

**SHUT YOUR APP: HOW UNCLE SAM
JAWBONED BIG TECH INTO SILENCING
AMERICANS, PART II**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

OCTOBER 29, 2025

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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SHUT YOUR APP: HOW UNCLE SAM JAWBONED BIG TECH INTO SILENCING AMERICANS, PART II

WEDNESDAY, OCTOBER 29, 2025

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:36 a.m., in room SR-253, Russell Senate Office Building, Hon. Ted Cruz, Chairman of the Committee, presiding.

Present: Senators Cruz [presiding], Fischer, Blackburn, Schmitt, Curtis, Moreno, Sheehy, Cantwell, Klobuchar, Markey, Rosen, Luján, and Fetterman.

OPENING STATEMENT OF HON. TED CRUZ, U.S. SENATOR FROM TEXAS

The CHAIRMAN. Good morning. The Senate Committee on Commerce, Science, and Transportation will come to order. In 1984, George Orwell chillingly explored how the control of speech is the control of the mind.

In describing this world, Orwell powerfully demonstrated how an authoritarian government can suppress the ability of a person to speak, dissent, and think in order to control its people. Long before Orwell, our founding fathers recognized this threat as well.

After witnessing a long train of abuses and usurpations by the British crown, including the suppression of speech and thought, 56 men signed the Declaration of Independence, speaking out in defense of man's natural rights and beginning the formation of a new free nation built upon one's ability to speak and dissent against the Government.

The American founders knew all too well that being unable to speak out against Government encroachment of your rights ensures the loss of those rights. The right to speak out is the foundation of a free society. It gives everyone, whether a Senator or a citizen, a contrarian or a comedian, the power to persuade and to hold Government accountable.

And that is why all of us need to defend and protect the most powerful weapon we have against the Government's ability to censor its own citizens, the First Amendment. Censorship around the world is growing. Even allies like the United Kingdom are making arrests for so called "offensive speech", like criticism of open borders and peaceful prayer near abortion clinics.

President Reagan was right when he declared that freedom is never more than one generation away from extinction. Here in the United States, we must uphold free speech and zealously guard against censorship. Earlier this month, I convened a hearing to examine how our own Government, particularly the Cybersecurity and Infrastructure Security Agency, censored in secret, often through third parties.

CISA and White House officials jaw-boned Big Tech into deleting tweets, downranking posts, and deplatforming conservatives under the guise of “safety and national security.” We heard the stories of Alex Berenson and Sean Davis, who were personally targeted by the Biden Administration’s apparatchiks for opinions and facts they shared on COVID and election fraud.

They not only suffered significant financial loss, but more importantly, they were silenced by their own Government. Today, we pick off where the story left off, with witnesses from two Big Tech companies that were pressured by the Biden Administration to censor the American people, Google and Meta.

Today, these same companies claim to zealously advocate for free speech. While I welcome their newfound religious conversion, they owe apologies to Alex Berenson, to Sean Davis, and to countless Americans they silenced at the Biden Administration’s behest. No major tech company, let alone the ones before us, publicly spoke out when this was happening. They were silent.

Despite armies of lobbyists and legal resources without limit, Big Tech was speechless when the Biden White House bullied them into censoring regular citizens. Neither Big Tech, nor any of my Democrat colleagues, spoke up. They seemed quite content to follow the example of the United Kingdom, criminalizing speech that some find offensive under the guise of “misinformation.”

But the fact is the Government cannot or at least should not be the arbiter of truth. You don’t get to decide free speech protections are available only to favored or popular speech. It is not up to bureaucrats and politicians to decide which speech is reasonable and which is hateful, and then only accept that speech that they find to be socially acceptable and inoffensive. You don’t get to cancel someone for using the wrong pronouns or challenging conventional wisdom on vaccines.

Now, our commitment to free speech under the rule of law means protecting speech that some people find unreasonable, or offensive, or even hateful. So, what does that mean in practice? Alex Berenson and Sean Davis can prove that the Biden Administration was behind their online censorship, yes, but they still face significant legal obstacles in recouping their losses.

Their stories and countless others like them have revealed dangerous gaps in our legal protections for free speech. It cannot be that their First Amendment rights go un-remedied merely because the violators are no longer in office or because Congress has withheld a damages remedy.

This collusion between big Government and Big Tech is a warning that we need stronger tools to guard our cherished freedoms. That is why I will soon introduce new legislation, the Jawbone Act, which will provide a robust right to redress when Americans are targeted by their own Government.

I am hopeful that today's hearing will reflect bipartisan interest in protecting free speech and finding common ground on measures like this one. We cannot remain idle in the face of Government agencies manipulating private companies into silencing their critics.

We must act decisively to uphold the First Amendment, to protect open debate, and to defend every American's right to speak freely without fear of Government reprisal. I will now turn to Ranking Member Cantwell.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman, and thank you for having this hearing, for the witnesses being here. But my fundamental question still is, where is Brendan Carr? We might have the right hearing, but I am not sure we have the right witnesses.

We might have the right questions, but I am not sure we have the right Administration we are calling into question. I will take the opportunity to ask the witnesses about AI, about algorithms, about competition on platforms.

But as we discuss censorship today, this hearing isn't serious if it ignores the ongoing corporate consolidation green lighted by the Trump Administration, which is only approving deals that come with a political pro quo. Mr. Feld, in your testimony, you talk about, "consolidation amplifies the ability to control content on an unprecedented scale."

And I appreciate that you recognize the threat posed by corporate consolidation to free speech and independent journalism. In fact, you also say, "a handful of opaque algorithms are controlling the majority of discussion online."

Just this year, FCC Chairman Carr approved Skydance's \$8 billion acquisition of Paramount, but only after Paramount paid \$16 million to settle with President Trump and install a first-term Trump appointee as the ombudsman at CBS.

And FTC Chairman Ferguson approved Omnicron's \$13 billion acquisition of Interpublic, creating the world's largest media buying agency while ignoring the serious concerns about market consolidation.

So, rather than protecting consumers and competition, the FTC imposed conditions to favor certain kinds of content. The FTC later in complaints—as Mr. Feld is saying in his testimony, it is really important to have somebody at the FTC that is making sure that we understand the consumer harm when you reduce competition, when you basically are reducing investment.

The consolidation of audiences and advertising dollars on just a few social media platforms pose real risk to democracy, to the sustainability of local, diverse, and trusted media sources.

When a handful of companies control how information spreads, that makes it easier for any Administration to abuse that power with political threats to chill speech. What we have seen, both Meta and Google recently reached a \$25 million settlement with President Trump.

Those settlements raise concerns about the kind of back channel arrangements that can distort information. The stakes are high

now because as we look to turning to AI for the future, how will that tool be used? A July poll from the Associated Press show that 60 percent of Americans use AI to find information.

While AI is a tremendous power for good, this trend raises concerns of the concentration and monopolization of that information. The amount of control in the hands of just a select few could erode the foundation of free speech.

The First Amendment isn't just a line in the Bill of Rights. It is about an operating system for our democracy that protects everybody, comedians, protesters, the free press, and obviously people we disagree with. That is why this committee should focus on ensuring competition, diverse and truly independent media systems, and all supportive of both transparency expressed in this panel's testimony today and in the previous panel's testimonies.

Transparency in process can be a very good antiseptic. The proposed TikTok deal is a perfect example of the danger when those principles break down. It places yet another major media platform under control—already Paramount, CBS, Skydance, and reportedly those seeking to buy Warner Brothers' Discovery. What are the details of how we are going to rid the Chinese influence of these algorithms and their misuse of algorithms? I am still waiting for that explanation.

So, we have seen how consolidation erodes both competition, and we only have a handful of companies owning outlets that Americans rely on for news, entertainment, and those companies become easier to intimidate.

So I ask again, where is Chairman Carr? These are important issues. I hope they will appear before this committee at some point in time, because we need to understand the direction that we are going in our country to protect free speech.

And that is why the work of this committee should be, as you said, Mr. Chairman, to defend the First Amendment, and have a free, diverse media landscape. It is more urgent than ever. Thank you.

The CHAIRMAN. Thank you very much. And I would note the Ranking Member asked where Brendan Carr is. As she knows, this committee has already announced we will be having oversight hearings, and Brendan Carr will be testifying before this committee.

