efforts. The harassment and silencing of misinformation researchers, especially in a year when a record-breaking number of elections will take place around the world, threatens free speech and democracy on unprecedented scale.

If Congress genuinely wants to address the threat of censorship, it should start by acknowledging that the call is coming from inside the House. Thank you.

Chairman WILLIAMS. The lady yields back. As I mentioned at the beginning, the committee—they have called for votes. So we will take a brief recess until 11:15, and we will reconvene and begin the questions. So thank you.

[Recess.]

Chairman WILLIAMS. The committee will now come to order. We will now move to the Member questions under the 5-minute rule. And I want to thank all of you for bearing with us as we voted. I now recognize myself for 5 minutes.

We heard in the Ranking Member’s opening statement that there is no evidence of government censorship affecting small businesses. However, three of our witnesses’ testimony seem to negate that assertion.

Additionally, we heard from Dr. Franks that this hearing is meant to harass research groups and universities. This is simply not true. We are asking for transparency to ensure that taxpayer dollars are not being weaponized to silence political opponents. Also, our committee has only sent letters to federal agencies, no

universities, or other private actors. This is a textbook congressional oversight.

Now, though, through our investigation, we have seen hundreds of awards that have been given through the SBIR programs to companies who claim to be disinformation experts to police the internet and interfere with Americans' right to free speech.

One of these examples is NewsGuard. NewsGuard is multiple products, one of which uses politicized metrics to rate the media outlets based on their supposed credibility. And if NewsGuard claims an organization is not credible, their advertising revenue is severely affected. NewsGuard is reportedly rated around 10,000 media outlets, many of them small and medium businesses.

So Ms. Younes, can you tell us more about how NewsGuard operates and how they impact the ability of businesses to earn revenue. And why it is a problem that the federal government is giving these kind of companies money?

Ms. YOUNES. So NewsGuard rates media companies based on their ostensible reliability. And that has the effect of driving advertiser revenue away from them if their rank is unreliable.

Now, I believe that GDI is even worse than NewsGuard. And their secret blacklist was actually revealed sometime before we started this litigation and was part of the reason we actually did. And their secret blacklist showed that all of the sites that they ranked were reliable were liberal, including, you know, websites such as The Huffington Post, which I would argue don't really engage in the most journalistic practices of the highest integrity. And all of the ones that they deemed unreliable were conservative. So really shows that this is viewpoint discrimination. Not to mention the fact that the GEC shouldn't be funding any of this at all, because their mandate is to deal with foreign so-called disinformation. And these are domestic news sites that they are ranking.

Chairman WILLIAMS. Thank you. NewsGuard and companies like them don't just impact the businesses. They rate small businesses. They are not large enough to have an internal advertising department often partnered with advertising companies to help get their products or services out to the public. Many of these advertising companies look at the ratings that NewsGuard gives media companies when deciding where to place a small business ad.

So, Ms. Sheffield, if I am a small business owner, which I actually am in Texas, and looking to place advertisements to online—to a conservative audience. But the advertising partner I am working with is partnered with a company like NewsGuard, am I going to have issues reaching out to the audiences I need to reach out to?

Ms. SHEFFIELD. Well, so in the industry, there is a term called "brand safe." And a lot of times, especially for a small startup or a medium-sized business, a lot of these big brands, like, say, Nike, or some of the bigger marquis brands, they are not going to be familiar with smaller startups. And so, they rely on some third parties to determine whether or not this organization or this media outlet is quote, unquote "brand safe." And that brand safe designation can really make or break the future of a business.

As I said earlier in my testimony, that 40 percent of small and medium business publishers say that digital ad sales drive over half of their overall revenue. So this could be the death knell if they are not considered brand safe.

Chairman WILLIAMS. Okay. Mr. Weingarten, in the limited time that we have, over the course of our investigation, we found that so-called fact-checking organizations are being used to bolster traditional media outlets by labeling others, often small- and medium-sized outlets as untrustworthy if they question the accepted narratives. So this creates a conflict of interest for many news organizations; either get in line and stop asking tough questions, or lose out on advertising revenue, potentially get out of the business.

So based on the output of Newsguard's and similar companies' ratings, which narratives do you see being silenced, and do you think this is a creating an environment where those in power are not being held accountable?

Mr. WEINGARTEN. I think there is substantial evidence to suggest that views, for example, with respect to virtually every aspect of COVID-19 from origins to mitigation measures would lead a site to get downgraded to the extent they took positions that were antithetical to those of public health authorities. We have also seen this as well with respect to the war in Ukraine.

And I think what is so chilling about this ultimately is if this entire disinformation, counter-disinformation—so-called ecosystem existed in and of itself without any sort of government backing, I think we would probably still find it objectionable, but we would say there is a First Amendment right to it, it is protected.

The problem here is that government is conferring its blessing on this entire ecosystem, which clearly exists to chill speech officials don't like.

Chairman WILLIAMS. Thank you. And I now recognize the Ranking Member for 5 minutes of questions.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Dr. Franks, have you seen any evidence that ties money from federal awards to the ratings of American media outlets by GDI?

Ms. FRANKS. I have not.

Ms. VELAZQUEZ. In recent testimony, you highlight the real-world consequences of the investigations launched by Congressional Republicans, that by the way, are basically partisans. For instance, according to your subpoena, you asked for any awards related to the National Democratic Institute and the role combating misinformation overseas. Yet your subpoena voids asking for any records related to the International Republican Institute, which does similar work overseas, and has also gotten awards from GEC. Let's be serious about this issue.

Dr. Franks, can you discuss how this investigation, the legal expenses they create, and harassment they invite can have a chilling effect on the legitimate political speech of individuals?

Ms. FRANKS. Yes, particularly through the use of things like very burdensome subpoenas, as you have mentioned, invasive record requests for massive amounts of private communications, work product, including student volunteers, in some cases, demands for closed-door interrogations of researchers, expensive lawsuits that take not only money, but time away from researchers

and their important work. Those who are involved in these investigations have, at times, lied about researchers' work, have vilified them in the press.

They have made false accusations about them on social media, which has led to extensive harassment and threats by online mobs who have published their private information in some cases, have expressed threats against their family members, and made many of these researchers fear for their safety. And in response, many of those individuals have closed down their social media accounts entirely. They have canceled speaking engagements, they have withdrawn from their work, they have withdrawn from civic participation. And this is, in fact, what it looks like to see government coercion and actual silencing.

Ms. VELAZQUEZ. Thank you. Mechanisms that protect our national security are being threatened, while organizations that combat misinformation by our adversaries are shutting down. Can you broadly discuss the spread of information warfare from our adversaries, specifically during this upcoming election season?

Ms. FRANKS. Broadly speaking, information warfare really thrives on social tensions, it thrives on misinformation, it thrives on a polluted information ecosystem. And so, when we are concerned about foreign interference with our elections and other processes, we have to be concerned about the integrity of that information environment. And so the attempts to shut down research on mis- and disinformation makes us more vulnerable to those kinds of attacks. And these kinds of threats are only escalating with the advancement of AI.

We have already seen evidence that AI is being used by foreign sources to make their campaigns of disinformation and misinformation and sowing political division even more effective.

Ms. VELAZQUEZ. Social media algorithms tend to promote content that is sensational or divisive, because those posts tend to drive more engagement. If advertisers choose to withdraw their ads from posts because they do not want to be associated with the message, is that censorship?

Ms. FRANKS. It is not censorship, and it is, in fact, quite the opposite. It is the First Amendment protected right to choose to disassociate from speech with which you disagree.

Ms. VELAZQUEZ. Is there any evidence of social media algorithms favoring one political viewpoint over another?

Ms. FRANKS. To the extent that there is evidence of partisan special treatment, that actually runs in the opposite direction. There have been multiple studies conducted by social media platforms and others that have indicated that, in fact, it is conservative speech, right-wing speech, that receives preferential treatment. And that even at times Meta, for instance, on its Facebook service decided to change its algorithm so that it could boost right-wing content over left-wing content.

Ms. VELAZQUEZ. In my colleagues' quest to be the ultimate victim, they often come close to recognizing a real problem, the power of the counsel of social media platforms to control what is essentially the entire information flow in the country.

What material steps could we take to enrich competition in social media and create more transparency among them?

Ms. FRANKS. If we are really concerned about that conglomeration, that consolidation of power in these few companies, one of the first things we would need to do is to reform Section 230(C)(1), which is providing just absolutely unconscionable amount of immunity to social media platforms for engaging in harmful facilitation of content.

We could also encourage the Federal Trade Commission to do more oversight and regulation of unfair and deceptive practices. And we could also provide funding for local media, for other news sources, for other kinds of interactions that people could engage in for specific participation in public discourse.

Ms. VELAZQUEZ. Thank you. I yield back.

Chairman WILLIAMS. The gentlelady yields back. I now recognize Representative Meuser from the great State of Pennsylvania for 5 minutes.

Mr. MEUSER. Thank you, Mr. Chairman. And thank you to our witnesses as well. You know, interesting and disturbing at the same time. All right. We appreciate the honesty of how there are those on this panel that feel that government has the right to choose what information should be permitted to be published on social media.

Now certainly, I think we agree at a private sector or the confines of your own home or just personally, you can choose not to read a particular newspaper or choose not to provide information to your children, and the private sector within a business. But the government, the United States Government has the right to pull information that it disagrees with? Am I hearing this right?

Ms. Franks, we are going to get to that. Are we actually hearing that right?

So let me ask you this. Thank you again for your honesty. So let me—Ms. Sheffield, the advertisers are being pushed from free speech platforms. Can you discuss how those censorship efforts are affecting, you know, the implications for your small businesses?

Ms. SHEFFIELD. Yes, as we have heard from my colleague and also from litigation from other outlets and in my personal experience, whether it is investors or advertisers, there is certainly a perception that if you lean a certain way, that if you have populous impulses, that somehow you are not considered brand safe.

Mr. MEUSER. So in Title IX, you mentioned something about Title IX. So if I believe in Title IX and boys shouldn't be playing girls' sports, I could be censored?

Ms. SHEFFIELD. Absolutely. And in our case, we were censored by the tech platform Eventbrite—

Mr. MEUSER. Right.

Ms. SHEFFIELD.—which removed our event which allowed women to speak—

Mr. MEUSER. Right.

Ms. SHEFFIELD.—about sexual assault and their concern with being forced to be—

Mr. MEUSER. Thank you.

Ms. SHEFFIELD.—placed in the—

Mr. MEUSER. And, Ms. Franks, do you think that is wrong?

Ms. FRANKS. You asked the question of whether or not you had it right, if you are hearing this correctly. And I would say, no, you are not, if what you are saying—

Mr. MEUSER. Unless specifically—is Ms. Sheffield wrong in what she just said?

Ms. FRANKS. I am not entirely clear what point was being made there.

Mr. MEUSER. Okay. Then we will move on.

Ms. FRANKS. But you did ask whether or not you were hearing correctly. I do just want to say that, no, what I was suggesting was not my feeling about the law, this is, in fact, the statement of the law.

Mr. MEUSER. And you were pretty clear. I am going to reclaim my time. Mr. Weingarten?

Ms. FRANKS. That First Amendment actually does allow the government to express its own viewpoints, but it does not of course allow it to silence a dissent—

Mr. MEUSER. You cited Rehnquist, okay? Rehnquist decision, and the draft was taking place. Okay. Rehnquist decision would not have suppressed or censored anyone online or putting up a billboard that said, I am against the draft. You are suggesting that would be appropriate by the government and that is dead wrong.

Ms. FRANKS. I am suggesting that words mean something, and the words “silencing” and “censoring” mean something.

Mr. MEUSER. No—

Ms. FRANKS. These websites have not—

Mr. MEUSER. Counter speech. That’s what we call it, and that is what the schools have called it.

Ms. FRANKS.—they have not been confined. They have not been imprisoned. They have not been—

Mr. MEUSER. That is what we call it, and that is what the schools have called it. And that was what is appropriate, counter speech, diversity in ideas and discussion.

Ms. FRANKS. Exactly what the GDI is providing, yes.

Mr. MEUSER. Is that what the GDI is providing, Mr. Weingarten?

Mr. WEINGARTEN. The government has the bully pulpit and a whole slew of other tools to express its viewpoint. Funding entities that exist to bankrupt media companies that propagate dissenting viewpoints, expressly, to me is un-American, unconstitutional, and frankly just wrong on its face.

Mr. MEUSER. They have labeled you all in pretty nasty terms. They labeled real clear—almost risky and untrustworthy media outlets impacted operations—to impact your operations and revenues. Do you want to talk about that a minute?

Mr. WEINGARTEN. Well, first, it bears noting that when a NewsGuard comes to you with the rating that it does, it does so with the backing of one of its largest investors, which is a major ad, PR company representing major clients, including the likes of, for example, Pfizer, pharmaceutical companies. And it does so with advisors that include the former head of the State Department’s Global Engagement Center, the former head of CIA, NSA, as well as the former Homeland Security advisor.

So when it does so, it is a big deal for you to be tarnished and your reputation to be attacked with very little recourse against it on seemingly subjective grounds.

Mr. MEUSER. Not by a competitor, by the government.

Mr. WEINGARTEN. De facto.

Mr. MEUSER. De facto, okay. Ms. Younes, how has government's involvement using taxpayer dollars, okay, my dollars, my constituent's dollars to interfere with the ability of small businesses to compete online because of—because they may have questioned the origins of COVID, because they feel immunity when COVID was there might be comparable to getting the vaccine—or they have concerns about the vaccine, or they believe in Title IX, or they have other beliefs that maybe this administration doesn't agree with. How does that hurt small business?

Ms. YOUNES. It drives revenue away, and it interferes with our ability to reach the public, which they have a First Amendment right to do as the press.

Mr. MEUSER. My time has expired. Thank you, Mr. Chairman.

Chairman WILLIAMS. The gentleman yields. I now recognize Representative Landsman from the great State of Ohio for 5 minutes.

Mr. LANDSMAN. Thank you, Mr. Chair. The Court did rule as we were sitting here, or earlier, in favor of the administration. The Supreme Court on Wednesday rejected a Republican-led effort to sharply limit White House officials and other federal employees from pressuring social media companies to remove posts from their platforms that the U.S. Government deems problematic. In a 6-3 ruling, the court said the challengers did not have legal grounds or standing to bring the case against the Biden administration because the States and individuals could not show that they were directly harmed by the communications between federal officials and social media platforms.

Writing for the majority, Justice Amy Coney Barrett said companies like Facebook and YouTube have longstanding content moderation policies that place warning labels on certain posts and delete others. The challengers, Barrett wrote, did not demonstrate the company's actions to remove posts that were traceable to the government. These lead me to a couple of questions. One is the Court has spoken.

Just to clarify, let's start with warning labels. The government has said that cigarette companies have to put—tobacco companies have to put warning labels on their products because it causes cancer. And this is just a yes or no question. I just—Ms. Younes, do you oppose those warning labels?

Ms. YOUNES. No.

Mr. LANDSMAN. Okay. Mr. Weingarten, do you oppose those warning labels?

Mr. WEINGARTEN. No.

Mr. LANDSMAN. Ms. Sheffield, do you oppose those warning labels?

Ms. SHEFFIELD. I don't think it is applicable here, but—

Mr. LANDSMAN. Yes or no?

Ms. SHEFFIELD. It is apples or oranges, but no.

Mr. LANDSMAN. Good. Ms. Franks?

Ms. FRANKS. No, I do not oppose it.

Mr. LANDSMAN. Now, here we will get to something a little bit more applicable, Ms. Sheffield. Sheffield?

Ms. SHEFFIELD. Sheffield, yes, Like "The Nanny."

Mr. LANDSMAN. Yeah. During the thirties and forties, Hitler's Nazi Government used propaganda, not just in Germany, but here in the United States, as you are aware. One of the leading causes of drivers of anti-Semitism and ultimately horrible events, including the Holocaust has been blood libel, including this lie that Jews killed Jesus.

Let's say, as they did in the thirties and forties, that the Nazi Government was paying for content on platforms that Jews killed Jesus and that they needed to be round up. Would you have a problem, Ms. Younes, if the government pulled that content?

Ms. YOUNES. I am sorry, who is putting the content up?

Mr. LANDSMAN. Well, this was content that was put up and distributed throughout the United States in the 1930s and early '40s. And so, if similar content was put out on media platform now, yes or no, do you have a problem?

Ms. YOUNES. I do not think that the government should be involved in censoring that. I think that counter speech is the appropriate way to go.

Mr. LANDSMAN. So in this case, it is fine, Jews killed Jesus, round them up, you can keep it. Mr. Weingarten?

Mr. WEINGARTEN. Well, I'd want to think more about the hypothetical. What I think is inapt to this is you are talking about foreign-funded on domestic platforms.

Mr. LANDSMAN. Right, we don't—

Mr. WEINGARTEN. We are also talking about an enemy regime, not American speech on issues that are politically—

Mr. LANDSMAN. Foreign adversaries don't pay for this by saying, Hey, we are paying for this. We don't know who is paying for the content.

Ms. Sheffield, yes or no? Are you okay with this or no?

Ms. SHEFFIELD. This hearing is about the Global Engagement Center, which is the U.S. State Department and whether or not they spent U.S. tax dollars to suppress American citizens. The analogy is clearly irrelevant.

Mr. LANDSMAN. Ms. Franks, you would agree that that content needed to be removed?

Ms. FRANKS. I believe that if the government made the choice that it wanted to assist organizations in countering that message, or suggesting that there were tools that could be used so that that message could be countered with truthful and factual information, that that would be acceptable.

Mr. LANDSMAN. I think that's right. Ms. Sheffield, your beef is with Eventbrite. I mean, you are frustrated because Eventbrite thought that promoting an event that bullied children was a problem. That is how they saw it. It is a private company. Did you take them to court?