And indeed, in the preceding two years, when the Democrats had the majority on this committee, we had precisely zero oversight hearings of the FCC. We had zero oversight hearings of the FTC. And I haven't announced it, but we will be having oversight hearings of the FTC as well, because this committee has a responsibility to engage in oversight.

So Mr. Carr will be here, and each member of this committee on both sides of the aisle will be able to question him on any policies or questions they like. I now want to introduce our witnesses for today. Our first witness is Markham Erickson, the Vice President of Governmental Affairs and Public Policy at Google.

Mr. Erickson leads Google's Government Affairs and Public Policy Centers of Excellence, a global team focused on applying law to technology and the internet. Our second witness is Neil Potts, the Vice President of Public Policy at Meta. Mr. Potts has worked for

Facebook, or Meta, since 2016, and I look forward to hearing his testimony about Meta's experience with jawboning.

Our third witness is Will Creeley, Legal Director for the Foundation for Individual Rights and Expression. His experience advocating for free expression spans five Presidential Administrations, and his writings have been featured in prominent newspapers and Supreme Court briefs.

Our final witness is Harold Feld, Senior Vice President of Public Knowledge. Mr. Feld has practiced law for more than 20 years at the intersection of technology, broadband, and media policy. Mr. Erickson, you are recognized for five minutes.

**STATEMENT OF MARKHAM ERICKSON, VICE PRESIDENT,
GOVERNMENT AFFAIRS AND PUBLIC POLICY, GOOGLE**

Mr. ERICKSON. Chairman Cruz, Ranking Member Cantwell, and members of the Committee, thank you for the opportunity to speak with you today. My name is Markham Erickson, and I serve as Vice President of Government Affairs and Public Policy at Google.

Google's mission, from its inception to today, has been to organize the world's information and make it universally accessible and useful. Founded in America, we proudly advance this mission around the globe.

And while our platforms continue to experience tremendous success worldwide, it is hard to imagine that our story could have begun anywhere else but here in America, where the commitment to freedom of expression is so profound. And yet, even in America and certainly in many other countries around the world, we often find this commitment challenged by others.

We hear from Government agencies, legislators, NGOs, academics, and individual users who inform us of content that they believe we should remove, or on the other hand, content that we have removed that they believe should remain available. This happens across the political spectrum and around the world, and it has for years.

It is not new to us. With respect to the governments in countries where we operate, we have a responsibility to engage on this issue, just as I am doing here today. While we are a company dedicated to the goal of making the world's information universally accessible, that doesn't mean that we don't have certain rules.

Terrorist content, child sexual abuse material, hate speech, and other harmful content have no place on our platforms. To be crystal clear, we develop and enforce our policies independently. That is a right we enjoy in this country as a matter of law, and one we maintain with purpose and determination.

We recognize our responsibility, and we have policies against content that we conclude is illegal, offensive, or dangerous. We independently and voluntarily evaluate whether content violates our terms of policy—our terms of services and policies, reach our own conclusions and take enforcement action in accordance with our own determinations.

And sometimes that means we tell the Government no. During the pandemic, officials in the Biden Administration pressed Google to remove certain COVID-19 content on YouTube. Despite this out-

reach, we continued to develop and enforce our policies independently, rejecting suggestions that did not align with those policies.

And today, we exercise this same independence over our policies and products under the current Administration and with governments around the world. Outside of the United States, we have fought that fight at breathtaking cost.

Multiple governments have shut down access to our services when we would not remove content that complied with our policies. As one example, when Russian authorities ordered YouTube to remove political videos critical of the regime, we refused. The government threatened our employees with jail and fined us.

Today, those fines exceed more than the world's GDP, yet we continue to resist. We also recognize that transparency regarding Government actions—interactions with companies is essential to foster public trust and uphold the principles of freedom of expression. Google publishes data in our biannual transparency report on Government content removal requests.

We welcome the Committee's consideration of legislation that would create more transparency in how the U.S. Government engages with industry, and Chairman Cruz, we support in principle some of the legislative recommendations from your staff in your report. As we make our independent choices about how we moderate content, we recognize that speech is more important than ever.

We have to get this right. Think of the sheer scale. Google responds to billions of search queries every day and over 500 hours of content are uploaded on YouTube every single minute, reflecting the vast proliferation of viewpoints and a range of perspectives. This scale translates to thriving economic growth in the United States.

As website publishers and YouTube creators find success, they build businesses, hire employees, and contribute to their communities while creating content for billions of people around the world. The opportunity to help drive a thriving digital ecosystem is only just beginning.

The scientific innovations made possible by artificial intelligence are creating a generational technology shift. Google's AI advances in predicting protein structures, for example, have saved at least 400 million years of research and are helping 3 million scientists in 190 countries make progress in addressing things like cancer and malaria. Google uses AI to forecast floods, detect wildfires, and provide tools to improve farming efficiency and boost crop yields.

These discoveries, this scientific progress is made possible by America's tradition of protecting the free and robust expression of ideas. We remain committed to doing our part to keep the digital ecosystem safe, reliable, and open to free expression. We rely on the trust of our users, and we intend to keep on earning it. I look forward to your questions.

[The prepared statement of Mr. Erickson follows:]

PREPARED STATEMENT OF MARKHAM ERICKSON, VICE PRESIDENT OF GOVERNMENT AFFAIRS AND PUBLIC POLICY, GOOGLE

Chairman Cruz, Ranking Member Cantwell, and Members of the Committee, thank you for the opportunity to speak with you. My name is Markham Erickson, and I serve as Vice President of Government Affairs and Public Policy at Google.

Google’s mission—from its inception to today—has been to organize the world’s information and make it universally accessible and useful. Founded in America, Google proudly advances this mission around the globe. And while our platforms continue to experience tremendous success worldwide, it is hard to imagine that our story could have begun anywhere else but here in the United States, where the commitment to freedom of expression is so profound.

Independent Policy Development and Enforcement

We take seriously the importance of protecting free expression and access to a range of viewpoints, while also maintaining and enforcing responsible policy frameworks. Terrorist content, child sexual abuse material, hate speech, and other harmful content have no place on our platforms. When it comes to the manner in which we moderate the content on our platforms, we are crystal clear: we develop and enforce our policies independently. We independently and voluntarily evaluate whether content violates our terms and policies, reach our own conclusions, and take enforcement action in accordance with these determinations.

Around the world, we hear from government agencies, legislators, non-governmental organizations, academics, and individual users who inform us of content that they believe we should remove, or, on the other hand, content that we have removed that they believe should remain available. This happens across the political spectrum and around the world, and it has for years. We have a responsibility to engage on these issues in the countries where we operate.

Sometimes, the results of our independent evaluations mean that we tell a government “no” and we decline to remove content as they request. For example, during the pandemic, officials in the Biden Administration pressed YouTube to remove certain COVID-19 content. Despite this outreach, we continued to develop and enforce our policies independently, rejecting suggestions that did not align with our policies. Today, we exercise this same independence over our policies and products under the current Administration and with governments around the world.

Google’s Interactions with Governments Around the World

Outside of the United States, we also have pushed back against requests to moderate content, even at great cost. Multiple governments have attempted to shut down user access to our services when we would not remove content that complied with our policies.

As one example, when Russian authorities ordered YouTube to remove political videos critical of the regime, we refused. The government threatened our employees and fined us. Kremlin-aligned media outlets sued us in Russia, demanding we provide a platform for them. After we refused, the Russian government imposed fines against us that forced us to leave the market. Today those fines exceed more than the world’s GDP. We continued to fight back, bringing suit in the European Court of Human Rights and securing a ruling that Russia had violated freedom of expression. We have since filed successful court cases in the United Kingdom and the United States to stop the media outlets from enforcing these unjust fines against us outside Russia.

While Google has a proud track record of pushing back against or objecting to overly broad or otherwise inappropriate government demands for content removals, we recognize that communication with law enforcement and the government is a critical component of our efforts to keep people safe on our platforms and services. Google works with government officials, law enforcement entities, and legislators across the political spectrum in numerous ways to assess threats and to counter attempts to deceive, harm, or take advantage of users.