Ms. SHEFFIELD. We requested them to reinstate our event, and they chose not to respond. But again, that is just one of numerous—

Mr. LANDSMAN. And did you take them to court?

Ms. SHEFFIELD. We have waited—we sent out a message to them. We waited for a response. The event has already passed. But again, this—the question is——

Mr. LANDSMAN. But you could if you wanted to. You have access to the criminal justice system, the court system. You can take them to court.

Ms. SHEFFIELD. We could.

Mr. LANDSMAN. Okay.

Ms. SHEFFIELD. And, in fact, we actually are taking the Biden administration to court for its illegal rewrite of Title IX.

Mr. LANDSMAN. Just be careful because the Supreme Court just said, I wouldn't do that. Thank you, and I yield back.

Ms. SHEFFIELD. The Supreme Court just said this was not based on——

Chairman WILLIAMS. The gentleman yields back. The time is up. I now recognize Representative Van Dwyne from the great State of Texas for her 5 minutes.

Ms. VAN DWYNE. Thank you very much. Mr. Landsman just quotes from today's SCOTUS opinion. But it is important to highlight exactly what you were saying, that neither the individual nor the State plaintiffs have established Article 3, which is standing. It doesn't mean that they do not have standing to sue. This is not a decision based on the merits.

Ms. YOUNES, you are our constitutional—can you give us some clarity on this?

Ms. YOUNES. Sure. Actually, I am one of the lawyers on the case, so I know it well. This was also limited to the preliminary injunction. They said because a preliminary injunction is about forward-looking relief, and they hadn't—the plaintiffs hadn't established a likelihood that they would be harmed in the future because some of these programs appeared to be ending.

So this is not about the merits. The court actually specifically said it was not expressing the views to the merits. The case will continue in the district court. And I suppose that is essentially the issue is this is limited to the preliminary injunction. They are not saying that the government didn't do anything wrong.

Ms. VAN DWYNE. Thank you for clarifying that. I wanted to make sure that that was clarified and not just cut off. The State Department's so-called Global Engagement Center which is exactly what we are here to talk about today had spent millions of taxpayer dollars to silence American small businesses who do not share their liberal, political beliefs.

The CEO of the Global Disinformation Index even admitted that this list has, quote, "significant impact on the advertising revenue," unquote, on the companies, showing that they are knowingly attempting to destroy livelihoods of those with which they disagree.

Meanwhile, the Global Disinformation Index scores NPR as one of the least risky outlets, citing as quote, "neutral, fact-based content." Contradicting GDI's rating, an NPR staffer who worked there for 25 years wrote about his experiences at NPR, and highlighted the level of bias that GDI failed to recognize. This article said that when stories NPR labeled as disinformation turned out to be credible, such as the legitimacy of the Hunter Biden laptop

and the COVID-19 lab leak theory, that NPR quote, “pretended it never happened and performed no self-reflection.”

Mr. Chairman, I ask for unanimous consent to enter the full article into the record.

Chairman WILLIAMS. No objection.

Ms. VAN DUYNE. The Biden administration has pledged to be the most transparent administration in history. But instead, we found that they have been stonewalling our requests time and time again because they know exactly what they are doing, and they are using improper use of taxpayer funds, if not completely unethical and illegal.

We will continue to expose this administration’s extremist agenda and their lawless acts as we work to provide accountability for American small businesses.

I was stunned, Ms. Franks, that you had to say that, Oh, they haven’t been imprisoned. Is that now the bar that we are setting? So we are fine bankrupting these businesses, we are fine black-listing them, we are fine shutting them down, and silencing their voice, but at least they are not being imprisoned yet.

Ms. FRANKS. Sorry, was that a question for me?

Ms. VAN DUYNE. No, it is not a question. I am just flabbergasted at your statement.

Ms. FRANKS. I misunderstood—

Ms. VAN DUYNE. Mr. Weingarten, do you think the Global Disinformation Index is a fair assessment?

Mr. WEINGARTEN. I don’t, but even if it was, the government shouldn’t be funding it.

Ms. VAN DUYNE. So given that opinions are often difficult to separate from fact and that facts evolve over time, would it even be possible to assess the accuracy of a media outlet in a truly objective fashion?

Mr. WEINGARTEN. It is an inherently subjective exercise—as outlets put out news and views that are varying. And to have some sort of “ministry of truth,” or “ministries of truth” out there with the government’s blessing is incredibly chilling.

Ms. VAN DUYNE. So why is it an issue that the federal government is funding supposed fact-checking organizations?

Mr. WEINGARTEN. Because effectively, this amounts to abridging of speech by proxy. Even if you couldn’t draw a straight line from a government official saying “Take down X, Y, Z speech,” the government is effectively giving its blessing through its funding to these entities, which exist to put out of business, some entities, and also, by the way, effectively provide a subsidy to the protected whitelisted publications as well.

So it is a dual-edged sword. It is picking winners and losers de facto with government funding.

Ms. VAN DUYNE. But it is picking winners and losers based on what?

Mr. WEINGARTEN. Well, it seems clear when you look at the breakdowns of how the scores come out based upon ideology. Viewpoint—diversity is antithetical it seems to these entities.

Ms. VAN DUYNE. So Ms. Franks said that typically what happens is it benefits conservative news outlets. Has that been your experience? Is that what you have seen?

Mr. WEINGARTEN. We have seen ratings to suggest—NewsGuard’s ratings reviewed—large samples of both right-leaning and left-leaning publications, and it comes out that the left-leaning publications rank substantially higher, 25-plus points higher on NewsGuard’s 100-point scale than right-leaning publications.

Ms. VAN DUYNE. Can you give any examples of right-wing publications that they have disparaged?

Mr. WEINGARTEN. Well, they cast, I guess, RealClearPolitics and RealClearInvestigations, as having an undisclosed conservative bias. But, of course, this includes the Federalist, I think probably well The Daily Wire, Townhall, I believe, a slew of other so-called right-wing leaning entities as well.

Ms. VAN DUYNE. Excellent. Thank you, and I yield.

Chairman WILLIAMS. The gentlelady yields back. Now I recognize Representative Crane from the great State of Arizona for 5 minutes.

Mr. CRANE. Thank you, Mr. Chairman. I appreciate the hearing today.

I want to start with you, Ms. Franks. I believe you said the government has the right to participate in expressing its viewpoint. Is that what you said?

Ms. FRANKS. Yes.

Mr. CRANE. I don’t—respectfully, Ms. Franks, I don’t think that is what we are really talking about here today. We are not talking about the government expressing its viewpoints. What we are really talking about is when the government pays and uses taxpayer dollars to fund these entities that we are talking about here today that actually discredit some of these news sites, and drives away their advertisers. Do you think that is fair as well?

Ms. FRANKS. What is fair is for the government to be able to fund projects and organizations that do certain things with those funds that may include competing in the marketplace of ideas, and they may be winning in the marketplace of ideas. But the government is not making those choices. And when certain news outlets lose in the marketplace of ideas, they may want to blame the government for that, but maybe they are just losers.

Mr. CRANE. So—okay. Ms. Franks, do you think—

Ms. FRANKS. It is actually Dr. Franks.

Mr. CRANE. Okay. Dr. Franks, sorry. Ms. Younes here said that when she was looking at these entities and the organizations that they have blacklisted, every single one of them was a conservative-leaning organization. Do you think that is fair as well? Is that okay, Dr. Franks?

Ms. FRANKS. You used a different name, so I wasn’t sure you were talking to me.

Mr. CRANE. Yeah, I am still talking to you. I am still looking at you. I am still talking to you.

Ms. FRANKS. Would you repeat the question for me.

Mr. CRANE. Yeah. You seem to have a problem paying attention to the questions being asked of you today. I will repeat it for you again. Do you think that it is okay that these entities that are blacklisting companies, all of the companies on the list that are blacklisted are conservative outlets?

Ms. FRANKS. Do I think that it is okay for a company, for a nonprofit organization to develop tools that offer rankings? In other words, offer speech of criticism, critical speech about certain businesses? Yes, I think that is okay, because that is protected First Amendment activity.

Mr. CRANE. So you think it is okay for the federal government to be using our tax dollars to basically, through a proxy, blacklist one side of the aisle? You think that is okay?

Ms. FRANKS. I do not, because that is not what is happening.

Mr. CRANE. Really? How so?

Ms. FRANKS. Yes. Because—

Mr. CRANE. Then why are all the companies on the list, the blacklist, conservative groups?

Ms. FRANKS. I think that is something the conservatives would need to answer.

Mr. CRANE. No. I think that is something you need to answer.

Ms. FRANKS. I am not working with any of these companies.

Mr. CRANE. Because we are talking about censorship here and there is only one group of people being censored.

Ms. FRANKS. No one is being censored according to—

Mr. CRANE. Ms. Younes here admitted she is not even a Republican. She leans left. Yet she is telling us that all of the companies on the blacklist are conservative groups. How do you square that, Doctor?

Ms. FRANKS. I don't have to square that, because, as I said, the focus here—

Mr. CRANE. I know, because you don't have to make any sense, do you?

Ms. FRANKS. May I answer the question?

Mr. CRANE. Yeah, go ahead.

Ms. FRANKS. The First Amendment has certain principles and certain rules. People may not like them. People may disagree with them. People may not like the fact that someone out there may say conservatives are all bad or liberals are all bad. The correct response to not liking that is to engage in your own speech, as is often happening here. It is not to say, Oh, this is censorship, we are being silenced. It is simply to say we disagree with what is being said here. Try to compete, and if you are good enough, maybe you will win.

Mr. CRANE. Ms. Younes, what do you have to say about what Dr. Franks just said?

Ms. YOUNES. I want to be clear that this wasn't just about NewsGuard and GDI. The government was funding hundreds, at least 300 tools and technologies that were designed to censor speech. Some of them weren't even pretending to censor foreign disinformation, quote, unquote, "Disinformation." Of course, that is a subjective term. They were hosting COVID disinformation challenges where they were giving grants to companies who showed that they were the best at censoring COVID disinformation. COVID is not really a national security or foreign topic, even if it has some tinges of that.

So this was about the government using its authority—the government can't use its authority, can't use its power, and can't use its money in order to censor views it doesn't like. It is the govern-

ment. Yes, it has a right to censor—sorry, to express its own views, but not to use those views to censor. That is where it stops. And the Court expressly said that in *Vullo* recently actually.

Mr. CRANE. Mr. Weingarten, I am going to allow you to comment on this exchange.

Mr. WEINGARTEN. I would just say briefly we have heard a robust defense of the government's purported right to speak, which is we have established, really looks like a right to censor, and the censor is portrayed as the victims here. But Americans' speech, en masse, has been censored by this Censorship-Industrial Complex on a slew of issues that expressly reflect protected political speech, and if a stop isn't put to it, we are going to lose this right in toto.

Mr. CRANE. Thank you.

Mr. Chairman, I yield back.

Chairman WILLIAMS. Gentleman yields back. I now recognize Representative Bean from the great State of Florida for 5 minutes.

Mr. BEAN. Thank you very much, Mr. Chairman. Good morning to you, and good morning, Small Business Committee. For 237 years, our nation has been the beacon, the shining example of freedom around the world. Other nations look to us with envy. The cornerstone of that freedom is our First Amendment freedom of the—freedom of the press, freedom of speech, what is one of the many things that separates America from the rest of the world. Hopefully, America is watching.

America, are you watching? Because thanks to the congressional investigations by the Judiciary Committee, we now know the Biden administration has been undermining freedom of the press and freedom of the speech almost since they took office.

Here is how they do it. Here is the recipe to undermine Americans' right to know. They push big tech to change their terms of service, to fit the administration's agenda. One such company was Amazon. We have got the smoking gun evidence right here. On March 12th, 2021, Biden at the White House emailed Amazon's vice president of public policy about the high levels of propaganda and misinformation and disinformation at Amazon.

They continued to pressure Amazon to give warnings about anybody questioning the COVID vaccines, but that was not enough. They continued to press them on taking these books out of reach, or even just making them disappear. Thousands of books about the vaccine were disappeared overnight.

Still not enough. They continued to press them. We have got the memos. They continued to press Amazon to put something called "do not promote" designation under the table at Amazon, and then another 43 books that questioned the vaccine just disappeared.

If you are going to sell anything, America looks to Amazon as it is the largest bookstore in our nation, and it has a drastic effect on getting the word out.

So I will start with Ms. Sheffield. How important is it that an author to have access to sell books on Amazon? Is that a big deal?

Ms. SHEFFIELD. It is huge. It is the largest book seller, and as I mentioned in my opening remarks, the FTC under Lina Khan, the Biden administration has sought to basically suppress authors from being allowed to offer their books at the lowest price, and it is an Orwellian attempt to destroy what is known as the consumer

welfare standard, and the consumer welfare standard has been the bedrock of competition in this country for decades, and it is truly troubling that Lina Khan believes that she can be a rogue actor, and she keeps getting swatted down in the courts repeatedly. That is the only silver lining of her actions.

Mr. BEAN. So it is a big deal is your answer. It is a big deal and it stifles free speech. It does stifle free speech. Do you find it ironic that the Biden administration pointed the finger at States like my State, the free State of Florida, for removing porn, pornographic materials from elementary schools, yet they actually went to Amazon to have these books secretly removed? Do you find honor—irony in that, Ms. Sheffield?

Ms. SHEFFIELD. Oh, absolutely. I mean, it—but it is also not surprising from this administration that we see over and over the overreach of government to suppress speech. It is interesting this Congressman—

Mr. BEAN. Let's just do this, because I have got more questions to get to. Let the record reflect the witness says yes, it is very ironic.

Here is how they did it, too. America, are you still listening? Because they used something called NewsGuard and then they get to pick and choose what sources, what news. If you like them, they'll promote you, and if they don't like you through NewsGuard, then they can bankrupt you, they can label you disinformation, and it is shocking. It should be shocking to you, America.

But how about this? It also concerns me the NewsGuard is partnered with the American Federation of Teachers, the largest teachers' union, 1.7 million teachers now have NewsGuard in their classrooms where their news is chosen for them. It means that students using NewsGuard are told generally conservative outlets cannot be trusted, yet they should put their faith in organizations, legacy media, like The New York Times. We don't—we know about The New York Times. It doesn't have—there is a bias. We all know there is a bias.

Our students are indoctrinated not to trust outlets based on NewsGuard's partisan ratings, and if you don't get the good ratings, then you are not trusted and no one wants to advertise or go there.

So Mr. Weingarten, does it worry you that students are being told that outlets such as RealClear and other media outlets cannot be trusted? Does that bother you?

Mr. WEINGARTEN. It is troublesome, and particularly given that media literacy education is starting to be mandated in a lot of States, which is going to mean you are going to have to get your news content from NewsGuard raters.

Mr. BEAN. I will take it as a yes.

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

Chairman WILLIAMS. Gentleman yields back. I now Representative Maloy from the great State of Utah for 5 minutes.

Ms. MALOY. First of all, I just want to thank the witnesses for being here, and I apologize I have had to be in and out a couple of times. I testified in front of a committee once and I spent a lot of time preparing, and the Members came in and out and I found that kind of irritating, so I apologize, but that has been me today.

I think I am going last, right, Mr. Chair? One more. Okay. So I don't have to——

Chairman WILLIAMS. Do you want to go last?

Ms. MALOY. No. I am good. I just wanted to know if I need to wrap it up or if I can build. Okay.

I feel like I talk about the same things a lot in this committee, but what we are here talking about isn't necessarily what the First Amendment says, but what the proper roles of government agencies are. And this is the Small Business Committee, and the reason we are talking about it here and not in Oversight or Judiciary right now is because we have got government entities that are acting outside of their proper role, and it is having a negative impact on main street businesses in the United States of America, and that is something I think we should all find troubling, no matter where you fall on the political spectrum.

And so, I do have questions, but I want to be clear when I start asking questions that that is where I am coming from. That is what we are talking about here, is what role the government should be playing in picking winners and losers in the free market.

So Mr. Weingarten, I want to start with you, because you talked about something that I want to give you a little bit more time to follow up on. So we are talking about foreign facing—foreign facing agencies—easy for me to say—that are supposed to be giving ratings to disinformation coming from other nations, correct?

Mr. WEINGARTEN. That is correct.

Ms. MALOY. And now they are using those authorities to do what?

Mr. WEINGARTEN. They are using those authorities effectively to attempt to cripple the business models of disfavored media companies, U.S.-based media companies included.

Ms. MALOY. So we are not really talking about government speech and what is and isn't allowed. We are talking about these specific agencies have authorities and they are acting outside of those authorities. Am I understanding that correctly?

Mr. WEINGARTEN. That is how I see it—and not to speak, but to suppress others' speech.

Ms. MALOY. Yeah. And it is not just about saying what somebody can or can't say, but they give a rating, and based on that rating, somebody may or may not be able to get sponsors.

Mr. WEINGARTEN. That is correct.

Ms. MALOY. So as a politician, I know how hard it is to get your message out in front of people, and as a Member of Congress, I kind of have a naturally built-in platform. In fact, I am using it right now. But for a main street business, if they get a negative rating because of their conservative views, that can have a real impact on their ability to get their product in front of customers, not necessarily a government program or government policy, but we are talking about main street businesses struggling to get their products in front of people because they hold a view that is unpopular with the government agency. Am I off base here?

Mr. WEINGARTEN. No. That is correct.

Ms. MALOY. Okay. So I am most of the way through my time. I just want to, before I am done, give each of you three a chance.

Is there anything you wanted to say today that no one's asked you the right question to get you to say?

Ms. YOUNES. The First Amendment says that the government shall not abridge the freedom of speech, abridge. So the government should not be using its power to censor ideas, whether it is through coercion, collusion, any of those means. I think that is the most important principle that I want to put forth.

Ms. MALOY. I agree. That is also how they taught it in my law school.