We have processes in place to swiftly refer threats of imminent harm—including those involving terrorism, mass shootings, violent events, or other urgent incidents—and specified illegal activity occurring on our platform to law enforcement. We also have procedures for our various internal product teams, as well as external sources, to escalate potential threats and criminal activity they see on our platforms, including child sexual exploitation. Google personnel assess escalated threats and refer matters to law enforcement whenever appropriate, consistent with due process and privacy protections.

In addition to these urgent referrals, we maintain regular communication channels with law enforcement, government entities, and industry partners as part of our efforts to keep people safe and understand and adapt to trends and new forms of abuse. We rely on information learned through such channels to ensure the integrity of our products. When appropriate, we share threat intelligence, provide criminal referrals, and hold follow-up briefings. More information on our threat intelligence work can be found here [<https://cloud.google.com/security/products/threat-intelligence?hl=en>] and here [<https://blog.google/threat-analysis-group/>].

Courts and government agencies around the world regularly ask Google to remove information from Google products for alleged violation of law. We review these legal demands closely to determine if content should be removed because it violates our terms of service and content policies, or should be restricted within a specific country because it violates a local law. In order for us to evaluate a legal demand from a government entity, it must provide a clear explanation of how the content violates controlling laws or regulations or our policies.

We do not always remove content in response to a government's legal demand. Some legal demands may not be specific enough for us to know what the government wanted us to remove (for example, no URL is listed in the request) or lack sufficient explanation of why the government believes content violates a given law.

We also know that transparency regarding government interactions with companies is essential to foster public trust and uphold the principles of free expression. Google publishes data in our biannual *Transparency Report* on government content removal requests—part of our efforts to inform discussions about and shed light on these requests.

We welcome the Committee's consideration of legislation that would create more trust and transparency in how the U.S. government engages with industry, and we support in principle some of the legislative recommendations outlined in the Committee's recent report.

Opportunity and Innovation

As we make our independent choices about how we moderate content, we recognize that speech is more important than ever. Google responds to billions of search queries every day, and over 500 hours of content is uploaded on YouTube every single minute, reflecting a vast proliferation of viewpoints and a range of perspectives. This scale translates to thriving economic growth in the United States. As website publishers and YouTube creators find success, they build businesses, hire employees, and contribute to their communities across the country while creating content for billions of people.

We recognize that our products have an important role to play in facilitating and contributing to a healthy digital ecosystem and making information available to our billions of users. We find ourselves in an incredibly critical moment in the history of the Internet. The scientific innovations made possible by artificial intelligence are creating a generational technological shift. For instance, Google's AI advances in predicting protein structures have saved at least 400 million years of research and are helping three million scientists in 190 countries make progress in addressing diseases like malaria and cancer. Google is also using AI to forecast floods, detect wildfires, and provide tools to improve farming efficiency and boost crop yields. Our AI projects are driving positive change in areas including health, accessibility, science, and economic impact.

Selected examples of these *AI applications* to address society's biggest challenges include:

- *Fighting Cancer.* Artificial Intelligence holds the promise of revolutionizing humanity's fight against cancer and other diseases. At Google, we are particularly proud of our recent advancements, including:
 - Childhood leukemias and many other cancers have incredibly complex genetic signatures, requiring tailored treatments based on their specific mutations. DeepSomatic is an AI-powered tool that helps scientists and doctors spot genetic variants in cancer cells. Our partners at Children's Mercy in Kansas City used DeepSomatic to identify 10 new genetic variants in samples of childhood leukemia that had been missed by previous techniques. If they can pinpoint how and why a particular form of cancer is affecting a patient, they may be able to develop personalized cures. Remarkably, DeepSomatic can also generalize to cancers it hasn't seen before. For example, without any training on the brain cancer glioblastoma, DeepSomatic was able to pinpoint which genetic variants cause it. This suggests it could work even on rare or new types of cancer—a big milestone that marks 10 years of genomics research at Google. We are also working with clinicians, patients, and partners to build an AI system for mammography, which could help radiologists detect breast cancer more accurately, quickly, and consistently.
 - A major challenge in cancer immunotherapy is that many tumors are “cold”—invisible to the body's immune system. A key strategy to make them “hot” is to force them to display immune-triggering signals through a process called antigen presentation.” Recently, in a collaboration with Yale University, Google DeepMind developed an AI model that was able to generate a new hypothesis about interventions that could boost antigen presentation—and lab-

oratory testing revealed that the hypothesis was sound, “resulting in a roughly 50 percent increase in antigen presentation, which would make the tumor more visible to the immune system. With further preclinical and clinical validation, such hypotheses may be able to ultimately accelerate the path to new therapies.

- *Predicting Proteins Structures with AlphaFold.* For decades, scientists tried to find a method to reliably determine a protein’s structure from its sequence of amino acids alone. These methods included nuclear magnetic resonance and X-ray crystallography, which relied on extensive trial and error, years of painstaking work, and multi-million-dollar specialized equipment. This grand scientific challenge is known as the protein-folding problem. In 2016, researchers at Google DeepMind began work on this problem. We built an AI system by teaching it through visual sequences and structures of around 100,000 known proteins. Now, this system can predict the shape of all 200 million known proteins, almost instantly, down to atomic accuracy. We call this system AlphaFold. Today, AlphaFold has revealed millions of intricate 3D protein structures, and is helping scientists understand how life’s molecules interact. For this breakthrough, Co-founder and CEO of Google DeepMind and Isomorphic Labs Sir Demis Hassabis, and Google DeepMind Director Dr. John Jumper were co-awarded the 2024 Nobel Prize in Chemistry.
- *Facilitating Human Communication.* Google is committed to facilitating communication. For example, Google’s *Project Relate* is an Android app that helps individuals with non-standard speech communicate more easily. By offering features like speech-to-text transcription and clear voice repetition, it enables users to express themselves and manage daily tasks effectively. Google also is committed to developing language inclusion technology. There are over 7,000 languages spoken around the world. To date, few of these languages have been well represented online. To capture the diversity of how we communicate globally, Google has *built an AI model* to help people connect and better understand the world around them.
- *Advancing Earth Sciences.* Google is using AI to advance earth sciences in a variety of ways such as:
 - *Flood Forecasting.* Floods are the most common type of natural disaster and nearly 1.5 billion people, or some 19 percent of the world population, are directly exposed to substantial risks from severe flood events worldwide. Our AI-powered *flood forecasting* platform can predict when and where riverine flooding will occur up to seven days in advance. This allowed us to provide flood forecasting in 80 countries in areas where 460 million people live. Where possible, we also provide forecasts in Google Search and Google Maps and via Android notifications.
- *Agriculture and Farming.* Using Google Research’s NeuralGCM and other advanced AI models, the University of Chicago’s Human-Centered Weather Forecasts Initiative built a high-quality forecast that is more efficient, more flexible, and more accurate than traditional forecasts. In 2025, the program successfully delivered tailored, advanced forecasts to 38 million farmers in India—accurately predicting an unusually delayed monsoon season and allowing the farmers to proactively adjust their planting decisions accordingly.
- *Wildfire tracking.* Our alerts, simulation models, and *wildfire risk forecasting* systems are helping provide accurate wildfire information to affected communities and fire authorities. In an exciting recent development, the first satellite for the *FireSat constellation* officially made contact with Earth. This satellite is the first of more than 50 in a first-of-its-kind constellation designed to use AI to detect and track wildfires as small as a classroom (roughly 5x5 meters). Currently, many wildfire authorities depend on satellite imagery that is low-resolution or only updated a few times a day. FireSat will advance the science and practice of fighting wildfires by providing high-resolution imagery updated globally every 20 minutes, helping emergency responders catch wildfires before they become destructive.
- *Calling in Our Corals—SurfPerch.* Our AI model can expedite the process of finding solutions to preserve and restore coral reefs, developed in collaboration with Google researchers and enriched by contributions from citizen scientists on the *Calling in Our Corals*.
- *Green Light.* Our AI tool measures driving trends at intersections and develops recommendations that city traffic engineers can use to *optimize the timing of traffic light changes* to reduce stop-and-go traffic.