Mr. WEINGARTEN. It is notable that in the opinion that came down today, there is a footnote in the majority's opinion which says "Because we do not reach the merits, we express no view as to whether the Fifth Circuit correctly articulated the standard for when the Government transforms private conduct into State action." So it is not a ruling on the merits, but the Court's silence on the merits I think speaks to the imperative for legislative action to be taken, because the courts are not necessarily going to provide a panacea on this issue.

Ms. MALOY. Yeah.

Ms. Sheffield.

Ms. SHEFFIELD. Yes. Being from Utah, great to connect with you. My ancestors helped found Salt Lake City.

Ms. MALOY. Wonderful.

Ms. SHEFFIELD. So I mentioned earlier in my remarks about the I think staggering ratio of eight-to-one when we are talking about State Department employees donating to Democrats by an eight-to-one margin versus Republicans. To me, this begs the question to what extent is the unelected bureaucracy of the politburo of the State Department and other government agencies, to what extent do these unelected bureaucrats shape what happens in terms of these funds and government taxpayer money for projects like the University of Cambridge Social Decision Making lab, the Moonshot CVE, the Atlantic Council Digital Forensic's research lab, who elected these bureaucrats at the State Department and other agencies to take my tax dollars, your tax dollars, the people—my cousins and uncles in Utah, their tax dollars to fund these suppressive activities? I think—

Ms. MALOY. I don't know if you are allowed to question me, but the answer is nobody. And I am going to just cut you off so I can use the rest of my time to point out, since you brought up Salt Lake City, it was settled by people who were running from the government telling them they couldn't exercise their First Amendment rights, so this isn't the first time this has happened. It is important, and having this hearing is bedrock important to what we do as Americans.

And with that, Mr. Chairman, I yield back.

Chairman WILLIAMS. Lady yields back. I now recognize Representative Alford from the great State of Missouri for 5 minutes.

Mr. ALFORD. Thank you, Chair, and thank you for holding this all-important meeting, and thank you, Ranking Member Velázquez, as well. The First Amendment is at the heart of what makes this country great. The right, the freedom of speech, the prohibition on government infringement, is what separates our country from the rest of the world.

However, the Biden administration does not agree with this. This administration has been using the power of the executive branch to infringe upon America's right to freedom of speech. While the First Amendment prevents direct government intervention, the administration has found a back door by finding and supporting so called disinformation organizations. There have been more than 500 U.S. federal government contracts or grants awarded on disinformation since 2020. This funding has been used to build a network of government-backed nonprofits, so called fact-checkers, organizations of foundations to push the left-wing narrative by declaring anything right of the New York Times is disinformation. They have been successful in doing this.

As revealed in an email from a Meta executive to Mark Zuckerberg, quote, We are facing continued pressure from external stakeholders, including the White House, to remove more COVID-19 vaccine discouragement content.

If the federal government is successful in moving companies as large as Meta with a market cap well over \$1 trillion, what can they do to small businesses?

I was in the news business for 35 years. My goal was to tell the truth. When we have organizations like this that are coming in and telling us what the truth is and limiting the truth from getting out, we are in a big world of hurt when it comes to the First Amendment.

Ms. Younes, one of the most disturbing aspects of government-backed censorship was the State Department's support of the Global Disinformation Index, or GDI. The GDI's mission is to catalyze industry and government to defund disinformation. Can you please explain the legal basis upon which your clients brought the case against the State Department and its Global Engagement Center.

Ms. YOUNES. There are three main claims. First of all, it is a First Amendment violation because by funding and working with the Global Disinformation Index, which is effectively blacklisting conservative news sites or disfavored news sites, the government is interfering in the marketplace of ideas, and effectively censoring our clients. There is—it has to go through a couple of levels. You have to—it is not direct. It is through these mechanisms. And that is what makes it kind of insidious and has been allowing them to get away with it.

It is also a problem because the GEC is supposed to be fighting—their mandate is to fight foreign disinformation. They operate under the State Department, which is about foreign affairs. They are not supposed to be dealing with domestic speech and they don't even pretend.

For instance, there was a presentation which you can look at online in which the GEC's technology and engagement representative Alexis Frisbie said that they were having conversations to ensure there is discussion occurring, so I think you know those are in terms of interaction. That is talking about it at domestic level. They are not even pretending this is about foreign disinformation anymore.

Mr. ALFORD. Mr. Weingarten, NewsGuard is another left-wing organization supposedly ranking disinformation in the news. Let me tell you, just because you have news in your title doesn't mean

you are a news organization, or you are fit to call what are balls and strikes in the news business. We have dealt with them on the Armed Services Committee. We are getting them out of the business of regulating speech for the DOD. It doesn't only decide which source of media are or not disinformation. They also have partnered with the largest teachers' union in the world to teach students about disinformation. What does NewsGuard's partnership with the American Federation of Teachers, a top donor to President Biden, mean for center right news?

Mr. WEINGARTEN. I think it means that the American children are going to get a left-wing or left-wing-oriented diet of news content going forward to the extent the relationship persists, and what is called media literacy education increasingly gets mandated in States across the country.

Mr. ALFORD. How much of a danger are organizations like NewsGuard to the foundations and principles of America?

Mr. WEINGARTEN. I think they pose an existential threat. It would be illiberal for them to exist even if they weren't government funded, but the government funding makes it particularly chilling and disturbing.

Mr. ALFORD. This is a very, very disturbing issue that we are dealing with in all realms of government right now in the committees on which we serve. This is of utmost importance, because if you cannot get information that is unfiltered and the truth to people, we are going to be brainwashed into a liberal woke, broke, ideal of what America truly is.

Thank you, and I yield back.

Chairman WILLIAMS. Gentleman yields back, and I would like to thank our witnesses today for their testimony and for appearing before us today. We had some good testimony. Without objection, Members have 5 legislative days to submit additional materials and written questions of the witnesses to the Chair, which will be forwarded to the witnesses, so I ask the witnesses to please respond promptly if that happens. If there is no further opinions, without objection, the committee is adjourned.

[Whereupon, at 12:05 p.m., the committee was adjourned.]

APPENDIX

Over the past several years, lawyers, investigative journalists, and individual Americans have uncovered a vast federal censorship enterprise that targets Americans' speech on social media. In the words of a White House staffer named Rob Flaherty, this enterprise stems from "the highest" levels of the White House and involves the efforts of at least a dozen federal agencies, if not more. Government officials, including President Biden himself, have attempted to portray these efforts as laudable attempts to fight "misinformation," "disinformation," and "malinformation" on social media. Of course, what constitutes misinformation, disinformation, and malinformation are determinations made by the censors, and the terms are often used to describe information that conflicts with the political agenda of those in power.

Government actors have used threats, coercion, pressure and influence on private social media companies to accomplish their censorious aims; that conduct is the subject of a case that is now under consideration in the Supreme Court, *Murthy v. Missouri*. In other cases, the government has outsourced censorship programs to private industry in attempts to circumvent First Amendment strictures. That is the issue at hand today.

The State Department, through its Global Engagement Center (GEC), has funded the development, marketing, and promotion of hundreds of tools and technologies designed to combat "misinformation" and "disinformation" online. Two of these entities, Newsguard and the Global Disinformation Index, operate by rating news outlets as reliable or unreliable. They then distribute their ratings lists to advertisers and social media companies with the purpose of depriving our clients and other disfavored media outlets of revenue and visibility, thereby diminishing their reach on social media and elsewhere. Our clients, Daily Wire and the Federalist, were severely impacted, along with hundreds of other small, independent, and conservative-leaning news outlets and journalists.

Why is this a problem?

First Congress created GEC within the State Department to counter foreign “propaganda and disinformation efforts aimed at undermining United States national security interests.” The statute contains the following spending limitation: “None of the funds authorized to be appropriated or otherwise made available to carry out this section shall be used for purposes other than countering foreign propaganda and misinformation that threatens United States national security.” *See* National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, Section 1287, 130 Stat. at 2458 (2016). Yet GEC is intricately involved in the development of technologies that are intended to—and do—result in the suppression of *American* speech. This use of funds to stifle domestic speech constitutes an unlawful misappropriation of funds. GEC’s censorship program also constitutes *ultra vires* action, because GEC’s mandate is to counter *foreign* propaganda that seeks to undermine United States national security interests, not domestic speech—whether deemed true or false by government actors—that the current Administration or agency head perceives as a threat to a certain political agenda.

In a particularly outrageous example, during the spring of 2020, GEC sponsored a Covid “misinformation and disinformation” tech challenge. The winners were Newsguard and two other companies called Peak Metrics and Omelas. The State Department paid \$25,000 in prizes via its alter-ego, known as Disinfo Cloud, through which it channeled its unconstitutional activities.

This challenge did not even purport to be about targeting foreign mis- or disinformation that threatened United States national security. It was about covid, a matter of domestic concern, and the technology targeted American speech. It’s also worth noting that Covid is a topic on which our government has been wrong time and again—whether with respect to the efficacy of masks, the ability of the vaccines to stop transmission, the harms of school closures to children, and the

origins of the coronavirus. The government's blatant fallibility illustrates the reason the Framers eschewed a system putting government in charge of policing speech and deciding which views may be heard and which are to be silenced. It also goes to show that GEC has strayed far from its congressionally mandated mission into censoring protected speech of Americans.

This brings me to the second reason the facts of this case show that the State Department is in violation of the United States Constitution. Even if Congress wanted to, it could not constitutionally give GEC the authority to fund, market, and promote companies like Newsguard and GEC because this activity violates the First Amendment. As Supreme Court jurisprudence makes clear, the government cannot use private industry to accomplish what our Constitution prohibits it from doing directly. In a case called *Norwood v. Harrison*, 413 U.S. 455 (1973) from the civil rights era, the Court said it is "axiomatic" that the Government may not "induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish." This principle is a logical imperative, for if the government could simply outsource constitutionally forbidden conduct to private industry, there would be no purpose in having a Constitution.

Another indication that this program is not, and never was, about protecting Americans' national security interests is that companies such as Newsguard and GDI targeted primarily, if not exclusively, conservative speech, which should strike any fair-minded person as suspect. This is viewpoint discrimination, and it is anathema to the First Amendment, which does not tolerate the government silencing the views of political adversaries.

I am not a political conservative or a Republican. I would describe myself as independent and left-leaning on many matters, especially foreign policy and social issues. I disagree with much of the speech that has been the subject of GEC's censorship program. But I recognize that it is extremely

dangerous to put government in charge of deciding who and what should be heard and who and what should be silenced. Indeed, that's precisely what the Framers of the Constitution eschewed when they included the First Amendment in the Bill of Rights. They understood that government actors are just people too, and in no better a position than I or any American to decide what is true and what is false. The First Amendment implicitly recognizes our dignity as individuals: we are not inferior beings who need to be told who or what to believe by a monarch. We are capable of evaluating competing claims in light of our individual experiences and perspectives and forming our own opinions.

Some say that the plethora of information that social media allows to be put forth at a rapid pace requires governmental interference, once again to protect people from bad or false ideas. But social media doesn't change the fundamental premise underpinning the First Amendment: the best way to address problematic or false ideas is through counter speech, *not* censorship. Censorship does not make bad ideas or lies go away. It only drives them underground where they fester, uncontested. As the saying goes, sunlight is the best disinfectant. And the rapidity with which information may be posted on social media also means that lies, hate speech, or other problematic speech can be combatted that much more quickly.

Those who think there is nothing wrong with the government's censorship regimes as exposed through this case, as well as *Murthy v. Missouri*, should think long and hard about what this will mean when power changes hands. Do you want President Trump's administration funding tools and technologies designed to censor speech *he* disfavors? It is time that all Americans recognized the danger we face not from misinformation, disinformation, or malinformation, but from our government deeming itself arbiter of the truth, and inserting itself into the marketplace of ideas so to silence those that it disfavors.

**“Under the Microscope: Examining the Censorship-Industrial Complex and its Impact on
American Small Businesses”**

**Committee on Small Business
United States House of Representatives**

June 26, 2024

Statement for the Record

**Benjamin Weingarten
Investigative Journalist, RealClearInvestigations
Columnist, RealClearPolitics**

I. Introduction

Chairman Williams, Ranking Member Velázquez, and members of the Committee, thank you for the opportunity to testify.¹

Free speech and a free press are bedrock features of our republic.

Yet today, these fundamental freedoms are under threat from self-styled defenders of democracy.

With the dawn of the Censorship-Industrial Complex, our nation's power centers have increasingly succumbed to the illiberal temptation to silence their critics by casting dissent from establishment orthodoxy as dangerous "mis-, dis-, and mal-information" that must be quashed.

Overwhelming evidence^{2,3,4,5,6} indicates a veritable alphabet soup of like-minded federal agencies, think-tanks, NGOs, academic institutions, "fact-checkers,"⁷ and for-profits have cajoled, coerced, and colluded, most notably with social media companies,⁸ to identify and purge unauthorized opinions and even inconvenient facts and stories on disputed matters of public policy and political interest – across the digital public square and at mass scale.

By demoting, deplatforming, and demonetizing not only content, or users, but entire media outlets, this censorship regime has deprived Americans of our ability to both speak and listen at breathtaking scale. The chill to this speech policing no doubt contributes to additional self-censorship. Considered together, it is incalculable just how much speech has gone silenced, on what topics, and to what end.

The Censorship-Industrial Complex may be animated by a paternalistic view that authorities know best. Or it could be fueled by a more cynical desire among authorities to suppress opposing news and views to perpetuate their power.⁹ Just consider a simple thought experiment: Would the complex have arisen had Americans not elected Donald Trump?

Regardless, it seems clear that neither the motives, means, nor ends of this censorship regime comport with genuine democratic principles.

¹ While appearing today as an investigative journalist at RealClearInvestigations, and columnist at RealClearPolitics – and to provide relevant testimony connected with the Censorship-Industrial Complex's impact on RealClear Media Group, under which these verticals sit – all opinions are my own and do not necessarily reflect those of these or any other media outlets with which I am affiliated.

² https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.214.1_1.pdf.

³ <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/Biden-WH-Censorship-Report-final.pdf>.

⁴ <https://weingarten.substack.com/p/full-testimony-dhs-and-cisas-pivotal>.

⁵ <https://twitterfiles.substack.com/archive>.

⁶ https://www.realclearinvestigations.com/articles/2023/11/06/documents_shed_new_light_on_feds_collusion_with_private_actors_to_police_speech_on_social_media_990672.html.

⁷ <https://www.tabletmag.com/sections/news/articles/invasion-fact-checkers>.

⁸ https://www.racket.news/p/report-on-the-censorship-industrial-74b?utm_campaign=post&utm_medium=web.

⁹ <https://docemetproductions.com/americas-disinformation-dystopia/>.

Alarming, absent a sea change in public policy and cultural orientation, this regime will likely only grow more sophisticated and pervasive as technology advances, and stealthy as scrutiny intensifies – to the further detriment of our republic.

It would be disturbing enough if civil society alone was driving the Orwellian phenomenon of mass speech-policing. But as noted, the federal government has played an integral part in creating and growing the Censorship-Industrial Complex. In so doing, it has violated the spirit if not the letter of the First Amendment.

This Committee's inquiries have touched on a symbolically and substantively significant aspect of government-sponsored censorship: Federal funding, direct and indirect, to the tune of several million dollars, of entities that, as this Committee has put it, "interfere with the ability of American small businesses to compete online because of their speech."¹⁰

NewsGuard and the Global Disinformation Index (GDI) are two such recipients of government largesse via the State Department's Global Engagement Center (GEC), under arrangements this Committee is rightly scrutinizing.¹¹

I offer my testimony today in furtherance of your vital oversight efforts.

II. GEC's Facially Dubious Support of NewsGuard and the Global Disinformation Index

Before discussing the experience that outlets with which I am affiliated, *RealClearPolitics* and *RealClearInvestigations*, have had with NewsGuard and GDI, it is worth stressing just how untoward the relevant relationships this Committee is probing are on their face.

GEC's stated mission is to lead U.S. government efforts to counter "foreign state and non-state propaganda and disinformation efforts..."¹² [Emphasis mine]

NewsGuard, a U.S.-based for-profit, rates and reviews the "reliability" of the thousands of sources foreign *and domestic* responsible for generating "95+% of online engagement with news."¹³ The company's purpose is to "empower...brands, advertising agencies" and other clients to "systematically defund sources of harmful misinformation," in the words of its co-CEO Gordon Crovitz.¹⁴ NewsGuard does so by providing licensees with "exclusion lists" – that is, blacklists – of "unreliable" sites for use in directing their ad agencies and ad-tech partners as to where *not* to place ads, thereby starving shunned sites of ad revenue.¹⁵

Less directly, NewsGuard may "defund sources" by reducing traffic to them. Users of browsers equipped with the raters' extension will see numerical ratings displayed prominently alongside websites when searched. When one hovers over a site's score, NewsGuard's subjective description of the site, as well as a message for a particularly low scorer like "Proceed with

¹⁰ https://smallbusiness.house.gov/uploadedfiles/05.16.2024_-_letter_5_to_global_engagement_center_-_public.pdf.

¹¹ https://smallbusiness.house.gov/uploadedfiles/06.13.24_subpoena_to_state.pdf.

¹² <https://www.state.gov/bureaus-offices/under-secretary-for-public-diplomacy-and-public-affairs/global-engagement-center/>.

¹³ <https://www.newsguardtech.com/solutions/newsguard/>.

¹⁴ <https://www.newsguardtech.com/press/newsguard-expands-service-to-australia-new-zealand/>.

¹⁵ <https://www.newsguardtech.com/special-reports/brands-send-billions-to-misinformation-websites-newsguard-comscore-report/>.

Maximum Caution” appears as part of a detailed “Nutrition Label.” This creates something of a “scarlet letter” effect for sites deemed unhealthy by the company.