- *Earth AI*. The hardest and most important questions in planetary science and crisis response are never about just one kind of geospatial information—they are about pulling it all together. In response, we are developing *Earth AI* in order to knit all of that information and predictive power together. Questions that are currently impossible to answer because they're too complex and draw on too many disparate geospatial resources will become possible to tackle. And this, in turn, will prompt new research—new collection of useful data about Earth, new kinds of sensors and new uses of AI to model sophisticated interconnected patterns across the planet.
- *Advancing Quantum Computing*. At Google Quantum AI, we believe quantum computers can help shape a brighter future and solve otherwise impossible problems in the fields of national security, drug discovery, industrial chemistry, energy, and more. We are optimistic that within five years we will see real-world applications that are possible only on quantum computers. Google Quantum AI announced the first-ever demonstration of verifiable quantum advantage, a significant step towards real world applications for quantum computing. We have run an algorithm, which we call Quantum Echoes, on our quantum computer that would take 13,000 times longer on one of the world's fastest supercomputers. This advance may help us better understand molecular structures, with potential implications for fields like drug discovery, medicine, and battery development. The United States leads the development of quantum computing, and Google has the most advanced, state-of-the-art quantum computing effort anywhere in the world. We proudly make our chips in the United States, at a dedicated superconducting fabrication facility. All of our quantum computing technology is located in our U.S. quantum computing laboratories.

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The future is before us. And it is a future made possible by unique attributes of the United States of America and the freedoms we hold dear. These discoveries, this scientific progress, and the resulting economic growth in the United States is made possible by America's tradition of protecting the free and robust expression of ideas. We remain committed to doing our part to keep the digital ecosystem safe, reliable, and open to free expression; we rely on the trust of our users and we intend to keep earning it.

The CHAIRMAN. Thank you. Mr. Potts, you are recognized.

**STATEMENT OF NEIL POTTS, VICE PRESIDENT,
PUBLIC POLICY, META PLATFORMS INC.**

Mr. POTTS. Thank you, Chairman. Chairman Cruz, Ranking Member Cantwell, members of the Committee, thank you for the opportunity to testify today. My name is Neil Potts, and I am a Vice President for Public Policy at Meta.

I have been with the company for nearly 10 years, and in my current role, I am responsible for oversight of the development and implementation of our community standards, which provide the rules for what we allow and do not allow on the platform. I am a graduate of the United States Naval Academy and the University of Virginia School of Law.

Prior to joining Meta, I worked as a lawyer in private practice and served as a ground intelligence officer in the United States Marine Corps, where I was deployed in support of Operation Enduring Freedom and Operation Iraqi Freedom.

At Meta, our mission is to build the future of human connection and the technology that makes it possible. Key to this work is our foundational commitment to free expression. Every day, millions of Americans use our services to stay in touch with friends and family, generate creative content, and learn about what is going on in the world.

We want to give them a voice and make sure they can engage with their communities in a safe way. The diversity of viewpoints, expression, and experience on our platforms highlights much of what is good about Meta, but it also presents challenges when deciding what content should and should not be allowed.

These are complex issues. To create a place that is safe for a variety of people, we have to make hard decisions about what should be permitted. Some people think we take down too much content, others think we down too little content. And while we know everyone will not agree with every decision we make, we remain committed to providing transparency about our content moderation and our enforcement policies, and we have worked hard to prioritize speech.

Our goal is always to get it right, but we recognize that we are not perfect. When there are concerns about how we approach enforcement, we appreciate hearing from people, including you here in Congress, about how can we improve. In that spirit, I appreciate the opportunity to share Meta's perspective on communications with Government officials.

We regularly hear from governments around the world and others with various concerns around public discourse and public safety. And our job, no matter where content reports may come from, is to ensure that we make independent decisions based on our policies.

As our CEO has previously acknowledged, in 2021, senior officials from the Biden Administration, including the White House, repeatedly pressured our teams for months to censor certain COVID-19 content, including humor and satire, and they expressed a lot of frustration when our teams did not agree.

Ultimately, it was our decision to take down content and we own those decisions, including COVID-19 related changes we made to enforcement in wake of that pressure. To be clear, we believe that Government pressure was wrong and wish we had been more outspoken about it. We should not compromise our content standards due to pressure from any Administration in either direction, and we are ready to push back if something like this happens again.

We also work to promote free expression, and to that end we recently implemented a series of significant changes designed to help bring us back to our roots and allow for more speech. Among other things, we ended our third-party fact checking program and moved to a community notes model.

We got rid of a number of restrictions on topics that are subject to frequent political discourse and debate. We changed how we enforce our policies to reduce mistakes, and we adopted a more personalized approach to political content. These changes, which are described in my written testimony, are an attempt to return to our ideals about free expression.

That means being vigilant about the impact our policies and systems have on people's ability to make their voice heard, and having the humility to change our approach when we know we are getting something wrong.

We believe these changes are having a positive impact and look forward to continuing to give people a voice across our platforms.

Senator, Ranking Member, thank you again. I welcome your questions.

[The prepared statement of Mr. Potts follows:]

PREPARED STATEMENT OF NEIL POTTS, VICE PRESIDENT, PUBLIC POLICY,
META PLATFORMS INC.

Chairman Cruz, Ranking Member Cantwell, Members of the Committee: Thank you for the opportunity to testify today. My name is Neil Potts, and I am a Vice President for Public Policy at Meta. I have been with the company for nearly 10 years, and, in my current role, I'm responsible for oversight of the development and implementation of our Community Standards, which provide the rules for what types of content are and are not allowed on our platforms. I am a graduate of the United States Naval Academy and the University of Virginia School of Law. Prior to joining Meta, I worked as a lawyer in private practice and served as a ground intelligence officer in the United States Marine Corps and was deployed in support of Operation Enduring Freedom and Operation Iraqi Freedom.

At Meta, our mission is to build the future of human connection and the technology that makes it possible. Key to this work is our foundational commitment to free expression. Every day, millions of Americans use our services to stay in touch with friends and family, generate creative content, learn about what's going on in the world, and more. We want to give them a voice and make sure that they can engage with their communities in a safe way.

The diversity of viewpoints, expression, and experiences on our platforms highlights much of what is best about Meta. But it also presents challenges when deciding what content should and should not be allowed. These are complex issues. To create a place that is safe for a variety of people, we have to make hard decisions about what should be permitted. Some people think we take down too much content, while others think we remove too little. While we know not everyone will agree with every decision that we make, we remain committed to providing transparency to our content moderation and enforcement policies, and we have worked to prioritize speech. Our goal is to always get it right, but we recognize that we are not perfect. And when there are concerns about how we approach our enforcement, we appreciate hearing from people, including you here in Congress, about how we can improve.

In that spirit, I appreciate the opportunity to share Meta's perspective on communications with government officials, which is the focus of the Committee's invitation that I am prepared to address. We regularly hear from governments around the world and others with various concerns around public discourse and public safety. Our job, no matter where content reports may come from, is to ensure that we make independent decisions based on our policies.

As our CEO has acknowledged, in 2021, senior officials from the Biden Administration, including the White House, repeatedly pressured our teams for months to censor certain COVID-19 content, including humor and satire, and expressed a lot of frustration with our teams when we didn't agree. Ultimately, it was our decision whether or not to take content down, and we own our decisions, including changes we made to our COVID-19-related enforcement in the wake of this pressure. We believe the government pressure was wrong and wish we had been more outspoken about it. We should not compromise our content standards due to pressure from any Administration in either direction, and we're ready to push back if something like this happens again.

Our Approach to Content Moderation

We moderate content according to our published policies, including our *Community Standards*. We enforce these policies in an effort to help keep people on our platforms safe, reduce objectionable content, and help people participate on our platforms responsibly. We strive to be clear and transparent about what our standards are, and we seek to apply them to everyone consistently. When we identify content that violates our policies, we take action.

Over the years, this work led us to develop a set of increasingly complex systems to manage content across our platforms. These efforts were well-intentioned, but they went too far. They expanded over time to the point where we were making too many mistakes, frustrating our users, and too often getting in the way of the free expression we set out to enable.

Recent Changes to Our Content Moderation Program

To address this, we recently implemented a series of significant changes designed to bring us back to our roots and allow for more speech. As we said at the time of their announcement:

- *Ending Our Third-Party Fact-Checking Program and Moving to a Community Notes Model.* When we launched our independent fact-checking program in 2016, we were very clear that we didn't want to be the arbiters of truth. We made what we thought was the best and most reasonable choice at the time, which was to hand that responsibility over to independent fact-checking organizations. The intention of the program was to have these independent experts give people more information about the things they see online, particularly viral hoaxes, so they were able to judge for themselves what they saw and read.