GDI, a UK-based non-profit,¹⁶ likewise seeks to “reduce disinformation” by “remov[ing] the financial incentive to create it” – namely, ad revenue – through providing a “dynamic exclusion list” to ad tech companies and others.¹⁷ Its blacklist consists of at least 2,000 “risky” global news publications, similarly including American ones. The purported “risk” GDI aims to help ad companies mitigate is that their clients’ brands might surface on sites that traffic in “disinformation,” subjecting them to boycotts and other harms.¹⁸ According to its CEO Clare Melford, GDI’s work has “had a significant impact on the advertising revenue that has gone to those [risk-laden] sites.”¹⁹

In addition to funding these so-called “censorship-by-risk-rating” entities, GEC has also allegedly directly and/or indirectly marketed and/or promoted NewsGuard and GDI.^{20,21,22,23}

It would seem therefore that a foreign-facing U.S. government agency has supported entities – one of which is based overseas – whose mission is to put disfavored U.S. media outlets out of business.

Three questions immediately come to mind:

- Is our government not effectively conferring its imprimatur on some American businesses at the expense of others?
- Why is our government lavishing funds on entities that seek to destroy American businesses in the first place?
- And is it not an attack on the First Amendment by proxy for our government to lavish funds specifically on entities that seek to destroy American *media* businesses?

¹⁶ GDI operates via registered charities in the U.S. and Europe and a limited company in the United Kingdom.

¹⁷ <https://www.disinformationindex.org/product/>.

¹⁸ For more on the “brand safety” industry, of which NewsGuard and GDI can be seen as a part, see for example: https://www.realclearinvestigations.com/articles/2021/05/13/the_high-pressure_business_of_selling_woke_corporate_armor_776879.html and <https://nypost.com/2023/11/22/opinion/elon-musk-exposes-media-matters-as-an-ideological-shakedown-operation/>.

¹⁹ <https://www.washingtonexaminer.com/news/2749593/disinformation-inc-meet-the-groups-hauling-in-cash-to-secretly-blacklist-conservative-news/>.

²⁰ <https://dw-wp-production.imgix.net/2023/12/DailyWire-v-State-final.pdf>.

²¹ <https://thefederalist.com/2023/04/11/government-is-marketing-censorship-tools-to-big-tech-to-gag-conservatives/>.

²² <https://thefederalist.com/2023/04/19/meet-the-shadowy-group-that-ran-the-federal-governments-censorship-scheme/>.

²³ There is a pattern of government funding, coordinating with, and/or promoting third parties to engage in, or support the activities of additional parties engaged in abridging Americans’ protected speech – using them as “cutouts.” See for example: https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/EIP_Jira-Ticket-Staff-Report-11-7-23-Clean.pdf. GEC was a “stakeholder” in the Election Integrity Partnership (EIP) – a putatively private consortium created in conjunction with and fostered by the Cybersecurity and Infrastructure Security Agency (CISA), a Department of Homeland Security sub-agency. EIP surveilled and flagged Americans’ protected political speech to social media platforms for suppression, most notably during the 2020 election. See also: https://www.realclearinvestigations.com/articles/2023/11/06/documents_shed_new_light_on_feds_collusio_n_with_private_actors_to_police_speech_on_social_media_990672.html.

III. NewsGuard and GDI's Detrimental Impact on Small Media Businesses

*RealClear's*²⁴ experience with these entities may help inform the Committee's oversight efforts.

RealClearPolitics (*RCP*) is a fiercely independent media outlet dedicated to viewpoint diversity.

Each day the site's editors curate what they believe to be the most insightful commentary from the left and right and across a wide variety of sources on key issues, pairing the links sequentially so readers can weigh each perspective.

This is consistent with *RCP*'s mission to "facilitate meaningful discourse on governance, campaigns, elections, and public policy."

The site's original reporting similarly aims to "present balanced, non-partisan analysis that empowers our readers to stay informed."²⁵

Consequently, media bias ratings site AllSides positions *RCP* in the ideological center, alongside outlets such as *Reuters*, *The Hill*, and the *Wall Street Journal*.²⁶

Despite our reputation for fairness and quality journalism, NewsGuard rates our site at 62 out of 100 – 100 being the highest possible rating – deeming us "Credible with Exceptions." It claims *RCP* has an "undisclosed" conservative bent, among other deficiencies according to the standards and subjective assessments of NewsGuard's journalists, who grade a sampling of the work of other journalists to render judgment on entire media outlets.^{27,28}

NewsGuard itself, by contrast, might have a liberal bent – which may explain why it dings rather than rewards a site like ours that exposes the best of both sides and leaves it to Americans to decide who has the better of the relevant arguments. The "reliability" rater gives left or left-leaning outlets an average score of 91, in contrast with right or right-leaning outlets which grade out at 65, per one study.^{29,30,31}

²⁴ I refer to "RealClear" generally to encompass RealClearPolitics, RealClearInvestigations, and the other brands comprising RealClear Media Group.

²⁵ <https://www.realclearpolitics.com/about.html>.

²⁶ <https://www.allsides.com/media-bias/media-bias-chart>.

²⁷ <https://thefederalist.com/2023/03/14/why-newsguard-is-just-as-bad-as-the-pro-censorship-global-disinformation-index/>.

²⁸ <https://www.aier.org/article/who-fact-checks-the-fact-checkers-a-report-on-media-censorship/>.

²⁹ Bias ratings provided by AllSides.

³⁰ <https://www.newsbusters.org/blogs/free-speech/joseph-vazquez/2023/12/12/mrc-exposes-newsguard-leftist-bias-third-year-row>.

³¹ NewsGuard has pointed to instances of right-leaning publications outscoring left-leaning publications to blunt claims of ideological bias, and more broadly defended the integrity of its practices. See for example: <https://www.foxnews.com/politics/house-gop-launches-investigation-federally-funded-news-ratings-groups-impact-free-speech> and <https://www.washingtonexaminer.com/opinion/1777030/only-transparent-apolitical-ratings-for-news-publishers-can-be-trusted/>. Its co-founders have been affiliated with outlets and organizations that span the ideological spectrum, and its advisors include those who have served in Democrat and Republican administrations. One might argue however that there is bipartisan opposition to dissident viewpoints across the political establishment from which many of NewsGuard's advisors hail – and especially among those in the national security space, which has been a key driving force behind the rise of the Censorship-Industrial Complex. Perhaps even more salient, a cursory glance at the listed biographies of NewsGuard's editorial staffers, including those responsible for reviewing and rating media outlets, suggests few if any have worked for publications that might be characterized as "right" or "right-

Perhaps we shouldn't be too upset. Applying NewsGuard's criteria for "credibility" and "transparency" to "The Federalist Papers," the Capital Research Center recently assessed that even the Founders would only score an 82.5.³²

Yet Hamilton, Madison, and Jay too fail to measure up to those who have attained perfect NewsGuard ratings – some despite their work having been riddled with shortcomings. *NPR* receives a 100 notwithstanding recent revelations about its biases and other warts.^{33,34} So too does the *Washington Post*, peddler par excellence of the debunked Russian collusion story.³⁵ As does *Politico*, despite its integral role in discrediting the truthful Hunter Biden laptop story.^{36,37}

RealClearInvestigations (RCI), which likewise curates what our editors believe to be the most groundbreaking investigative journalism from across the web for readers, and publishes original investigations, achieves a NewsGuard score of 80.

Still, the company has taken *RCI* to task for example for our unmasking of the intelligence community whistleblower behind the first impeachment of President Trump. This was a story we proudly reported while lawmakers demanded silence and the rest of the media remained dutifully mum. Yet NewsGuard challenged our reportage, as revealed in email correspondence from 2019 that *RCI* publicized last year. When our editor, Tom Kuntz, pushed back to ask if NewsGuard had made similar inquiries of the major news organizations that seemingly unquestioningly reported dubious, obviously politically-driven, and likely illegal anonymous leaks from the intelligence community in prior years, NewsGuard did not respond.³⁸

Previously, when presented with NewsGuard's assessment that *RCI* advances "undisclosed conservative views," challenging our credibility, Kuntz replied "We're a 'hit 'em where they ain't' operation that doesn't want to compete with the other [investigative journalism] sites we link to. But our site doesn't have a viewpoint."³⁹

This can be seen in the ideologically diverse roster of journalists who publish original content at *RCI* – a fact that has apparently left NewsGuard unmoved. Lee Fang, who comes from a progressive background starkly in contrast to my own, is one such journalist. He reported for *RCI* that the *Daily Sceptic*, a publication that takes contrarian positions relative to establishment

leaning" – with a significant number coming from prominent "mainstream" publications and educated at elite journalism schools. Considering the seeming ideological monoculture prevailing in such institutions, as revealed on several occasions in tell-alls published by departing executives, one wonders if this impacts NewsGuard's ratings.

³² <https://capitalresearch.org/app/uploads/Capital-Research-2024-3.pdf#page=26>.

³³ <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2024/04/12/will-newsguard-demote-npr-perfect-rating-after-revelations>.

³⁴ https://www.grassley.senate.gov/imo/media/doc/grassley_to_dos_-_gdi_funding.pdf#page=2.

³⁵ https://www.realclearinvestigations.com/articles/2021/11/24/five-trump-russia-collusion-corrections-we-need-from-the-media-now-just-for-starters_804205.html.

³⁶ <https://www.newsbusters.org/blogs/free-speech/joseph-vazquez/2023/12/12/mrc-exposes-newsguard-leftist-bias-third-year-row>.

³⁷ <https://thefederalist.com/2022/03/18/left-wing-rating-agency-grades-media-that-botched-hunter-biden-story-with-100-percent-credibility/>.

³⁸ https://www.realclearinvestigations.com/articles/2023/11/15/verbatim_newsguards_inquisitiveness_and_realclearinvestigations_reply_992622.html.

³⁹ Email correspondence with NewsGuard from 2018.

orthodoxy on matters ranging from COVID-19 to climate, had had similarly fruitless exchanges with NewsGuard when challenging its ratings.⁴⁰ One back-and-forth with NewsGuard concerning its issues with articles questioning vaccine efficacy and the wisdom of lockdowns culminated in the rater calling for the outlet to retract said articles, despite the fact they reportedly lacked in any falsehoods. Ultimately, the site's score dramatically declined.⁴¹ Last November, *Daily Sceptic* editor Toby Young told the *Washington Times* that over the prior year its advertising revenue had declined to nearly zero, he believes "largely as a result of NewsGuard effectively blacklisting us."⁴²

Right-of-center online educational video purveyor *PragerU* has said its former video host dropped the nonprofit because of NewsGuard's low ratings.⁴³ *PragerU* has published its seemingly Kafkaesque communications with NewsGuard regarding issues with the companies' ratings.⁴⁴

Consortium News, which takes what might be considered left-wing foreign policy positions, claims NewsGuard has branded it as unreliable, if not treacherous, over a handful of pieces it published on the Russo-Ukrainian War dissenting from the U.S. national security establishment. In a pending suit against NewsGuard alleging it smeared the news organization pursuant to a contract it inked with the Pentagon concerning identifying purported Russian misinformation, the dissident site asserts that: "NewsGuard targets media groups, including *Consortium News*, as part of a business plan demanding that news organizations retract or 'correct' dissenting viewpoints under threat of a negative red flag and 'brand safety' warning label or face the defamation and stigmatization of their entire organization and output."⁴⁵

It bears noting that when NewsGuard comes to one's site with its criticisms, it does so with substantial reach, and formidable backers.

The reach can be seen not only in the endorsements it has received from major brand and advertising networks, like the World Federation of Advertisers,⁴⁶ but in NewsGuard's partnerships with the likes of Microsoft⁴⁷ and the American Federation of Teachers⁴⁸ –

⁴⁰ NewsGuard tracked and seemed to judge websites' news and analysis on COVID-19 with deference to public health authorities. See: <https://www.newsguardtech.com/covid-19-resources/>. In so doing, it also seemed to take positions favorable to major pharmaceutical companies, including Pfizer. The vaccine maker is represented by Publicis Groupe, an advertising and public relations company that is NewsGuard's third-largest investor – raising potential conflict of interest concerns. See: <https://www.washingtontimes.com/news/2023/nov/18/big-pharma-financing-newsguards-for-profit-busines>.

⁴¹

https://www.realclearinvestigations.com/articles/2023/11/15/newsguard_surrogate_the_feds_pay_to_keep_watch_on_the_internet_and_be_a_judge_of_the_truth_992214.html.

⁴² <https://www.washingtontimes.com/news/2023/nov/18/big-pharma-financing-newsguards-for-profit-busines/>.

⁴³ <https://x.com/prageru/status/1623138777937088512>.

⁴⁴

<https://assets.ctfassets.net/qnesrjodfi80/6rZLRClQfrc5howFowqIA/bd64f8a6cbb55946496c39d4da0f802b/PragerU-Newsguard-Emails.pdf>.

⁴⁵ <https://storage.courtlistener.com/recap/gov.uscourts.nysd.604160/gov.uscourts.nysd.604160.36.0.pdf>.

⁴⁶ <https://wfanet.org/knowledge/item/2022/03/07/Navigating-digital-media-safety-and-suitability-in-the-time-of-war>.

⁴⁷ <https://www.newsguardtech.com/insights/how-microsoft-uses-newsguard-to-support-its-trusted-transparent-technology/>.

⁴⁸ <https://www.aft.org/press-release/aft-partners-newsguard-combat-misinformation-online>.

partnerships impacting the news consumption of up to half a billion people, down to K-12 students.

NewsGuard's backers include influential investors, as well as prominent advisors.

Publicis Groupe is NewsGuard's original lead investor, and today its third largest.^{49,50} The global advertising and public relations company's clients including major corporations – some, incidentally, like pharmaceutical company Pfizer, whose work has been covered by the media companies NewsGuard is rating, presenting a seeming conflict.⁵¹ Publicis Groupe's chief operating officer serves as one of five NewsGuard board members.⁵²

NewsGuard's advisors include senior ex-government officials, namely from the national security and intelligence apparatus. The former heads of the Department of Homeland Security, Central Intelligence Agency, National Security Agency, and NATO all populate NewsGuard's advisory roster. Notably, the man who led the creation of the GEC, former Obama administration Undersecretary of State for Public Diplomacy, Richard Stengel, also serves as an advisor.^{53,54}

If these advisors do not confer a seal of government approval on NewsGuard, the company seems to have tried to convey it through other means in sales pitches. As Fang has reported, documents obtained through the "Twitter Files" show NewsGuard marketed content moderation-related services to the social media company now known as X in part by touting that clients included "intelligence and national security officials" and "government agencies."^{55,56}

So, when a NewsGuard reviewer corresponds with an editor to question the nature or veracity of his outlet's work, or insist on editorial modifications to satisfy NewsGuard's standards, he does so with immense power over said outlet's finances and reputation. The company arguably exerts outsize sway over all U.S. media.

RCP's experience with GDI is more limited, but no less disconcerting. In a December 2022 report, the not-for-profit, which serves not only advertisers but search engines and social media companies, publicly listed *RCP* as one of America's "ten riskiest online sites" pursuant to its subjective "disinformation risk assessment." GDI lumped *RCP* with right- and libertarian-leaning sites, in contrast with its purportedly "least risky" sites, whose sole constituent with any sort of

⁴⁹ <https://www.odwyerpr.com/story/public/10283/2018-03-05/publicis-groupe-antes-up-combat-fake-news.html>.

⁵⁰ <https://www.newsguardtech.com/about/our-investors/>.

⁵¹ <https://www.washingtontimes.com/news/2023/nov/18/big-pharma-financing-newsguards-for-profit-busines/>.

⁵² <https://www.newsguardtech.com/board-of-directors/>.

⁵³ https://www.linkedin.com/authwall?trk=bf&trkInfo=AQFFSoAzHM10GwAAAZA8C_UYDff-hAfz27gzfwbxMOF0pLYpHnWZGAHwqLPC5XikQGjqQ5HcRrwJPOB3pWlrHo1Z9rcvQhKW93ZDR6AH13QLZnAnm8Tp3BnXNw0y44GmmOFc=&original_referer=&sessionRedirect=https://www.linkedin.com/in/richard-stengel-0ba545130/.

⁵⁴ Though beyond the scope of this testimony, ample evidence suggests the national security apparatus has been perhaps the key catalyst behind and governmental participant in the Censorship-Industrial Complex. See for example: https://open.substack.com/pub/weingarten/p/full-testimony-dhs-and-cisas-pivotal?r=dqwj3&utm_campaign=post&utm_medium=web and <https://www.tabletmag.com/sections/news/articles/guide-understanding-hoax-century-thirteen-ways-looking-disinformation>.

⁵⁵ <https://nypost.com/2023/12/10/opinion/newsguard-extorts-sites-to-follow-the-government-narrative/>.

⁵⁶ <https://www.leefang.com/p/newsguards-for-profit-censorship>.

right-leaning component was the *Wall Street Journal*. We do not know if *RCP* is on GDI's "dynamic exclusion list." But at least one former adopter of its blacklist, the Microsoft-owned ad company Xandr, flagged *RCP* as a site to avoid placing ads on per reporting in the *Washington Examiner*.⁵⁷ Either way, the lack of transparency⁵⁸ and due process involved in GDI's work is troubling. As is the fact that *RCP*, a site that aggregates links from many of the risk assessors "whitelisted" sites, alongside the "blacklisted" sites, is tarnished by this entity.

For its part, GDI claims its business of targeting the economic viability of media companies it disapproves of is working. In addition to Melford's aforementioned comment about outlets it has blacklisted experiencing revenue declines, a colleague provided further insights during a GEC-sponsored 2021 event that. Then, Melford's co-founder Danny Rogers indicated that "over a dozen ad-tech companies," covering "20 different media markets," had used GDI's services, more than halving their ad options and "redirecting millions of dollars away from disinformation peddlers toward quality journalism."⁵⁹ Perhaps relatedly, like NewsGuard, it too is endorsed by the World Federation of Advertisers.

At least one outlet that claims to have suffered as a result of GDI's targeting is *UnHerd*, a publication whose mission is to "challenge herd mentality wherever we see it." In April, its editor-in-chief Freddie Sayers reported that the site had "only received between 2% and 6% of the ad revenue normally expected for an audience of our size."

"Meanwhile, neatly demonstrating the arbitrariness and subjectivity of these judgements, NewsGuard, a rival ratings agency, gives UnHerd a 92.5% trust rating, just ahead of the New York Times at 87.5%," he continued.⁶⁰

For *RealClear*'s part, while we have continued to flourish in the years since these entities emerged, and despite the mushrooming of the Censorship-Industrial Complex more broadly, the likes of NewsGuard and GDI have made a highly competitive business substantially harder and placed *RealClear* at a competitive disadvantage.

Our experience is consistent with what the right-leaning *Daily Wire* and *The Federalist*⁶¹ allege in their lawsuit against the State Department. They assert that NewsGuard and GDI's targeting has reduced not only their revenue but "their visibility on social media, and ranking results from browser searches, thereby reducing their circulation, readership, and reach, and otherwise negatively impacting their operations."⁶²

RealClear too has seen a material drop in advertising revenue.

⁵⁷ <https://www.washingtonexaminer.com/restoring-america/news-restoring-america/2773442/disinformation-inc-read-one-of-the-blacklists-used-secretly-to-defund-conservative-news/>. Subsequent to the *Washington Examiner*'s reporting on the work of NewsGuard and GDI, Xandr, as well as Oracle, another user of GDI's dynamic exclusion list, severed ties with the not-for-profit. See: <https://www.washingtonexaminer.com/news/1411473/disinformation-inc-massive-corporation-oracle-severs-ties-with-conservative-blacklist-group/>.

⁵⁸ <https://www.washingtonexaminer.com/news/2124713/disinformation-network-blacklisting-conservative-news-hides-tax-forms-over-harassment/>.

⁵⁹ https://www.youtube.com/live/FmcbVhx99yg?si=456aBwfNyxdF_6Zv&t=4225.

⁶⁰ <https://unherd.com/2024/04/inside-the-disinformation-industry/>.

⁶¹ I am a Senior Contributor to *The Federalist*.

⁶² <https://dw-wp-production.imgix.net/2023/12/DailyWire-v-State-final.pdf#page=27>.

One ironic example illustrates the difficult environment for ad revenue generation that media companies like ours face. We recently posted video footage from an event celebrating censored Stanford medical professor Dr. Jay Bhattacharya's courageous stand against the Censorship-Industrial Complex. Google flagged the video for raising purportedly "[u]nreliable and harmful claims."

Consequently, we have had to devote substantially more time and resources to fundraising to support our journalism.

We have also seen a meaningful decline in certain search engine rankings, reducing one source of traffic.

Lastly, though we would like to see these challenges to our platform as validators of our commitment to independence and viewpoint diversity, there is no doubt an unquantifiable reputational hit to being targeted.

One would have thought instead that these rating entities would hold *RealClear* up as a whitelisted entity for providing readers with a balanced diet of news, information, and analysis.

That they do not speaks volumes about the aims of these entities – if not indirectly the authorities that have funded them.

IV. Tax Dollars Should Not Fund Entities that Abridge Our Speech

In the final analysis, even if NewsGuard and GDI were wholly objective and unbiased arbiters of journalistic excellence and integrity – and even if *RealClear* concurred with their assessments – the fundamental issue facing this Committee, and our country, would remain: Through its funding and support of entities like these, government agencies, directly and by proxy, have been abridging Americans' speech, including by undermining the business models of media companies these entities disapprove of.

Inadvertently too, they have provided what amounts to a subsidy for the largely like-minded corporate media sources who have benefited from seeing small and independent media companies demonetized and delegitimized.

Even more disturbingly, such agencies have often done so under cover of offices or initiatives originated to combat our foreign enemies – with no domestic authority – and at times hidden behind third-party cutouts and opaque funding schemes that seem designed to obfuscate.

Perhaps worse, as the stonewalling this Committee has encountered in its relevant oversight efforts would seem to suggest, years after these initiatives were set in motion, relevant government authorities still believe they have something to hide.

The Censorship-Industrial Complex must be dismantled to save free speech, and as this Committee is exposing, a free press.

Getting government out of the speech-policing business will not be a panacea.

But it must be the starting point, which is why the legislative and oversight efforts this Committee is undertaking are so critical.

Last May I came before another congressional committee with a simple message: Not a single penny of taxpayer dollars should be used to silence ourselves.

Today I come before this Committee with a corollary: Nor should a single penny of taxpayer dollars be used to fund those who would silence others by targeting their business models.

Thank you for the honor of appearing before you to discuss these important issues, and I would be happy to answer any questions from the Committee.



**Testimony to the United States House of Representatives
U.S. House Committee on Small Business
Hearing: "Under the Microscope - Examining the Censorship-Industrial Complex
and its Impact on American Small Businesses"**

**Carrie Sheffield
Senior Policy Analyst
Independent Women's Forum
June 26, 2024**

Mr. Chairman, Ms. Ranking Member, thank you for inviting me to appear today.

My name is Carrie Sheffield, and I am a senior policy analyst at the Center for Economic Opportunity at Independent Women's Forum. We are a nonprofit organization committed to increasing the number of women who value free markets and personal liberty. We advance policies that enhance people's freedom, opportunities, and well-being.

Prior to my current role, I founded Bold TV, which I ran from 2015 until 2019. Bold TV is a digital news media network featuring newsmakers across politics, business, and lifestyle news. It was structured as a small, for-profit business until I departed in 2019 and the business assets were acquired by an educational non-profit.

During my tenure, Bold TV's work was recognized in profiles of the company by The Wall Street Journal, Forbes, Entrepreneur Magazine, Harvard University Kennedy School alumni magazine, and other national media outlets. Bold TV video content and interviews were featured in media outlets ranging from Fox News primetime to ABC's "The View," CNN, MSNBC, Washington Post, Newsweek, The New York Times, and many others.

At Bold TV, we utilized tools from Facebook Live, Instagram, Twitter, Amazon Fire, Apple News, YouTube, and other tech and content distribution partners to grow our audience. Just prior to my departure, our viewership was approximately 30-70K views on each Bold TV program via social media, with approximately 10.16 million organic impressions for the first six months of 2019.

Ad Exchange Background

In addition to monetization tools on social media, our Bold TV team also maintained a website that used a private marketplace ad exchange network for revenue. An ad exchange is a technology used in programmatic advertising that facilitates the buying and selling of digital inventory using real-time bidding.

Open ad exchanges are available to virtually all sellers and buyers, including ad networks and advertisers. Private marketplaces or private ad exchanges are

invite-only where premium sellers and buyers bid on advertising space through a private auction.

I am also an author, with my first book, "Motorhome Prophecies: A Journey of Healing and Forgiveness," published this year on March 12 by Hachette Book Group, the third largest trade and educational publisher in the world. As an author, I'm keenly aware of the importance of Amazon and various other online platforms in selling books and reaching new audiences. My publisher has utilized online advertising on various ad exchange platforms to promote my book.

Ad exchanges are the lifeblood of small businesses, both for selling their content and promoting their content to external audiences. Reputational damage to small digital media competitors through reliance on biased rating systems can be a death knell for small businesses. Cutting off access to public or private ad exchanges significantly harms content creators' ability to earn a living, whether that's an author or a news media outlet.

A recent **survey from the Connected Commerce Council** of more than 2,400 businesses found that for small and midsize businesses (SMBs), selling digital ads drive substantial revenue and growth. The Survey found 57% of SMB Publishers earn more than \$50,000 a year in revenue from selling digital ads, 40% of SMB Publishers say selling digital ads drives over half of their overall revenue.

The survey also found that 71% of SMB Publishers say they would not have been able to launch and sustain their business without revenue from digital advertising, and 79% of SMB Publishers say digital ads help their company compete with much larger competitors.

The Connected Commerce Council also reported 72% of Black and 65% of Hispanic-led SMB publishers agree they would not have been able to launch and sustain their business without revenue from digital advertising.

Censorship Concerns

My observations throughout my professional media experience lead me to believe that in some areas the federal government interferes with small businesses, or targets them for censorship, because of their speech.

Government interference can occur by forcing the removal or suppression of speech on social media platforms. This impacts businesses' ability to monetize those platforms in various ways. It can also negatively impact the ability to sell products on online marketplaces, such as Amazon, Etsy or eBay.

The government can also interfere with advertising revenue and other income streams by supporting companies that attack the credibility and legitimacy of businesses. This can occur through government reliance on organizations such as the Global Disinformation Index (GDI), a media-rating website.

GDI appears to be a tool for the U.S. government to circumvent our First Amendment rights and censor American small businesses. Evidence suggests that the U.S. State Department gave taxpayer funds to the GDI which then downrated conservative media organizations, including The Daily Wire and The Federalist.

Marketplace Censorship Examples

The Federalist and the Daily Wire, in December, jointly filed the complaint with Texas Attorney General Ken Paxton and the New Civil Liberties Alliance, a nonprofit civil rights group, in the U.S. Eastern District of Texas.

According to **the New York Post reporting**, the complaint alleges that the Biden administration has used U.S. funds to tap “fact-checking” censorship enterprises, including GDI, which have relationships with social media giants including Facebook, YouTube, and TikTok, among others, as well as deep-pocketed advertisers like Dell Technologies, ExxonMobil, and Nike.

The lawsuit claims that NewsGuard, a news and website-rating system accessible by browser extension and mobile app, and GDI are “government-promoted censorship enterprises” depriving the news sites “of advertising revenue and reducing the circulation of their reporting and speech.” The lawsuit also alleges that the Biden administration has its own censorship technologies as part of its Global Engagement Center (GEC).

Federal election data show State Department employees have favored Democrats over Republicans with their political contributions, **according to research** dating back to 2010 from OpenSecrets, a leading transparency group tracking money in politics. OpenSecrets reported that during the 2016 cycle, State employees gave Democrats almost eight times the amount of money they gave Republicans: \$1.36 million for Democrats, compared to about \$171,000 for Republicans. This disproportionate financial support among U.S. State Department employees in one direction could be indicative of viewpoint discrimination underlying the Department’s actions against conservative-leaning media.

In another example of marketplace censoring, Parler, a conservative-leaning, former social media network that billed itself as a free-speech alternative to Twitter, was removed by Amazon, Apple, and Google from providing services to the public. It was forced to shutter its doors in 2021 and its business assets were sold to an acquiring organization, Starboard, which said it would leverage Parler’s assets across its existing businesses as well as provide information-technology services to customers in “marginalized or even outright censored communities – even extending beyond domestic politics.”

Starboard management said the Parler acquisition provided an opportunity to “begin servicing unsupported online communities – building a home for them away from the ad-hoc regulatory hand of platforms that hate them.”

In another case of troubling demonetization, YouTube, the video platform service that is a Google subsidiary, in January 2021 banned The Epoch Times, a rising, conservative-leaning news media outlet, from earning money off its videos.

Stephen Gregory, then-publisher of The Epoch Times wrote in a **statement** to the press: "This is the latest example of big tech suppression of free speech, a step on the road to communist-style censorship."

Larry Elder, a prominent, African-American conservative filmmaker who hosts a video series for The Epoch Times, **confirmed** during a news interview with me that the demonetization hit him personally, reducing his income. While Big Tech firms claim to care for women and minorities, their actions say otherwise.

Disfavored Political Speech By Conservative Women

At Independent Women's Forum and our sister 501(c)(4) organization, Independent Women's Voice (IWV), we rely heavily on digital tools to reach our audiences online and to develop in-person events. We witnessed **Big Tech's suppression over political differences** from Eventbrite, which believes in silencing women's voices in the high-stakes national conversation on protecting female safety in sports, prisons, and battered women's shelters.

I help lead the Northern Virginia chapter of Independent Women's Network (IWN), which is a project of IWV. IWN gives women the tools to make a positive difference in our neighborhoods and country. IWN hosts more than 25 chapters nationwide and an online community of more than 35,000 members.

We create events and post content on topics like running for school board, writing an op-ed, speaking with civility in today's fractious political environment, and submitting a Freedom of Information Act request. Eventbrite banned our page "Let Women Speak Austin," organized by Michelle Evans, IWN Austin chapter leader.

Eventbrite deemed the IWN-sponsored event violated community guidelines for perpetuating hate speech. In fact, the session was created to give women the opportunity to share their opinions and lived experiences and advocate for women's rights and sex-based protections.

Eventbrite Trust & Safety notified IWN that the event violated its "Community Guidelines and Terms of Service, specifically our policy on Hateful, Dangerous, or Violent Content and Events."

Raising awareness of how **female inmates are being forced to share cells** with convicted sex offenders and sometimes raped and violently assaulted is not hateful—it's empowering.

Hearing stories of abused women who seek safety in a "women's shelter" only to be forced to share space with a biological male is not hateful—it's empowering.

Inviting survivors of sexual assault to share their concerns about being forced to undress in front of biological males is not hateful—it's empowering.

Enabling female athletes who suffer lasting physical harm, lost awards, or were passed over for scholarships when forced to **compete against biological males** to share their stories is not hateful—it's empowering.

It's disturbing that platforms like Eventbrite are smearing women, including sexual assault survivors, sharing their concerns about the loss of safe spaces as "hateful" speakers.

While IWV has no evidence that the Biden administration pressured Eventbrite to remove our event, it's worth noting two important facts. First, IWV has been vocally and visibly opposed to what we believe is the Biden administration's illegal rewrite of Title IX protections for women prohibiting sex-based discrimination in any school or any other education program that receives funding from the federal government.

Secondly, the 5th Circuit Court of Appeals blocked many federal agencies with the Biden administration from having contact with companies like Facebook, YouTube, and X (formerly Twitter) about content moderation. The court ruled that the Biden White House, health officials, and the FBI may have violated the First Amendment rights of people posting about COVID-19 and elections on social media by pressuring technology companies to suppress or remove the posts. The case is currently pending before the U.S. Supreme Court.

Conclusion

America cannot function as a healthy Republic without freedom of speech. Commercial freedom and freedom of expression go hand-in-hand, as the Supreme Court has noted for more than a century: businesses are voices for the people. For example, the 1886 Supreme Court case *Santa Clara County v. Southern Pacific Railroad Co.* held that the Fourteenth Amendment's Equal Protection Clause granted constitutional protections to corporations as well as to natural persons.

It is deeply troubling that freedom of speech is under assault online in the United States today by restricting commercial access to ad exchanges and other digital marketplaces.

I am grateful to this committee for investigating this issue and look forward to working with your team in the days ahead to ensure a robust marketplace of ideas flourishes in America.

U.S. House of Representatives Small Business Committee Hearing

“Under the Microscope: Examining the Censorship-Industrial Complex and its Impact on American Small Businesses”

Written Testimony of Dr. Mary Anne Franks

Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law, George Washington Law School

President, Cyber Civil Rights Initiative

Submitted June 24, 2024

The concepts of free speech and censorship are complex and highly contested. The distinction between government actors and private actors, between speech protection and speech promotion, and between popular and legal definitions of free speech can make it difficult to engage in clear discussions of First Amendment issues. As both a law professor and the head of a nonprofit organization, I hope to provide some guiding principles drawn from my scholarly expertise in First Amendment doctrine on the one hand and my advocacy experience with the real-world consequences of harmful speech on the other.

I want to begin first with a thought experiment. Imagine that a nongovernmental organization concerned with child welfare develops a system for identifying how often wholly AI-generated child sexual abuse material (CSAM) appears on certain websites. Even though fully virtual CSAM is protected by the First Amendment,¹ the organization believes that that such content is harmful and that advertisers and the public should know which sites are hosting it. Funded in part by a federal grant, the organization conducts extensive research and publishes a report of its findings and recommendations. The report assigns a high synthetic CSAM score—H-SCAM for short—to those sites that host large amounts of such content and a low synthetic CSAM score—L-SCAM—to those that host little or none of this content. In the wake of this report, many advertisers choose to pull their ads from the H-SCAM sites and many social media platforms decide to limit posts and accounts associated with those sites. The H-SCAM sites lose considerable revenue and visibility, leading to changes in their business operations and downsizing.

There are many ways to describe what has happened to the H-SCAM sites: they have been called out; they have been criticized; they have suffered consequences for their conduct. What they have *not* been is censored. The organization that published the report did not engage in censorship, but in speech—speech that advertisers, social media companies, and the public were free to ignore if they wished. The advertisers who pulled their ads from the H-SCAM sites and

¹ *Ashcroft v. Free Speech Coal.*, 535 U.S. 234 (2002).

the companies that limited content associated with them also did not engage in censorship, but exercised their First Amendment right not to associate with speech they find objectionable. The organization and the H-SCAM sites both participated in the marketplace of ideas, and the H-SCAM sites lost.

The fact that the government provided funding to the organization does not alter the analysis. The government has both First Amendment obligations and freedoms. So long as it does not *prohibit* protected speech on the basis of viewpoint, the government is allowed to speak on its own behalf. It is allowed to take sides in controversial matters, including by funding certain messages and not others.

The analysis above applies with equal force to the situation described in the June 18, 2024, Memorandum from the U.S. House of Representatives Committee on Small Business Majority Staff providing the background for this hearing (hereafter Memorandum). While the Memorandum claims to target censorship, what it actually complains of is speech. Specifically, the memorandum objects to organizations and individuals engaging in “fact-checking,” “labeling businesses as purveyors of mis-, dis-, or malinformation,” “using select studies to support ... determinations of fact,” “push[ing] partisan narratives,” and “inaccurately painting a narrative as disinformation for partisan gain.”²

Even if one assumes that these highly subjective characterizations of the efforts of universities, research organizations, and experts to combat misinformation and election interference are accurate, what they describe is quintessentially protected speech. The First Amendment protects opinions, including aggressive, critical, and partisan ones, especially about matters of public concern.³ It even protects false statements to some degree in some contexts. The fact that critical speech may lead to negative consequences for those being criticized—including by losing popularity in the marketplace of ideas or experiencing a decline in revenue—does not transform that speech into censorship. The same First Amendment that protects the right to speak also protects the right to reject, discredit, or ignore speech. The First Amendment does not provide protection against criticism. It does not guarantee any speaker a platform or a profit.