That's not the way things played out, especially in the United States. Experts, like everyone else, have their own biases and perspectives. This showed up in the choices some made about what to fact check and how. Over time we ended up with too much content being fact checked that people would understand to be legitimate political speech and debate. Our system then attached real consequences in the form of intrusive labels and reduced distribution. A program intended to inform too often became a tool to censor.

So we changed our approach and ended the third-party fact checking program in the United States, moving to a Community Notes program. We've seen this approach work on X—where they empower their community to decide when posts are potentially misleading and need more context, and people across a diverse range of perspectives decide what sort of context is helpful for other users to see. We think this is a better way of achieving our original intention of providing people with information about what they're seeing—and one that's less prone to bias.

Meta does not write Community Notes or decide which ones show up. They are written and rated by contributing users. Community Notes also require agreement between people with a range of perspectives to help prevent biased ratings. We intend to be transparent about how different viewpoints inform the Notes displayed in our apps and are working on the right way to share this information.

We have phased in Community Notes in the U.S. and continue to improve them. We have stopped demoting fact-checked content, and, instead of overlaying full screen interstitial warnings people have to click through before they can even see a post, we now use a much less obtrusive label indicating that there is additional information for those who want to see it.

- *Allowing More Speech.* We found that we were over-enforcing our rules, limiting legitimate political debate, censoring too much trivial content, and subjecting too many people to frustrating enforcement actions. We want to undo the mission creep that has made our rules too restrictive and too prone to over-enforcement. We got rid of a number of restrictions on topics like immigration and gender that are the subject of frequent political discourse and debate.

We also changed how we enforce our policies to reduce the kind of mistakes that account for the vast majority of the censorship on our platforms. We historically used automated systems to scan for all policy violations, but this resulted in too many mistakes and too much content being censored that should not have been. So, we have continued focusing these systems on tackling illegal and high-severity violations, like terrorism, child sexual exploitation, drugs, fraud, and scams. For less severe policy violations, we now rely on someone reporting an issue before we take any action.

We also found we were demoting too much content that our systems predicted might violate our standards. We got rid of most of these demotions and now require greater confidence that the content violates for the rest. Additionally, we tuned our systems to require a much higher degree of confidence before a piece of content is taken down.

People are often given the chance to appeal our enforcement decisions and ask us to take another look, but the process can be frustratingly slow and doesn't always get to the right outcome. We added extra staff to this work and, in more cases, we are also now requiring multiple reviewers to reach a determination in order to take something down. We are working on ways to make recovering accounts more straightforward and testing facial recognition technology, and we've started using AI large language models to provide a second opinion on some content before we take enforcement actions.

- *A Personalized Approach to Political Content.* Since 2021, we have made changes to reduce the amount of civic content people see—posts about elections, politics, or social issues—based on the feedback our users gave us that they wanted to see less of this content. But this was a pretty blunt approach. We started phasing this back into Facebook, Instagram, and Threads with a more personalized approach so that people who want to see more political content in their feeds can.

We are also continually testing how we deliver personalized experiences and have conducted testing around civic content. As a result, we started treating civic content from people and Pages users follow on Facebook more like any other content in their feed, and we started ranking and showing people that content based on explicit signals (for example, liking a piece of content) and implicit signals (like viewing posts) that help us predict what is meaningful to people. We are also recommending more political content based on these personalized signals and are expanding the options people have to control how much of this content they see.

These changes are an attempt to return to our ideals around free expression. That means being vigilant about the impact our policies and systems are having on people's ability to make their voices heard and having the humility to change our approach when we know we're getting things wrong.

We believe these changes are having a positive impact. As reflected in our Community Standards Enforcement Report for the first quarter of 2025, we saw a roughly 50 percent reduction in enforcement mistakes on our platforms in the United States from the last quarter of 2024 to the first quarter of 2025. During that same time period, the low prevalence of violating content largely remained unchanged for most problem areas. This improvement follows the earlier commitment we made to change our focus to proactively enforcing high-severity violations and enhancing our accuracy through system audits and additional signals, as described above.

Thank you, and I welcome your questions.

The CHAIRMAN. Thank you. Mr. Creeley, you are recognized.

**STATEMENT OF WILL CREELEY, LEGAL DIRECTOR,
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION**

Mr. CREELEY. Chairman Cruz, Ranking Member Cantwell, and honorable members of the Committee, good morning and thank you for the opportunity to testify today.

My name is Will Creely, and I am the Legal Director of FIRE, the Foundation for Individual Rights and Expression, a non-partisan nonprofit dedicated to defending the rights of all Americans to free speech and free thought, the essential qualities of liberty. I have spent nearly 20 years defending the First Amendment rights of speakers from every point on the ideological spectrum.

At FIRE we have one rule, if it is protected, we will defend it. Typically, the censorship we fight is straightforward, the Government punishes the speaker for saying things the Government doesn't like. That is a classic First Amendment violation, a fastball down the middle. Unfortunately, that kind of textbook censorship isn't the only way Government actors silence disfavored or dissenting speech.

Far too often, Government officials from both sides of the partisan divide engage in jawboning. That is, they abuse the actual or perceived power of their office to threaten, bully, or coerce others into censoring speech. This indirect censorship violates the First Amendment just as surely as direct suppression.

This isn't new law. The First Amendment's prohibition against coerced censorship dates back decades to the Supreme Court's 1963 ruling in *Bantam Books v. Sullivan*. In that case, the court confronted a Rhode Island State Commission that sent threatening let-

ters “phrased virtually as orders” to booksellers distributing “objectionable titles” with follow-up visits from police to ensure the message had been received.

The court held the commission’s operation was “in fact a scheme of state censorship effectuated by extra-legal sanctions.” They acted as an agency not to advise but to suppress. And in this decade since, courts have consistently heeded Bantam Books’ call to “look through forms to the substance of censorship and to remain vigilant against both formal and informal schemes to silence speech.”

But Government officials regularly abuse their power to silence others, so the lesson of Bantam Books bears repeating. And in deciding *National Rifle Association v. Vullo* last year, the Supreme Court emphatically and unanimously reaffirmed it. In *Vullo*, New York State officials punished the NRA for its views on gun rights by threatening regulatory enforcement against insurance companies that did business with the group and offering leniency to those who stopped.

New York’s backdoor censorship was successful and likely unlawful. This regulatory carrot and stick approach was designed to chill speech, and the court reiterated that “a Government official cannot do indirectly what she is barred from doing directly.”

A Government official cannot coerce a private party to punish or suppress disfavored speech on her behalf. To be sure, the Government may speak for itself, and the public has an interest in hearing from it, but it may not wield that power to censor. As Judge Richard Posner put it, the Government is “entitled to what it wants to say, but only within limits.”

Under no circumstances may our public servants “employ threats to squelch the free speech of private citizens.” So, the law is clear, Government actors cannot silence a speaker by threatening, “we can do this the way, or we can do this the hard way,” as the Chairman of the Federal Communications Commission did last month.

Nevertheless, recent examples of jawboning abound against private broadcasters, private universities, private social media platforms, and more. The First Amendment does not abide mob tactics. Despite the clarity of the law, fighting back against jawboning is difficult.

Targeted speakers can’t sue Federal officials for monetary damages for First Amendment violations, removing a powerful deterrent. And as a practical matter, informal censorship is often invisible to those silenced.

That is particularly true in the context of social media platforms, as demonstrated by another recent Supreme Court case, *Murthy v. Missouri*. *Murthy* involved coercive demands by Biden Administration officials to social media platforms about posts related to COVID-19, vaccines, elections, and other subjects, resulting in the suppression of speech the Administration opposed.

But the court held the plaintiffs lack standing to sue because the causal link between their deleted posts and the Administration’s pressure wasn’t sufficiently clear. *Murthy* illustrates a severe information disparity. Users whose speech is suppressed have no way to know if the Government actors put their thumb on the scale.