And while “[g]overnment officials cannot attempt to coerce private parties in order to punish or suppress views that the government disfavors,”⁴ the government is allowed to take sides in controversial matters—indeed, the government often *must* take sides in order to function. “When a government entity embarks on a course of action, it necessarily takes a particular viewpoint and rejects others.”⁵ To take one example, the federal government did not violate the First

² U.S. House of Representatives Committee on Small Business Majority Staff, Memorandum RE: Full Committee Hearing Titled: “Under the Microscope: Examining the Censorship-Industrial Complex and its Impact on American Small Businesses,” 2-3 (June 18, 2024).

³ The Supreme Court has stated that “debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

⁴ *Nat’l Rifle Ass’n v. Vullo*, 603 U.S. ___, slip op. at 1 (2024).

⁵ *Matal v. Tam*, 582 U.S. 218, 234 (2017).

Amendment when it created and distributed posters promoting enlistment and war bonds during World War I without balancing that message with posters discouraging those efforts.⁶ The First Amendment “prohibits Congress and other government entities and actors from ‘abridging the freedom of speech’,” but the government retains the right to speak on its own behalf: “the First Amendment does not say that Congress and other government entities must abridge their own ability to speak freely.”⁷

The Supreme Court has repeatedly affirmed that the federal government can make funding choices favoring particular messages without violating the First Amendment. In contrast to the Memorandum’s characterization of such choices as “censorship by proxy,” the Supreme Court has sharply distinguished between the government acting as a “sovereign” and acting as a “patron”⁸ with regard to speech. “There is a basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy,” the Court held in 1977. “Constitutional concerns are greatest when the State attempts to impose its will by force of law; the State’s power to encourage actions deemed to be in the public interest is necessarily far broader.”⁹ Applying this principle to the government’s decision to fund speech promoting childbirth but not speech promoting abortion, the Court held that “the Government can, without violating the Constitution, selectively fund a program to encourage certain activities it believes to be in the public interest, without at the same time funding an alternative program which seeks to deal with the problem in another way.”¹⁰

To reiterate: Counterspeech is not censorship. Criticism is not censorship. Research, even when government-funded, is not censorship. Providing information to advertisers or businesses about what content their ads appear next to is not censorship. Efforts to convince consumers, business, and the public that certain kinds of content are false, fraudulent, harmful, extremist, harassing, or exploitative—regardless of whether that content is protected by the First Amendment—is not censorship.

The individuals, organizations, and research institutions fighting to maintain the integrity of our elections, our public health systems, and our information ecosystem are not censors. Their work may not be free of error or bias—no human work is—but it is speech that seeks to protect the public interest.¹¹ For engaging in this speech, they are being vilified, defunded, harassed, and threatened, including by members of Congress.¹²

⁶ *Id.* at 234-35.

⁷ *Id.* at 234.

⁸ *Nat’l Endowment for the Arts v. Finley*, 524 U.S. 569, 589 (1998).

⁹ *Maher v. Roe*, 432 U.S. 464, 475-76 (1977).

¹⁰ *Rust v. Sullivan*, 500 U.S. 173, 193 (1991).

¹¹ Stanford Internet Observatory, [Stanford files amicus brief in Murthy v. Missouri pending before U.S. Supreme Court](#) (March 5, 2024).

¹² Steven Lee Myers and Sheera Frenkel, [G.O.P. Targets Researchers Who Study Disinformation Ahead of 2024 Election](#), N.Y. Times (June 19, 2023).

The Memorandum criticizes “the federal government” for using “taxpayer dollars” to encourage “consolidations of power around specific ideological viewpoints.”¹³ But members of Congress are also part of the federal government, and the hearings, subpoenas, lawsuits, document requests, and investigations they have instigated against speech they do not like are also paid for by taxpayer dollars. And unlike the federal funding programs attacked in the Memorandum, these actions by government officials are not encouraging protected speech through subsidies, but interfering with protected speech through threats of punishment.¹⁴

These efforts have been extremely effective. According to a June 2023 article in the Washington Post, “As the field of disinformation research has grown more politically contentious, researchers say that records requests, subpoenas and lawsuits have become tools of harassment. The fear of being targeted is profound enough that several researchers spoke on the condition that they not be named, and one prominent professor asked to be removed from the story entirely, citing concerns about his family’s safety.”¹⁵

A little over a year later, the Post reported that the Stanford Internet Observatory, a cross-disciplinary program that provided in-depth analyses of social media’s role in child exploitation and the spread of false information about elections and vaccines “has shed most of its staff and may shut down amid political and legal attacks that have cast a pall on efforts to study online misinformation.”¹⁶ Those attacks included “lawsuits, document requests and threats of physical harm,” including the targeting of student volunteers.

This is what censorship looks like: government-led efforts to directly suppress disfavored speech as well as to leverage third parties to assist those efforts. The harassment and silencing of misinformation researchers, especially in a year when a record-breaking number of elections will take place around the world, threatens free speech and democracy on an unprecedented scale. If Congress truly cares about censorship, it must acknowledge that the call is coming from inside the House.

¹³ Memorandum at 3.

¹⁴ *Maier*, 432 U.S. at 475–76.

¹⁵ Naomi Nix & Joseph Menn, [These academics studied falsehoods spread by Trump. Now the GOP wants answers](#), Wash. Post (June 6, 2023).

¹⁶ Joseph Menn, [Stanford’s top disinformation research group collapses under pressure](#), Wash. Post, June 14, 2024.

House Committee on Small Business Hearing
“Under the Microscope: Examining the Censorship Industrial Complex and its Impact on
American Small Businesses”

Questions for the Record from Representative Nydia Velázquez, Ranking Member:
*Dr. Franks, throughout the hearing your views were mischaracterized and your ability to respond
was restricted. Is there anything you would like to clarify for the record?*

Submitted by Dr. Mary Anne Franks
Eugene L. & Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights
Law, George Washington University Law School

July 25, 2024

Dear Ranking Member Nydia Velázquez,

Thank you, first, for giving me the opportunity to testify in this hearing and for this further opportunity to elaborate upon my testimony and to offer some reflections and corrections for the record.

To my knowledge, I was the only witness with scholarly expertise in the First Amendment and without any financial stake in the activities preemptively labeled as “censorship” in the hearing’s title. I had two primary goals for my testimony: one, to provide the Committee with objective facts about the constitutional doctrine of free speech, and two, to offer informed opinions about how misunderstanding that doctrine endangers free expression, the marketplace of ideas, and democracy itself.

I have testified before Congress on multiple occasions and so have previous experience with federal government officials disagreeing with, misunderstanding, or disliking my testimony. And as a professor, I have had many opportunities to observe the intense emotional reactions people sometimes have to being told that the First Amendment does not say what they think it should say. But the ignorance, contempt, and hostility that several Committee members demonstrated towards the very doctrine they claimed to be honoring during the hearing was startling.

While some areas of free speech doctrine are ambiguous and evolving, many core First Amendment principles are longstanding and well-established. In my testimony, I attempted to explain three of these core principles and why they were particularly relevant to the subject matter of the hearing:

1. The state action doctrine. The state action doctrine specifies that the First Amendment is a restraint on *government* censorship. Subject to certain exceptions, the First Amendment prevents

government actors from prohibiting or punishing speech they do not like, including through coercion and threats.

2. The sphere of individual liberty. The converse of the state action doctrine is that the First Amendment protects what Justice Kavanaugh has called the “robust sphere of individual liberty”:¹ the right of non-government actors (including private individuals, private universities, nonprofit organizations, and for-profit businesses) to ignore, criticize, or refuse to associate with speech they don’t like. The First Amendment protects not only the right of speech, but also the right not to speak, the right not to associate with speech, and the right to criticize speech, also known as counter-speech.

3. The government’s right as speaker. Another long-settled point of First Amendment doctrine is that the government has the right to speak on its own behalf. While the state action doctrine broadly restrains the government from *prohibiting* speech based on viewpoint, the government retains the right to *prefer* speech based on viewpoint. The Supreme Court has repeatedly emphasized that a government could not function without the power to take sides. The government is allowed to support some viewpoints and not others, including through government funding.

These three principles, taken together, make clear that the entire premise of the hearing—that misinformation research is censorship—is unintelligible from a First Amendment perspective. Misinformation research may be controversial. It may be flawed. It may be biased. But it is unequivocally speech protected by the First Amendment, and it is speech that the government is allowed to fund if it wishes.

Of course, this does not mean that the government has “the right to choose what information should be permitted to be published on social media,” or to “pull” information that it doesn’t like, or to “bankrupt” or “blacklist” companies, as claimed by various majority members. Fortunately, none of those things actually occurred. Stripped of partisan hysteria and hyperbole, the story of the “censorship industrial complex” is just a story about certain businesses becoming less popular or profitable than they once were. Some research organizations that received government funding shared information about some websites with advertisers and social media companies, and then some of those advertisers and social media companies decided to do less business with those websites. That’s it. No speakers were silenced, no websites were deleted or removed. There were just fewer people interested in buying what certain companies were selling.

It was fitting that the Supreme Court announced its decision in *Murthy v. Missouri*, 144 S.Ct. 1972 (2024), while this hearing was in recess, and not only because one of the majority’s witnesses was a lawyer for the losing side. The decision was a stinging rebuke of the kind of conservative conspiracy theories about governmental control of social media that animated this hearing, a rebuke that was all the more powerful coming from a conservative-dominated Court. As Paul M.

¹ *Manhattan Community Access Corp. v. Halleck*, 587 U.S. 802, 808 (2019).

Barrett wrote in *The Hill*, Justice Barrett “went out of her way to emphasize that the legal attack on the Biden administration was based on a conspiracy theory about collusion between liberal political operatives and sympathetic platform employees, not on facts that established that government representatives had coerced the platforms to remove or down-rank conservative content or accounts.”²

One majority member correctly suggested that another Supreme Court decision from this term, *NRA v. Vullo*, 602 U.S. 175 (2024), was relevant to the hearing’s subject matter. Unfortunately, the member seemed to have completely misunderstood that decision, suggesting that it supported the claim that government funding of certain viewpoints constitutes censorship. To the contrary, the Court reaffirmed the right of the government to “say what it wishes” and “select the views that it wants to express” because “the government could barely function otherwise.” *Id.* at 187. The freedom of government officials to “share [their] views freely and criticize particular beliefs, and ... do so forcefully in the hopes of persuading others to follow [their] lead,” *id.* at 188, is one that the certain members of the Committee should particularly appreciate, as it is the same freedom that allows government officials to engage in sneering, one-sided, constitutionally illiterate hearings on the taxpayer’s dime.

There is, however, a limit to what government officials can do to discourage speech they dislike, which was the Court’s main point of emphasis in *Vullo*. While government officials can “can rely on the merits and force of [their] ideas, the strength of [their] convictions, and [their] ability to inspire others,” they cannot “use the power of the State to punish or suppress disfavored expression.” *Id.* at 188. As I noted in my testimony, this power can take the form not only of fines and imprisonment but an array of other punitive and coercive measures such as lawsuits, subpoenas, and the release of private information—in other words, the very measures that some members of Congress are using to attack misinformation researchers at a time when their work is urgently needed to safeguard democracy. The “censorship industrial complex” is a dangerous conspiracy theory that is being used to justify authoritarian suppression of free speech. Thank you, Representative Velázquez, for your efforts to challenge these tactics.

² Paul M. Barrett, SCOTUS didn’t just rule for Biden — it ruled against conspiracy theories, *The Hill* (June 27, 2024).

Statement of
NINA JANKOWICZ
Co-Founder and CEO, American Sunlight Project
Former Executive Director of the DHS Disinformation Governance Board

for THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS

Concerning
**“Under the Microscope: Examining the Censorship-Industrial Complex
and its Impact on American Small Businesses”**

June 26, 2024

Chairman Williams and Ranking Member Velazquez, I appreciate the opportunity to submit a written statement to be entered into the Congressional Record on the topic of your hearing “Examining the Censorship-Industrial Complex and its Impact on American Small Businesses.”

I believe it is my patriotic duty as an American to do so, because the premise of this hearing is a fiction that has had profound personal and financial impacts on my life. More alarmingly, claims of the existence of a so-called “censorship industrial complex” are deliberately engineered to suppress speech and stymie critical work that protects our national security in an important election year.

The So-Called “Censorship Industrial Complex” Does Not Exist

In 2022, on the basis of my years of scholarship and analysis, including four testimonies before Congress at the request of both Republicans and Democrats, I was appointed to lead the Disinformation Governance Board, an admittedly poorly-named but anodyne coordination body tasked with shepherding counter-disinformation policy within the Department of Homeland Security. In large part, this body was created to “develop and support the implementation of governance policies and protocols that, among other issues, protect privacy, civil rights, and civil liberties,” coordinate DHS’s work on disinformation that affected the homeland with other USG agencies, and set standards for the Department’s interactions with the “private, non-profit, and academic sectors.”¹

Within hours of the Board’s public launch, influencers and Members of Congress were calling it a “Ministry of Truth” and claimed that I would be censoring Americans’ speech. They did this entirely without evidence; even when DHS corrected the record, politicians, pundits, major media organizations, and influencers continued to repeat this lie because it was politically useful to them. The Board had no operational authority, no budget (though multiple Members of Congress laughably attempted to defund it after it was publicly announced), and no full-time staff other than myself. As I told House Judiciary’s Weaponization Subcommittee several times throughout my deposition about the Board’s activities in 2023: if censorship were part of my mandate, not only would I not have taken the job, I would have loudly condemned such activities.

The allegation that the Board was a censorship body and I was chief censor were the first chapter in many of the tall tales about the so-called “censorship industrial complex” that have since emerged. These tales have been primarily buoyed by the “Twitter Files,” a bizarre pseudo-journalistic arrangement between Twitter CEO Elon Musk and a small group of hand-picked journalists who have access to select documents that Mr. Musk allows them or wants them to see. Bloggers Matt Taibbi and Michael Shellenberger were among those who published the first installment of the Twitter Files, alleging that Twitter executives were complicit in acts of censorship against disfavored content.² Taibbi and Shellenberger alleged that the content in question was funneled to federal agencies by private-citizen researchers, specifically via the Election Integrity Project (EIP) and Virality Project, and that these

¹ DHS Disinformation Governance Board Charter, as provided to Senators Hawley and Grassley by DHS Whistleblower, February 28, 2022.
[https://www.hawley.senate.gov/wp-content/uploads/files/2022-06/2022-06-07%20DOCS%20ONLY%20CEG%20JH%20to%20DHS%20\(Disinformation%20Governance%20Board\)\[1\].pdf#page=9](https://www.hawley.senate.gov/wp-content/uploads/files/2022-06/2022-06-07%20DOCS%20ONLY%20CEG%20JH%20to%20DHS%20(Disinformation%20Governance%20Board)[1].pdf#page=9)

² Matt Taibbi, “Capsule Summaries of all Twitter Files Threads to Date, With Links and a Glossary.” *Racket News*, January 4, 2023. <https://www.racket.news/p/capsule-summaries-of-all-twitter>

agencies coerced Twitter into removing the content. Yet these allegations against Twitter and other social media platforms were not true. Numerous studies, conducted by institutions including New York University and Indiana University, empirically disprove this notion of political bias by social media platforms in their content moderation decisions.^{3,4} Following the first release of the Twitter Files, the Republican majority began organizing hearings around these false narratives and sending letters and document requests to Twitter in regards to censorship activities.^{5,6}

The Twitter Files crafted almost endless fiction based on selectively edited email and text excerpts between the researchers, their projects, platforms, and federal agencies. The blogs are riddled with errors and outright falsehoods, including the notion that the EIP “censored” 22 million tweets about the 2020 election.⁷ In actuality, the EIP *tracked* 22 million social media tweets, and only identified 2,890 (approximately 0.013% of the total tweets examined) which the EIP’s researchers believed materially violated Twitter’s terms of use. Even fewer of these posts were *actually* removed. Twitter took *no action* on nearly two-thirds of those 2,890 tweets.⁸

Additionally, alongside the Twitter Files’ bloggers relentless promotion of the baseless, debunked conspiracy theory that the Disinformation Governance Board was part of the “Censorship Industrial Complex,” and “guilty of violating the First Amendment,”⁹ Taibbi claimed that the EIP was created in 2020 to “fill the gaps” left by the shutdown of the Disinformation Governance Board; however, the Board was created in 2022.¹⁰ They have also aggressively targeted me in my personal capacity with incendiary lies, claiming that I “created elaborate, secret bureaucracies to censor at a mass level”¹¹ and was involved in an “effort to take over Twitter’s content management system.”¹²

These falsehoods are just a few of many in the Twitter Files. Even beyond these inaccuracies, the allegation that the Twitter Files make—that by conducting independent research and sharing it, researchers are somehow committing acts of censorship—is outlandish and harmful. Researchers have a First Amendment right to conduct their analysis and speak about it to the public, including to platforms and government. Social media platforms, as private businesses, have terms of service that they can implement how they choose. The government, for decades, has benefitted from an exchange of information between itself, academia, civil society, and the private sector. We know the Trump Administration also benefitted from such relationships and exchanges. The only reason the fictional

³ Paul Barrett & J. Grant Sims, “False Accusation: The Unfounded Claim that Social Media Companies Censor Conservatives.” *New York University*, February 10, 2021.