Only the Government and the platforms have that knowledge, and usually neither wants to share it. That is why FIRE authored

model legislation that would require the Government to disclose communications between Federal agencies and social media companies regarding content published on its platform, with limited exceptions. Transparency is not enough.

Federal officials must be meaningfully deterred from jawboning and held accountable when they do. Jawboning betrays our national commitment to freedom of expression. Congress should take action to stop it. Thank you for your time. I welcome your questions.

[The prepared statement of Mr. Creeley follows:]

PREPARED STATEMENT OF WILL CREELEY, LEGAL DIRECTOR, FOUNDATION FOR
INDIVIDUAL RIGHTS AND EXPRESSION

Chairman Cruz, Ranking Member Cantwell, and honorable members of the Committee,

Good morning, and thank you for the opportunity to testify today. My name is Will Creeley, and I am the Legal Director of FIRE—the Foundation for Individual Rights and Expression, a nonpartisan nonprofit dedicated to defending the rights of all Americans to free speech and free thought, the essential qualities of liberty.

I’ve spent nearly twenty years defending the First Amendment rights of speakers from every point on the ideological spectrum. At FIRE, we have one rule: If speech is protected, we’ll defend it.

Typically, the censorship we fight is straightforward: The government punishes a speaker for saying things the government doesn’t like. That’s a classic First Amendment violation, a fastball down the middle. Unfortunately, that kind of textbook censorship isn’t the only way government actors silence disfavored or dissenting speech.

Far too often, government officials from both sides of the partisan divide engage in “jawboning”—that is, they abuse the actual or perceived power of their office to threaten, bully, or coerce others into censoring speech. This indirect censorship violates the First Amendment just as surely as direct suppression.

This isn’t new law. The First Amendment’s prohibition against coerced censorship dates back decades, to the Supreme Court’s 1963 ruling in *Bantam Books v. Sullivan*. In that case, the Court confronted a Rhode Island state commission that sent threatening letters, “phrased virtually as orders,” to booksellers distributing “objectionable” titles—with follow-up visits from police, to ensure the message had been received.

The Court held the commission’s “operation was in fact a scheme of state censorship effectuated by extra-legal sanctions; they acted as an agency not to advise but to suppress.” And in the decades since, courts have consistently heeded *Bantam Books*’ call to “look through forms to the substance” of censorship, and to remain vigilant against both formal and informal schemes to silence speech.

But government officials regularly abuse their power to silence others, so the lesson of *Bantam Books* bears repeating. And in deciding *National Rifle Association of America v. Vullo* last year, the Supreme Court unanimously and emphatically reaffirmed it.

In *Vullo*, New York State officials punished the NRA for its views on gun rights by threatening regulatory enforcement against insurance companies that did business with the group and offering leniency to those who stopped. New York’s backdoor censorship was successful—and unlawful.

This regulatory carrot-and-stick approach was designed to chill speech, and the Court reiterated that “a government official cannot do indirectly what she is barred from doing directly: A government official cannot coerce a private party to punish or suppress disfavored speech on her behalf.”

To be sure, the government may speak for itself, and the public has an interest in hearing from it. But it may not wield that power to censor. As Judge Richard Posner put it: The government is “entitled to what it wants to say—but only within limits.” Under no circumstances may our public servants “employ threats to squelch the free speech of private citizens.”

So the law is clear: Government actors cannot silence a speaker by threatening “we can do this the easy way or we can do this the hard way,” as the chairman of the Federal Communications Commission did last month. Nevertheless, recent examples of jawboning abound: against private broadcasters, private universities, private social media platforms, and more. The First Amendment does not abide mob tactics.

Despite the clarity of the law, fighting back against jawboning is difficult. Targeted speakers can't sue Federal officials for monetary damages for First Amendment violations, removing a powerful deterrent. And as a practical matter, informal censorship is often invisible to those silenced.

That's particularly true in the context of social media platforms, as demonstrated by another recent Supreme Court case, *Murthy v. Missouri*.

Murthy involved coercive demands by Biden administration officials to social media platforms about posts related to Covid-19, vaccines, elections, and other subjects, resulting in the suppression of speech the administration opposed. But the Court held the plaintiffs lacked standing to sue, because the causal link between their deleted posts and the administration's pressure wasn't sufficiently clear.

Murthy illustrates a severe information disparity: Users whose speech is suppressed have no way to know if government actors put their thumb on the scale. Only the government and the platforms have that knowledge, and usually neither want to share it.

That's why FIRE authored model legislation that would require the government to disclose communications between Federal agencies and social media companies regarding content published on its platform, with limited exceptions. But transparency is not enough. Federal officials must be meaningfully deterred from jawboning, and held accountable when they do.

Jawboning betrays our national commitment to freedom of expression. Congress should take action to stop it.

Thank you for your time. I welcome your questions.

The CHAIRMAN. Thank you. Mr. Feld, you are recognized.

**STATEMENT OF HAROLD FELD, SENIOR VICE PRESIDENT,
PUBLIC KNOWLEDGE**

Mr. FELD. Chairman Cruz, Ranking Member Cantwell, thank you for inviting me to testify here today. At the heart of this hearing lies one of the most important questions for democracy, when does the normal functioning of a Federal agency cross the line into impermissible coercion? When does the bully pulpit become jawboning?

This clearly depends on context. It would be a shame if something happened to your business sounds very different coming from insurance broker than from a mobster. The Supreme Court has provided us with some guidance. For Government interaction to be considered an impermissible coercive act rather than a permissible act of persuasion, several conditions must exist.

First, it must be a Government contact, not interaction between private citizens or advocacy groups. Research by academics, calls by advocates to boycott companies or products can never under the First Amendment qualify as jawbone. To the contrary, such activities are political speech the First Amendment protects from Government retaliation. Second, the Government agency or official must have actual power to punish or reward the speaker.

And finally, there must be sufficient evidence that the Government agency or official has genuine intent to use that power. It is the uncertainty around the last two criteria that often make it difficult to tell when permissible persuasion and use of the bully pulpit cross the line. Unfortunately, whatever one thinks happened in the past, we live in a present that leaves no doubt that jawboning is occurring regularly.

And whatever one's political party, Members of Congress must join together to protect the fundamental freedom of speech to which our democracy depends. To illustrate my point, I want to contrast the first Trump Administration with today. President Trump is a master of the bully pulpit.

During his first Administration, he would complain about what he felt was one-sided news coverage or unfair mockery. He called for NBC to lose its license. But then FCC Chair Ajit Pai took no action on these threats. When asked, Pai would point to John F. Kennedy calling his FCC Chair, Newt Minow, to demand similar punishment of his critics.

Without saying so directly, Pai made it clear that Presidents have the bully pulpit, but agency heads must stay independent and follow the law. As we have seen, however, the current FCC Chair Brendan Carr feels differently.

Rather than act as a firewall between the President to the use of Government coercion, Carr has sacrificed the independence of the agency and repeatedly used the very real power of the FCC over licensees to meddle in content decisions that past FCC chairs of both parties have considered off limits. Most recently, he famously told Disney and its affiliates that they should remove Jimmy Kimmel, whom the President had repeatedly said through his social media account should be fired, “the easy way or the hard way”.

Nor is this the only example where traditionally independent agencies such as the Federal Trade Commission have acted to punish those critical of the President or his policies. Indeed, it is not simply the acts of these agency heads, but the combination of multiple actions across multiple agencies that make the threat of Government retaliation very real.

Fortunately, Chairman Cruz has shown us what needs to be done to stop jawboning. Congress must act, as individuals and collectively, without regard to party or partisanship to draw clear lines in the sand. The first step is a willingness to call out such behavior. Chairman Cruz’s rebuke of Chairman Carr for using language right out of Goodfellas is a model of standing for principle when called for.

Additionally, members must work to restore the independence of agencies and to set clear limits on the power of agencies to meddle in matters protected by the First Amendment. Unfortunately, the Supreme Court appears poised to eliminate the power of Congress to protect agency independence by preventing the President from firing Commission members.

But Congress can pass legislation to promote transparency and make it easier for those threatened to defend themselves in court. Such legislation, however, must be carefully crafted to avoid interfering with the legitimate contacts between Government and companies, or creating a disincentive to necessary oversight and enforcement.