⁴ Filippo Menczer, et al., “Neutral bots probe political bias on social media.” *Nature Communications* 12, no. 5580 (September 2021):1. <https://www.nature.com/articles/s41467-021-25738-6>

⁵ House Judiciary Committee Letter to Yoel Roth, December 6, 2022. <https://oversight.house.gov/wp-content/uploads/2022/12/2022-12-6-Letter-to-Roth-Twitter.pdf>

⁶ House Judiciary Committee News Feature, December 23, 2022. <https://judiciary.house.gov/media/in-the-news/house-gop-wants-fbis-twitter-censorship-reimbursement-records>

⁷ Mike Masnick, “Mehdi Hasan Dismantles The Entire Foundation Of The Twitter Files As Matt Taibbi Stumbles To Defend It.” *TechDirt*, April 7, 2023. <https://tinyurl.com/2p5ppt38>

⁸ Stanford Internet Observatory, “Background on the SIO’s Projects on Social Media.” March 17, 2023. <https://cyber.fsi.stanford.edu/io/news/background-sios-projects-social-media>

⁹ <https://x.com/shellenberger/status/1639355989836308481>

¹⁰ Masnick 2023.

¹¹ Freddie Sayers & Michael Shellenberger, “How to destroy the censorship complex.” *UnHerd*, May 9, 2024. <https://www.youtube.com/watch?v=PhpeV5rCy1w&t=2187s>

¹² <https://x.com/shellenberger/status/1793666016704356735>

narrative of the “censorship industrial complex” is being selectively applied to some groups, researchers, and government agencies within the Biden Administration is because it is politically—and, in some cases, financially—beneficial to those who peddle it.

Those Who Peddle the “Censorship Industrial Complex” Myth Are Profiting Handsomely

Taibbi and Shellenberger’s Substack blogs, *Racket News* and *Public*, are known to have tens of thousands of readers and stand among the most-subscribed-to blogs on the platform.¹³ Substack estimates that around 5-10% of newsletter subscribers convert to paying subscriptions, “with 10% being a rate to aim for.”¹⁴ Priced respectively at \$5 and \$9.99, per subscription, per month—even assuming minimal conversion rates—Taibbi and Shellenberger’s blogs generate hundreds of thousands of dollars in revenue per year.¹⁵ With the paywall systems the blogs operate with regard to content around the so-called “censorship industrial complex,” every subscription, click, and share of their posts is—for Taibbi and Shellenberger—a profitmaker.

Going beyond Substack, however, there is also an incredibly lucrative part of the ‘nonprofit’ sector which operates around unfounded allegations of censorship. For example, the stated mission of America First Legal (AFL), a 501c(3) organization founded by former White House advisor Stephen Miller, is to “[Fight] back against lawless executive actions and the Radical Left.”¹⁶ AFL has filed dozens of frivolous, partisan legal complaints against tech platforms, government agencies, and independent, private-citizen disinformation researchers. It is plain to see that in filing these complaints AFL has worked *in collaboration* with the Weaponization Subcommittee, raising ethical questions about the goals of AFL as a nonprofit organization.^{17,18} The Internal Revenue Code clearly prohibits 501c(3) nonprofit organizations from engaging in politically-motivated activities, yet AFL has raked in tens of millions of dollars in charitable contributions over the past three years from wealthy donors, touting its censorship-related litigation as a result.¹⁹

The “Censorship Industrial Complex” Myth Has Had Profound Personal and Financial Impacts on the Individuals and Institutions It Targets

While peddling lies about the existence of a “censorship industrial complex” is profitable for some, those who have been targeted by these lies face extreme personal and financial challenges. Due to the lies about me, my work, and my personal life, including the accusations levied in the Twitter Files as recently as

¹³ Bron Maher, “Revealed: Top 27 highest-earning Substack newsletters generate over \$22m a year.” *PressGazette*, February 9, 2023. <https://pressgazette.co.uk/newsletters/highest-earning-substacks/>

¹⁴ “A guide to paid subscriptions,” Substack, Accessed June 23, 2024. <https://substack.com/going-paid-guide>

¹⁵ Maher 2023.

¹⁶ “The Mission,” America First Legal, Accessed June 23, 2024. <https://aflegal.org/>

¹⁷ “America First Legal Files Ethics and IG Complaints and Opens an Investigation of the FTC’s Retaliatory Targeting of Elon Musk and Twitter for Exposing Deep State Censorship,” America First Legal, March 13, 2023.

<https://aflegal.org/america-first-legal-files-ethics-and-ig-complaints-and-opens-an-investigation-of-the-ftcs-retaliatory-targeting-of-f-elon-musk-and-twitter-for-exposing-deep-state-censorship/>

¹⁸ Robert Draper, “America First Legal, a Trump-Aligned Group, Is Spoiling for a Fight.” *The New York Times*, March 21, 2024. <https://www.nytimes.com/2024/03/21/us/politics/stephen-miller-america-first-legal.html>

¹⁹ Isabela Dias, “How a Few Secret Donors Are Fueling the New Right-Wing Infrastructure.” *Mother Jones*, April 30, 2024. <https://www.motherjones.com/politics/2024/04/bradly-impact-fund-michael-flynn-stephen-miller-culture-war-project-veritas-america-first-legal-cpi/>

May 2024, I have received scores of death threats. While I was still a DHS employee, I was forced to contract a private security consultant due to credible threats against me and my family while I was pregnant with my first child. I resigned on May 18, 2022, but for the past 25 months—the entirety of my son’s short life—my family has continued to face a constant stream of hate. I have been depicted in deep fake pornography that has been viewed thousands of times. My child has been threatened. How does a private citizen contend with such an onslaught, and how much is that worth to this Committee? Will the Majority be holding a hearing to examine the economic impacts of the lies spread by those who allege the existence of the so-called censorship industrial complex?

A *partial* accounting of the out-of-pocket expenses I have faced as a result of these lies amounts to about \$85,000. This includes retaining legal representation: for my deposition before the Weaponization Subcommittee; for frivolous civil litigation in which plaintiff falsely alleged I conspired to censor him; and to secure a protective order against cyberstalker who threatened me, my husband, and my child; as well as security costs I will bear for the rest of my life. Many of these services were rendered at a negotiated “low bono” rate.

I can quantify these expenses in dollars and cents; what is harder to quantify in those terms is the economic and personal impact of the many hours I have lost preparing for depositions and legal proceedings, responding to bogus claims, tracking threats against me and my family, and more broadly worrying about my family’s safety and security. Similarly, it is difficult to quantify the many opportunities I have lost, or the fact that I can no longer publicize most of my speaking engagements for fear that they may attract those who wish me harm. This, of course, is part of the aim of those who run discrediting campaigns: to keep targets buried in legal battles and threats in order to prevent us from continuing to speak out and do our work.

Most institutions are no better prepared than individual researchers to respond to these campaigns. Even formidable universities with large endowments have decided to end work under the strain of similar pressure; following years’ worth of litigation brought by the likes of AFL, the Stanford Internet Observatory (SIO)—one of the preeminent academic institutions studying online harms, including disinformation—announced its closure on June 13, 2024.²⁰ Its researchers have been subject to a ruthless barrage of lies and threats, had their likenesses used maliciously, have been subject to onerous document requests and interviews/depositions by the Weaponization Subcommittee, and have had to repeatedly defend themselves against said lawsuits courtesy of AFL. Despite a \$36.5B endowment, two years of litigation and online abuse proved too costly for Stanford to justify keeping the SIO open, both in raw terms and in terms of staff hours spent defending its research.²¹

The “Censorship Industrial Complex” Myth Is Itself Causing Suppression of Speech

Academic freedom and scholarly discourse are a vital part of our democracy. However, the academic research community has been significantly impacted by allegations they are part of the so-called “censorship industrial complex.” From conversations with individuals throughout the research and

²⁰ Casey Newton & Zoë Schiffer, “The Stanford Internet Observatory is being dismantled.” *Platformer News*, June 13, 2024.

<https://www.platformer.news/stanford-internet-observatory-shutdown-stamos-diresta-sio/>

²¹ Joseph Menn, “Stanford’s top disinformation research group collapses under pressure.” *The Washington Post*, June 14, 2024.

<https://www.washingtonpost.com/technology/2024/06/14/stanford-internet-observatory-disinformation-research-lawsuits-politics/>

philanthropic communities, I know that researchers are weighing whether their continued work in this sphere is worth the risk to their families and livelihoods, and that funding for this work is dwindling. Given the absence of oversight and transparency regulations due to Congress's continued dereliction of duty in this area, such academic research is more critical than ever for the country and the world's understanding of how information travels and is consumed in the digital age.

Members of Congress have used government resources to attack these researchers, deliberately misconstruing their work. The Weaponization Subcommittee has selectively released their Congressional testimony to discredit them, make them targets for harassment, and create a chilling effect across the field of disinformation research. These tactics echo the dark days of McCarthyism, but with a chilling 21st century twist: even as America faces unprecedented threats in the information space, both from our adversaries' increasing capabilities and from the exponential growth of emerging technologies, committees including this one waste valuable time and taxpayer dollars targeting American citizens who are trying to strengthen our democracy. These actions represent a dangerous distraction from the real threats we are facing.

The "Censorship Industrial Complex" Myth is Making America Less Safe, and Disinformation is Making Us Less Prosperous

This committee has now targeted the Global Engagement Center (GEC), a State Department office created through a bipartisan Congressional directive, as part of this broader distraction campaign. The GEC's sole mission is to "recognize, understand, expose, and counter foreign state and non-state propaganda and disinformation efforts."²² In recent years, in particular since Russia's full-scale invasion of Ukraine, the GEC has provided important information to the public on the narratives, tools, tactics, and procedures utilized in Russian, Chinese, and other foreign malign influence operations. The GEC's work is a strong indication to our adversaries that their actions are being monitored and will be publicly undermined. But when the GEC and other government bodies tasked with countering foreign interference are maligned in politically-motivated attacks, the signal to our adversaries is that America is divided and weak. Moscow and Beijing interpret partisan attacks on counter-disinformation work as a sign that their interference is likely to succeed.

Meanwhile, this committee ignores the larger threats that disinformation poses to small businesses. According to a 2021 report by the World Economic Forum, the direct influence of fake online reviews on global online spending is \$152 billion.²³ An extra star on a restaurant's Yelp rating can increase revenue by 5% to 9%.²⁴ Purveyors of disinformation use such reviews to influence audiences. *These* are problems worth the time of this Committee, and of Congress more broadly; Americans would be better served by their elected officials concentrating on them instead of falsehoods created and amplified for political and monetary gain.

²² "About Us – Global Engagement Center," U.S. Department of State, Accessed June 23, 2024. <https://www.state.gov/about-us-global-engagement-center-2/>

²³ Jonathan Marciano, "Fake online reviews cost \$152 billion a year. Here's how e-commerce sites can stop them," World Economic Forum, August 10, 2021.

²⁴ Michael Luca and Georgios Zervas. "Fake It Till You Make It: Reputation, Competition, and Yelp Review Fraud." *Management Science* 62, no. 12 (December 2016).

WRITTEN STATEMENT OF RUMBLE FOUNDER AND CEO CHRIS PAVLOVSKI

Chairman Williams, Ranking Member Velazquez, and Members of the Committee: thank you for the opportunity to provide a statement on the alarming rise of government censorship and revenue interference by proxy on American small businesses.

My name is Chris Pavlovski, and I am the Chairman and CEO of Rumble. As a native of Toronto, Canada, I founded Rumble in 2013 as a platform for small and independent video content creators to express their opinions, own their narratives, build communities, and earn from their creations. Rumble entered the market as a welcomed alternative to incumbent platforms that were beholden to dominant creators and large corporations. That remains our role today, as our mission to protect a free and open internet is our North Star.

Our mission has resonated, as millions of users followed their favorite creators to our platform – with little to no paid advertising. These users came to Rumble because they, like us, believe that everyone benefits from a diverse marketplace of ideas, opinions, and dialogues. For example, Rumble saw an increase in 22.5 times the number of average monthly active users, from 1.6 million to 36 million from the third quarter of 2020 to the third quarter of 2021.

In September 2022, Rumble successfully went public, relocating our headquarters to the United States and trading on the NASDAQ under the ticker “RUM.” We diversified our video content into new verticals like sports, lifestyle, hip-hop, and video gaming. And in the spirit of American enterprise, we also introduced new businesses and patents under the Rumble brand, including the Rumble Advertising Center, Rumble Studio livestreaming software, and Rumble Cloud.

It’s hard to imagine a time and place in the United States where freedom of speech and freedom of expression are vilified rather than treasured as fundamental pillars of a democratic society. Freedom of speech has navigated this country through some of the most impactful social movements in history, including abolition, civil rights, women’s rights, and more.

The United States is not alone in revering these freedoms as cornerstones of democracy. Countries around the world have idolized freedoms of speech and expression as one of the most powerful tools to protest tyrannical governments and authoritarian societies. In fact, the U.N. Declaration of Human Rights reserves Article 19 for this, stating: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and through any media and regardless of frontiers.

Unfortunately, today we see a large number of activists who attack these freedoms, sometimes under the guise of protecting democracy from “misinformation” or “disinformation.” These activists not only pressure Big Tech to censor information through algorithms and shadow banning, but now they have amplified their presence in online communities.

They attempt to intimidate advertisers into boycotting platforms that don’t comply with their worldview. They are crushing small business enterprise and entrepreneurialism, while simultaneously imposing their views on both individuals and businesses.

It is truly alarming that activists want to not only control what is shared online, but also control which platforms are deemed “responsible and trustworthy” all while controlling which businesses are allowed to make a profit. That sounds more like a page from George Orwell’s “1984” than a story from main street in America.

Rumble is not in the business of interfering with anyone's access to free information and ideas. While we have strict content policies in place that prohibit sexually explicit and terrorist-related content, among other things, we are not in the business of fact checking, nor should we be. More importantly, neither should the government.

Individuals have the ability to form their own opinions, express their own ideas, and access information freely. That's the principle that Rumble was founded upon and that's what we will always stand for. It is my hope that we will see other companies, especially those who connect audiences and distribute content, start to do the same.

However, there are some bad actors who only value free speech if it agrees with their own.

Media Matters is one example of a news outlet that published multiple articles about Rumble users, painting an unfair and distorted picture of who they are and what they consume. Our philosophy is that the right of expression should be protected, and for some reason Media Matters thinks that makes us part of the extreme right. What's ironic is the articles focused on single user or video, while our audience has consistently remained over 40 million average monthly active users since 2022 and we've seen billions of minutes of video uploaded.

What Media Matters hopes to achieve with dishonesty is to scare away potential advertisers and make them hesitant to work with the publishers offered through our ad exchange.

Despite these stories, independent, third-party data from Comscore, a global media measurement and analytics company, refutes the notion that Rumble is any sort of haven for extremists. Comscore's data revealed Rumble's audience in September of 2023 was 35.5 percent Democrat, 28.9 percent Independent, 21.8 percent Republican, and 12.6 percent no-affiliation. Not exactly what Media Matters would have you believe.

Thus far, activist attempts to deceive the public, scare advertisers, and impede Rumble's growth, have not stopped us. With our belief in our mission; our investments in our video, advertising, livestreaming, and cloud products; and our loyal users and creators, we cannot possibly fail. And because we've been valued as a multi-billion-dollar company since going public, we can better withstand the attacks.

But what will happen when "disinformation" activists target much smaller companies and ask advertisers to boycott them solely for their beliefs? How will a local town's newspaper with one editor and a slowing advertising business sustain the threats of an organized and well-funded activist campaign?

I applaud the efforts of Chairman Williams to bring into focus the funding of non-profits and non-governmental organizations that are supporting these activists. The only thing worse than the reality of this corporate activism hindering America's small business landscape, is the idea that the federal government could be behind it. We applaud the Chairman's recent subpoena to the State Department's Global Engagement Center and hope they will answer your questions about funding and that the leadership of this House will support you in doing so.

There is no room for censorship in America, whether that be in small business profits or online discourse. I am optimistic that this committee's work will put an end to this and I am proud that Rumble is the bastion of free speech. We will continue to protect this human right, from video, to advertising, to cloud services.

If you're not with us, and with free speech, you're on the wrong side of history.

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

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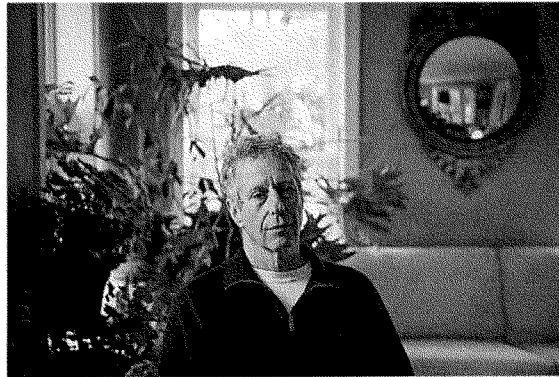
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Uri Berliner, a senior business editor at NPR, says he started sounding the alarm internally when he noticed a bias creep into the network's coverage. (Pete Kiehart for The Free Press)

I've Been at NPR for 25 Years. Here's How We Lost America's Trust.

Uri Berliner, a veteran at the public radio institution, says the network lost its way when it started telling listeners how to think.

By Uri Berliner

April 9, 2024



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You know the stereotype of the NPR listener: an EV-driving, Wordle-playing, tote bag-carrying coastal elite. It doesn't precisely describe me, but it's not far off. I'm Sarah Lawrence-educated, was raised by a lesbian

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1/15

6/28/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

peace activist mother, I drive a Subaru, and Spotify says my listening habits are most similar to people in Berkeley.

I fit the NPR mold. I'll cop to that.

So when I got a job here 25 years ago, I never looked back. As a senior editor on the business desk where news is always breaking, we've covered upheavals in the workplace, supermarket prices, social media, and AI.

It's true NPR has always had a liberal bent, but during most of my tenure here, an open-minded, curious culture prevailed. We were nerdy, but not knee-jerk, activist, or scolding.

In recent years, however, that has changed. Today, those who listen to NPR or read its coverage online find something different: the distilled worldview of a very small segment of the U.S. population.

If you are conservative, you will read this and say, duh, it's always been this way.

But it hasn't.

For decades, since its founding in 1970, a wide swath of America tuned in to NPR for reliable journalism and gorgeous audio pieces with birds singing in the Amazon. Millions came to us for conversations that exposed us to voices around the country and the world radically different from our own—engaging precisely because they were unguarded and unpredictable. No image generated more pride within NPR than the farmer listening to *Morning Edition* from his or her tractor at sunrise.

Back in 2011, although NPR's audience tilted a bit to the left, it still bore a resemblance to America at large. Twenty-six percent of listeners described themselves as conservative, 23 percent as middle of the road, and 37 percent as liberal.

By 2023, the picture was completely different: only 11 percent described themselves as very or somewhat conservative, 21 percent as middle of the road, and 67 percent of listeners said they were very or somewhat liberal. We weren't just losing conservatives; we were also losing moderates and traditional liberals.

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

An open-minded spirit no longer exists within NPR, and now, predictably, we don't have an audience that reflects America.

That wouldn't be a problem for an openly polemical news outlet serving a niche audience. But for NPR, which purports to consider all things, it's devastating both for its journalism and its business model.

+ + +

Like many unfortunate things, the rise of advocacy took off with Donald Trump. As in many newsrooms, his election in 2016 was greeted at NPR with a mixture of disbelief, anger, and despair. (Just to note, I eagerly voted against Trump twice but felt we were obliged to cover him fairly.) But what began as tough, straightforward coverage of a belligerent, truth-impaired president veered toward efforts to damage or topple Trump's presidency.

Persistent rumors that the Trump campaign colluded with Russia over the election became the catnip that drove reporting. At NPR, we hitched our wagon to Trump's most visible antagonist, Representative Adam Schiff.

Schiff, who was the top Democrat on the House Intelligence Committee, became NPR's guiding hand, its ever-present muse. By my count, NPR hosts interviewed Schiff 25 times about Trump and Russia. During many of those conversations, Schiff alluded to purported evidence of collusion. The Schiff talking points became the drumbeat of NPR news reports.

But when the Mueller report found no credible evidence of collusion, NPR's coverage was notably sparse. Russiagate quietly faded from our programming.

It is one thing to swing and miss on a major story. Unfortunately, it happens. You follow the wrong leads, you get misled by sources you trusted, you're emotionally invested in a narrative, and bits of circumstantial evidence never add up. It's bad to blow a big story.

What's worse is to pretend it never happened, to move on with no mea culpas, no self-reflection. Especially when you expect high standards of transparency from public figures and institutions, but don't practice those standards yourself. That's what shatters trust and engenders cynicism about the media.

Russiagate was not NPR's only miscue.

In October 2020, the *New York Post* published the explosive report about the laptop Hunter Biden abandoned at a Delaware computer shop containing emails about his sordid business dealings. With the election only weeks away, NPR turned a blind eye. Here's how NPR's managing editor for news at the time explained the thinking: "We don't want to waste our time on stories that are not really stories, and we don't want to waste the listeners' and readers' time on stories that are just pure distractions."

But it wasn't a pure distraction, or a product of Russian disinformation, as dozens of former and current intelligence officials suggested. The laptop did belong to Hunter Biden. Its contents revealed his connection to the corrupt world of multimillion-dollar influence peddling and its possible implications for his father.

The laptop was newsworthy. But the timeless journalistic instinct of following a hot story lead was being squelched. During a meeting with colleagues, I listened as one of NPR's best and most fair-minded journalists said it was good we weren't following the laptop story because it could help Trump.

When the essential facts of the *Post*'s reporting were confirmed and the emails verified independently about a year and a half later, we could have fessed up to our misjudgment. But, like Russia collusion, we didn't make the hard choice of transparency.

Politics also intruded into NPR's Covid coverage, most notably in reporting on the origin of the pandemic. One of the most dismal aspects of Covid journalism is how quickly it defaulted to ideological story lines. For example, there was Team Natural Origin—supporting the hypothesis that the virus came from a wild animal market in Wuhan, China. And on the other side, Team Lab Leak, leaning into the idea that the virus escaped from a Wuhan lab.

The lab leak theory came in for rough treatment almost immediately, dismissed as racist or a right-wing conspiracy theory. Anthony Fauci and former NIH head Francis Collins, representing the public health establishment, were its most notable critics. And that was enough for NPR.

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

We became fervent members of Team Natural Origin, even declaring that the lab leak had been debunked by scientists.

But that wasn't the case.

When word first broke of a mysterious virus in Wuhan, a number of leading virologists immediately suspected it could have leaked from a lab there conducting experiments on bat coronaviruses. This was in January 2020, during calmer moments before a global pandemic had been declared, and before fear spread and politics intruded.

Reporting on a possible lab leak soon became radioactive. Fauci and Collins apparently encouraged the March publication of an influential scientific paper known as "The Proximal Origin of SARS-CoV-2." Its authors wrote they didn't believe "any type of laboratory-based scenario is plausible."

But the lab leak hypothesis wouldn't die. And understandably so. In private, even some of the scientists who penned the article dismissing it sounded a different tune. One of the authors, Andrew Rambaut, an evolutionary biologist from Edinburgh University, wrote to his colleagues, "I literally swivel day by day thinking it is a lab escape or natural."

Over the course of the pandemic, a number of investigative journalists made compelling, if not conclusive, cases for the lab leak. But at NPR, we weren't about to swivel or even tiptoe away from the insistence with which we backed the natural origin story. We didn't budge when the Energy Department—the federal agency with the most expertise about laboratories and biological research—concluded, albeit with low confidence, that a lab leak was the most likely explanation for the emergence of the virus.

Instead, we introduced our coverage of that development on February 28, 2023, by asserting confidently that "the scientific evidence overwhelmingly points to a natural origin for the virus."

When a colleague on our science desk was asked why they were so dismissive of the lab leak theory, the response was odd. The colleague compared it to the Bush administration's unfounded argument that Iraq possessed weapons of mass destruction, apparently meaning we won't get

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

fooled again. But these two events were not even remotely related. Again, politics were blotting out the curiosity and independence that ought to have been driving our work.



Uri Berliner near his home in Washington, D.C., on April 5, 2024. (Photo by Pete Kiehart for The Free Press)

I'm offering three examples of widely followed stories where I believe we faltered. Our coverage is out there in the public domain. Anyone can read or listen for themselves and make their own judgment. But to truly understand how independent journalism suffered at NPR, you need to step inside the organization.

You need to start with former CEO John Lansing. Lansing came to NPR in 2019 from the federally funded agency that oversees Voice of America. Like others who have served in the top job at NPR, he was hired primarily to raise money and to ensure good working relations with hundreds of member stations that acquire NPR's programming.

After working mostly behind the scenes, Lansing became a more visible and forceful figure after the killing of George Floyd in May 2020. It was an anguished time in the newsroom, personally and professionally so for NPR staffers. Floyd's murder, captured on video, changed both the conversation and the daily operations at NPR.

Given the circumstances of Floyd's death, it would have been an ideal moment to tackle a difficult question: Is America, as progressive activists claim, beset by systemic racism in the 2020s—in law enforcement,

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

education, housing, and elsewhere? We happen to have a very powerful tool for answering such questions: journalism. Journalism that lets evidence lead the way.

But the message from the top was very different. America's infestation with systemic racism was declared loud and clear: it was a given. Our mission was to change it.

"When it comes to identifying and ending systemic racism," Lansing wrote in a companywide article, "we can be agents of change. Listening and deep reflection are necessary but not enough. They must be followed by constructive and meaningful steps forward. I will hold myself accountable for this."

And we were told that NPR itself was part of the problem. In confessional language he said the leaders of public media, "starting with me—must be aware of how we ourselves have benefited from white privilege in our careers. We must understand the unconscious bias we bring to our work and interactions. And we must commit ourselves—body and soul—to profound changes in ourselves and our institutions."

He declared that diversity—on our staff and in our audience—was the overriding mission, the "North Star" of the organization. Phrases like "that's part of the North Star" became part of meetings and more casual conversation.

Race and identity became paramount in nearly every aspect of the workplace. Journalists were required to ask everyone we interviewed their race, gender, and ethnicity (among other questions), and had to enter it in a centralized tracking system. We were given unconscious bias training sessions. A growing DEI staff offered regular meetings imploring us to "start talking about race." Monthly dialogues were offered for "women of color" and "men of color." Nonbinary people of color were included, too.

These initiatives, bolstered by a \$1 million grant from the NPR Foundation, came from management, from the top down. Crucially, they were in sync culturally with what was happening at the grassroots—among producers, reporters, and other staffers. Most visible was a burgeoning number of employee resource (or affinity) groups based on identity.

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

They included MGIPOC (Marginalized Genders and Intersex People of Color mentorship program); Mi Gente (Latinx employees at NPR); NPR Noir (black employees at NPR); Southwest Asians and North Africans at NPR; Ummah (for Muslim-identifying employees); Women, Gender-Expansive, and Transgender People in Technology Throughout Public Media; Khevre (Jewish heritage and culture at NPR); and NPR Pride (LGBTQIA employees at NPR).

All this reflected a broader movement in the culture of people clustering together based on ideology or a characteristic of birth. If, as NPR's internal website suggested, the groups were simply a "great way to meet like-minded colleagues" and "help new employees feel included," it would have been one thing.

But the role and standing of affinity groups, including those outside NPR, were more than that. They became a priority for NPR's union, SAG-AFTRA—an item in collective bargaining. The current contract, in a section on DEI, requires NPR management to "keep up to date with current language and style guidance from journalism affinity groups" and to inform employees if language differs from the dictates of those groups. In such a case, the dispute could go before the DEI Accountability Committee.

In essence, this means the NPR union, of which I am a dues-paying member, has ensured that advocacy groups are given a seat at the table in determining the terms and vocabulary of our news coverage.

Conflicts between workers and bosses, between labor and management, are common in workplaces. NPR has had its share. But what's notable is the extent to which people at every level of NPR have comfortably coalesced around the progressive worldview.

And this, I believe, is the most damaging development at NPR: the absence of viewpoint diversity.

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Today on Honestly Bari talks to Uri about this essay and his decision to publish it. Listen here:

+ + +

There's an unspoken consensus about the stories we should pursue and how they should be framed. It's frictionless—one story after another about instances of supposed racism, transphobia, signs of the climate apocalypse, Israel doing something bad, and the dire threat of Republican policies. It's almost like an assembly line.

The mindset prevails in choices about language. In a document called NPR Transgender Coverage Guidance—disseminated by news management—we're asked to avoid the term *biological sex*. (The editorial guidance was prepared with the help of a former staffer of the National Center for Transgender Equality.) The mindset animates bizarre stories—on how The Beatles and bird names are racially problematic, and others that are alarmingly divisive; justifying looting, with claims that fears about crime are racist; and suggesting that Asian Americans who oppose affirmative action have been manipulated by white conservatives.

More recently, we have approached the Israel-Hamas war and its spillover onto streets and campuses through the “intersectional” lens that has jumped from the faculty lounge to newsrooms. Oppressor versus oppressed. That's meant highlighting the suffering of Palestinians at almost every turn while downplaying the atrocities of October 7, overlooking how Hamas intentionally puts Palestinian civilians in peril, and giving little weight to the explosion of antisemitic hate around the world.

For nearly all my career, working at NPR has been a source of great pride. It's a privilege to work in the newsroom at a crown jewel of American journalism. My colleagues are congenial and hardworking.

I can't count the number of times I would meet someone, describe what I do, and they'd say, “I love NPR!”

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

And they wouldn't stop there. They would mention their favorite host or one of those "driveway moments" where a story was so good you'd stay in your car until it finished.

It still happens, but often now the trajectory of the conversation is different. After the initial "I love NPR," there's a pause and a person will acknowledge, "I don't listen as much as I used to." Or, with some chagrin: "What's happening there? Why is NPR telling me what to think?"

In recent years I've struggled to answer that question. Concerned by the lack of viewpoint diversity, I looked at voter registration for our newsroom. In D.C., where NPR is headquartered and many of us live, I found 87 registered Democrats working in editorial positions and zero Republicans. None.

So on May 3, 2021, I presented the findings at an all-hands editorial staff meeting. When I suggested we had a diversity problem with a score of 87 Democrats and zero Republicans, the response wasn't hostile. It was worse. It was met with profound indifference. I got a few messages from surprised, curious colleagues. But the messages were of the "oh wow, that's weird" variety, as if the lopsided tally was a random anomaly rather than a critical failure of our diversity North Star.

In a follow-up email exchange, a top NPR news executive told me that she had been "skewered" for bringing up diversity of thought when she arrived at NPR. So, she said, "I want to be careful how we discuss this publicly."

For years, I have been persistent. When I believe our coverage has gone off the rails, I have written regular emails to top news leaders, sometimes even having one-on-one sessions with them. On March 10, 2022, I wrote to a top news executive about the numerous times we described the controversial education bill in Florida as the "Don't Say Gay" bill when it didn't even use the word *gay*. I pushed to set the record straight, and wrote another time to ask why we keep using that word that many Hispanics hate — *Latinx*. On March 31, 2022, I was invited to a managers' meeting to present my observations.

Throughout these exchanges, no one has ever trashed me. That's not the NPR way. People are polite. But nothing changes. So I've become a visible

6/28/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

wrong-thinker at a place I love. It's uncomfortable, sometimes heartbreaking.

Even so, out of frustration, on November 6, 2022, I wrote to the captain of ship North Star—CEO John Lansing—about the lack of viewpoint diversity and asked if we could have a conversation about it. I got no response, so I followed up four days later. He said he would appreciate hearing my perspective and copied his assistant to set up a meeting. On December 15, the morning of the meeting, Lansing's assistant wrote back to cancel our conversation because he was under the weather. She said he was looking forward to chatting and a new meeting invitation would be sent. But it never came.

I won't speculate about why our meeting never happened. Being CEO of NPR is a demanding job with lots of constituents and headaches to deal with. But what's indisputable is that no one in a C-suite or upper management position has chosen to deal with the lack of viewpoint diversity at NPR and how that affects our journalism.

Which is a shame. Because for all the emphasis on our North Star, NPR's news audience in recent years has become less diverse, not more so. Back in 2011, our audience leaned a bit to the left but roughly reflected America politically; now, the audience is cramped into a smaller, progressive silo.

Despite all the resources we'd devoted to building up our news audience among blacks and Hispanics, the numbers have barely budged. In 2023, according to our demographic research, 6 percent of our news audience was black, far short of the overall U.S. adult population, which is 14.4 percent black. And Hispanics were only 7 percent, compared to the overall Hispanic adult population, around 19 percent. Our news audience doesn't come close to reflecting America. It's overwhelmingly white and progressive, and clustered around coastal cities and college towns.

These are perilous times for news organizations. Last year, NPR laid off or bought out 10 percent of its staff and canceled four podcasts following a slump in advertising revenue. Our radio audience is dwindling and our podcast downloads are down from 2020. The digital stories on our website rarely have national impact. They aren't conversation starters. Our competitive advantage in audio—where for years NPR had no peer—is

6/26/24, 4:00 PM

I've Been at NPR for 25 Years. Here's How We Lost America's Trust. | The Free Press

vanishing. There are plenty of informative and entertaining podcasts to choose from.

Even within our diminished audience, there's evidence of trouble at the most basic level: trust.

In February, our audience insights team sent an email proudly announcing that we had a higher trustworthy score than CNN or *The New York Times*. But the research from Harris Poll is hardly reassuring. It found that “3-in-10 audience members familiar with NPR said they associate NPR with the characteristic ‘trustworthy.’” Only in a world where media credibility has completely imploded would a 3-in-10 trustworthy score be something to boast about.

With declining ratings, sorry levels of trust, and an audience that has become less diverse over time, the trajectory for NPR is not promising. Two paths seem clear. We can keep doing what we're doing, hoping it will all work out. Or we could start over, with the basic building blocks of journalism. We could face up to where we've gone wrong. News organizations don't go in for that kind of reckoning. But there's a good reason for NPR to be the first: we're the ones with the word *public* in our name.

Despite our missteps at NPR, defunding isn't the answer. As the country becomes more fractured, there's still a need for a public institution where stories are told and viewpoints exchanged in good faith. Defunding, as a rebuke from Congress, wouldn't change the journalism at NPR. That needs to come from within.

A few weeks ago, NPR welcomed a new CEO, Katherine Maher, who's been a leader in tech. She doesn't have a news background, which could be an asset given where things stand. I'll be rooting for her. It's a tough job. Her first rule could be simple enough: don't tell people how to think. It could even be the new North Star.

+ + +

Uri Berliner is a senior business editor and reporter at NPR. His work has been recognized with a Peabody Award, a Loeb Award, an Edward R. Murrow Award, and a Society of Professional Journalists New America Award, among others. Follow him on X (formerly Twitter) @uberliner.

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Our Comments

Use common sense here: disagree, debate, but don't be a jerk.

Comments 2,183

**Skip Tucker** Jun 25

This explains a lot. I used to be, 15 years ago, a regular listener and digester of NPR. When things started to skew in one direction, when the balanced reporting disappeared, I bailed. I deeply appreciate the honest and clearly heartfelt sadness of Uri's explanation.

Thank you for what must have been a hard effort.

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**Clement Tine** Jun 13

NPR's audience was not balanced pre-Trump, contrary to the author's assertions. Those are NPR's paid surveys and they are not honest. If you look at Pew Research's survey from 2014, you will see that the plurality of NPR's listeners are as far to the left as you can get (-10 on a scale of -10 through 10). NPR's audience was further to the left than any other US news outlet. This contrasts with news outlets like MSNBC and Fox News which have fairly balanced audiences.

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