Finally, Congress must address the concentration of ownership in both legacy media and digital platforms. The active effort by the Trump Administration to put Warner Brothers, owner of CNN, in the hands of proven friends while threatening to use the regulatory power of the United States to block bidders it dislikes illustrates the importance of diversified ownership to the marketplace of ideas.

The last few months have shown the importance of ownership limits on legacy media. Limits Chairman Carr has indicated he in-

tends to relax or eliminate. Additionally, Congress should consider legislation to introduce competition to the digital platform phase.

Congress should consider cross-ownership limits that would prevent things like the acquisition of TikTok, one of the most important and influential digital platforms, by the largest owners of legacy media.

This concentration makes it easy for this Administration or any future Administration to monopolize the marketplace of ideas to the detriment of us all. Thank you, and I am happy to answer any questions.

[The prepared statement of Mr. Feld follows:]

PREPARED STATEMENT OF HAROLD FELD, SENIOR VICE PRESIDENT,
PUBLIC KNOWLEDGE

Chairman Cruz and Ranking Member Cantwell, thank you for the opportunity to testify on such a critical topic. I have been an advocate for First Amendment freedoms—especially the right of the public to hear diverse views and production of local news critical to an informed democracy—for over 25 years. One of the most challenging areas of government policy is how to balance the important government interest in creating spaces for robust debate, ensuring the flow of necessary information, while simultaneously avoiding the twin dangers of government censorship or forced carriage of government propaganda.

At the beginning of the 21st Century, these concerns focused on the traditional gatekeepers of broadcast licensees, and preserving an open internet. More recently, the rise of social media and the concentration of our national discussions on a very few giant platforms have raised even more complicated questions. But the fundamental question remains the same. How can the government maintain the news and civic discourse necessary to sustain democracy without becoming the dictator of what people may say or hear?

Unfortunately, since President Trump was sworn into his second term, we have not had to worry about subtle intimidation or “regulation by raised eyebrow.” We have seen an unambiguous pattern where the President has publicly boasted that he will take action against those who oppose his agenda or criticize him personally, and where the heads of theoretically independent agencies have rushed to make good on these threats. My personal expertise is with the Federal Communications Commission, and on this I will focus my testimony. But concerns about government censorship extend far beyond the FCC. I will touch briefly on the actions of the Federal Trade Commission and other Executive actions that reinforce the credibility of retaliation for expressing opinions contrary to those favored by the Administration. These actions contrast not only with the actions of the Biden administration but with the actions of the first Trump Administration. It is this pattern of public statements and regulator actions that makes threats real, and gives them coercive power.

I cannot stress too much how consolidation—particularly in the hands of those who have proven themselves loyal to the current Administration—amplifies the ability to control content on an unprecedented scale. Consider the recent statement in the New York Post that the President favors a takeover by Larry and David Ellison (who have been “vetted” by the changes they have made at CBS since it was acquired by Skydance) that any other bidders for Warner Bros “are likely to face stiff hurdles from U.S. regulators.” The Omnicom merger, approved by the FTC, created a behemoth that overshadows the entire advertising industry, making it harder for advertisers to control the placement of their ads. Social media remains highly concentrated, giving a handful of opaque algorithms control over the vast majority of online discussions and access to news. And without net neutrality, Internet providers may freely prioritize content that the administration favors and degrade content of its political opponents.

It is therefore critical for Congress to reassert itself as the protector of free speech and opponent of censorship, regardless of party. Chairman Cruz deserves credit for admonishing FCC Chairman Carr at a critical moment. If we want an open marketplace of ideas critical for democracy and self-governance, all members of Congress must act together to preserve free speech. We need laws that protect privacy so that people may say what they want without fear. We need laws that promote competition so that people have a choice in what they see, hear, and say. And we need to restore the principle of non-discrimination for broadband, a principle that has en-

joyed bipartisan support even where parties remain split on the appropriate legal framework.

I. THE “BULLY PULPIT” V. UNCONSTITUTIONAL COERCION

President Theodore Roosevelt is credited with inventing the term “bully pulpit,” meaning a conspicuous position to advocate an agenda. Certainly, since then, Presidents, members of Congress, and heads of agencies of both parties have used the bully pulpit to reflect their agendas and influence action. Indeed, it has long been regarded as an important function of elected officials to reflect the concerns and priorities of the people who elected them in speeches and in subsequent policy actions. That is not coercion, even if these statements have an influence on the actions of companies or individuals.

By contrast, the Supreme Court has consistently held—and scholars of the First Amendment broadly agree—that the government may not cross from pushing an agenda to compelling obedience and suppressing dissent. The power of the Executive Branch to prosecute—or even investigate—individuals, the power to deny economic benefits or, by contrast grant favors, gives the government tremendous coercive power. Often, the only way to tell the difference between the two is the impact. Do those who defy the President face more than social consequences, such as boycotts by the President’s supporters? Are benefits or punishments explicitly tied to obedience or defiance, and if so, does the President carry through on these threats?

The Supreme Court recently illustrated the difference between persuasion and coercion through two cases.¹ Taking these cases together, we find a clear set of criteria (albeit not always so simple to apply). For government statements to cross the line from persuasion to coercion, the individual speaking for the government must make a credible threat clearly based on expressing a disfavored viewpoint, or the refusal to express a viewpoint the government favors. The targeted individual or company must then either change its behavior or suffer consequences directly traceable to the behavior. The credibility of the threat is both a function of the *ability* of the official to impose the punishment (or dispense the reward) and the general understanding of the *likelihood* of the threat. This includes whether the agency in question is acting in a way contrary to its precedent on matters the agency does not generally opine.

Thus, in *Vullo*, when the New York state official with relevant authority directly told a major insurer that it was much more likely to investigate companies providing insurance to the NRA, and issued official guidance reiterating this position, the Supreme Court found that this was an impermissible act of coercion against the NRA by depriving it of access to affordable insurance based on its views. By contrast, the Court in *Murthy* found that, even assuming the contacts between social media companies and the Executive branch took place, they did not constitute coercion. The Court found there was no obvious nexus between the Executive contacts and any reward or punishment for the social media companies and no obvious change in behavior in response to these contacts.² Additionally, the Court recognized that the Administration had good reason to coordinate with social media companies with regard to news about the ongoing COVID pandemic and other matters potentially bearing on public safety.

A. The FCC Has Crossed the Line to Unconstitutional Coercion and Censorship

With this in mind, we must view the ongoing activities of the FCC under Chairman Brendan Carr with considerable alarm—especially when contrasted with the actions of Chairman Ajit Pai, who served as Chairman of the FCC in the first Trump Administration. During the First Trump administration, President Trump would frequently denounce his critics on television—particularly those on Saturday Night Live who mocked him. President Trump would post that NBC should “lose its license” for its unfair coverage. Chairman Pai, however, took no action nor suggested any action to make good on these threats. To the contrary, when asked about the President’s threats, Pai would refer to similar complaints by President Kennedy to then-FCC Chair Newton Minnow. While not saying so directly, Chairman Pai clearly implied that the President should be free to make his anger known (an example of the bully pulpit), while the Chairman of the FCC should remain independent.

¹*National Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175 (2024) (holding that the New York State Department of Financial Services had coerced financial institutions from providing services to the National Rifle Association) compare with *Murthy v. Missouri*, 603 U.S. 370 (2024) (holding that the government’s communications with social media platforms did not cause a direct and redressable injury to the plaintiff).

²*Murthy v. Missouri*, 603 U.S. 370 (2024) at 59.

But things have been very different this time around. Throughout his campaign, President Trump promised to punish his enemies when he returned to office. He also promised to use the power of government to punish those who stood in the way of his agenda. Brendan Carr, who as Chair of the FCC could make these threats credible, began to take actions that seemed very much in line with these threats. One of his first acts as Chair was to reinstate complaints for “news distortion” against ABC, NBC, and CBS on the basis of what were alleged to be unfairly favorable coverage of Vice President Kamala Harris during the 2024 campaign that Chairwoman Jessica Rosenworcel had previously dismissed.

These actions were noteworthy for multiple reasons. For one thing, none of the parties filed a Petition for Reconsideration or any other request to reinstate the complaints.³ Furthermore, news distortion complaints are extremely difficult to prove. The First Amendment guarantees to broadcasters the right to edit their broadcasts. Additionally, Section 326 of the Communications Act expressly prohibits the FCC from engaging in censorship. This made reinstating the complaints after an opinion in line with Commission precedent extraordinarily peculiar. Finally, even taking the allegations on their face, the matters were moot or quickly became moot. In the case of the complaint against NBC for violating the “equal time” rule,⁴ NBC reported that it had offered the Trump campaign comparable time and that the Trump campaign had accepted the offer. In the accusation that CBS had edited an interview with Vice President Harris to make her appear more favorably, the complainants requested as relief that the FCC release the unedited transcript, which the FCC subsequently did.⁵

Carr has often echoed criticism made by President Trump that media coverage is too critical of Trump and his agenda, favors Democrats and liberal viewpoints, and that stations that do not alter their coverage may be guilty of a “pattern of news distortion” and may be violating their public interest obligations. Carr has announced various investigations against outlets Trump has expressly criticized, such as Comcast/NBC Universal and NPR and PBS. Carr has expressly targeted for investigation a broadcast station that covered an ICE raid in a manner unflattering to ICE. All of these fall within the pattern the court identified in *Vullo* as efforts at unconstitutional coercion.

By contrast, Chairman Carr has used his power as Chair to weigh in favorably for licensees who explicitly back the President and have owners known to be President Trump’s allies. Networks and affiliates regularly negotiate the terms by which the networks will provide affiliates with programming. Chair has written to Comcast/NBCU that it is investigating its treatment of its affiliates to influence these negotiations,⁶ and generally voiced concern over the treatment of networks over their affiliates, when the largest group owners of affiliates—Nexstar and Sinclair—are owned by allies of President Trump and program accordingly.

1. Merger Conditions and Targeting Talk Show Hosts

The most significant instances of censorship have come from Skydance’s acquisition of Paramount and the subsequent “easy way or the hard way” demand to terminate Jimmy Kimmel. While citizen action ultimately forced Disney to reverse its decision to suspend broadcast of Jimmy Kimmel, the incident still raises very troubling concerns over Chairman Carr’s willingness to use the power of the FCC to reward and punish to directly control content. Additionally, these incidents show the impact of media consolidation on the power of censorship and why Congress must take immediate steps to prevent further consolidation.

Paramount/Skydance. President Trump has been extremely critical of CBS, particularly 60 Minutes, and what he perceives as the persistent negative coverage of his Presidency. Trump has also been highly critical of Late Night talk show host Stephen Colbert, who has been one of the President’s most vocal and persistent critics. Because the sale of Paramount to Skydance required FCC approval, it created the opportunity for Chairman Carr to effectively demand changes to Paramount’s

³By contrast, the Media Bureau simultaneously dismissed a complaint against Fox29 in Philadelphia for violations of the Commission’s character policy based on the claims that the 2020 election was stolen by manipulating an electronic voting machine provider—a claim which Fox News subsequently settled. Chairman Carr declined to reinstate that complaint.

⁴47 U.S.C. § 312(a)(7) and § 315(a) generally require broadcasters to provide equal time, at similar rates, to qualified Federal candidates.

⁵Center for American Rights, *In re Complaint Against WCBS-TV*, at 5 (filed October. 16, 2024), <https://drive.google.com/file/d/1kBqZo-10xBLE0Y1dhvBpzZnvcRUvH0H4/view>.

⁶Letter from Brendan Carr, Chairman, Fed. Comm’n’s Comm’n, to Brian Roberts, CEO, Comcast Corp. (Feb. 11, 2025), <https://www.fcc.gov/sites/default/files/Chairman-Carr-Letter%20to-Comcast-02112025.pdf>.

programming and commitments to provide more favorable coverage of President Trump and his agenda.

The Skydance acquisition did not present a traditional problem of media consolidation. Although Skydance owned some entertainment properties, it did not own any broadcast licenses or cable channels. While the merger might have arguably raised some concerns over concentration in media generally, it did not raise concerns that the FCC has considered in previous transactions. The transaction should therefore have gone through in fairly short order based on traditional FCC analysis.

Instead, the transaction lingered for months. While Chairman Carr did not (at least not publicly) make specific demands, Paramount apparently understood that it would facilitate regulatory approval if it took steps to address President Trump's complaints that CBS had treated Trump badly and that it would avoid "unbalanced" and "biased" coverage going forward. First, CBS settled a pending lawsuit filed by Trump relating to its editing of the "60 Minutes" interview with Kamala Harris. Although CBS admitted no wrongdoing and maintained that the settlement was simply to resolve the litigation, others argued that the settlement was motivated so that the acquisition could move forward.⁷ Stephen Colbert, host of *The Late Show*, denounced the settlement as a "big fat bribe."

Almost immediately after Colbert's statement, CBS canceled *the Late Show*, effective at the end of the season in May 2026. While Trump and Carr both publicly celebrated the cancellation, both also denied that they had been responsible for CBS' decision.⁸ Finally, Skydance CEO David Ellison filed in the merger docket a letter to Chairman Carr in the FCC record committing to numerous changes to "reflect the varied ideological perspective of American viewers."⁹ When asked whether these were necessary for the acquisition to get approval, Carr demurred, stating that Paramount canceled Colbert for financial reasons and that the FCC would continue to review the Paramount/Skydance deal at its own pace. The fact that the acquisition cleared the FCC mere hours later, however, undercut these assurances. And although Trump denied direct involvement in Colbert's cancellation, he posted on Truth Social that "I absolutely love that Colbert got fired . . . I hear Jimmy Kimmel is next."¹⁰

Carr soon seized the opportunity to fulfill President Trump's "prediction." Following the tragic assassination of Charlie Kirk, Jimmy Kimmel used his television show to criticize those in the MAGA movement, blaming liberals generally for Kirk's death.¹¹ Chairman Carr moved from "regulation by raised eyebrow" to full-on public threat. "This is a very, very serious issue right now for Disney," Chairman Carr told conservative podcaster Benny Johnson. In language which Chairman Cruz would rightly criticize as "right out of 'Goodfellas,'" Chairman Carr continued: "We can do this the easy way or the hard way. These companies can find ways to take action on Kimmel, or there is going to be additional work for the FCC ahead." Within hours, Nexstar, Tegna, and Sinclair—the three largest broadcast group owners controlling access to well over 25 percent of the country—announced they would preempt Kimmel. Soon after that, ABC announced it had suspended Kimmel "indefinitely." Carr applauded this "independent decision" of the affiliates as an example of how local affiliates serve their local communities.

Public outrage was swift. Critics of Carr's statements noted that Nextstar and Tegna had already announced plans to merge—a deal that would not only require FCC approval, but actually exceeded FCC ownership limits and therefore would require either waiver or modification of the ownership rules (something Carr had previously indicated he favored). Additionally, the fact that three CEOs could dictate what the country would see brought home the way in which media consolidation has made censorship easier. Customers of Disney+ and Hulu (majority owned by Disney) began canceling their subscriptions in protest. Even Disney actors joined in the call

⁷ See David Folkenflik, "CBS is the Latest News Giant to Bend to Trump's Power," All Things Considered (July 2, 2025), <https://www.npr.org/2025/07/02/nx-s1-5454790/cbs-settlement-trump-60-minutes-harris-interview-analysis>; Kinsey Crowley, Kathryn Palmer, and Mike Snyder, "Why is Trump Suing CBS? What to Know About the Complaint Dating Back to Kamala Harris Interview," USA Today (May 20, 2025), <https://www.usatoday.com/story/news/politics/2025/05/20/trump-cbs-lawsuit-settlement-explained/837420-007/>.

⁸ Domenick Mastrangelo, "Trump Says He Didn't Get Colbert Cancelled," The Hill (July 29, 2025), <https://thehill.com/homenews/administration/5426557-trump-cbs-colbert-cancellation/>.

⁹ Letter of Mathew A. Brill to Marlene H. Dortch, Skydance Media and Paramount Global Application for Transfer of Control of Licenses, MB Docket No. 24-275 (filed July 17, 2025), <https://www.fcc.gov/ecfs/document/1071757519667/1>.

¹⁰ Truth Social Post of Donald Trump, <https://truthsocial.com/@realDonaldTrump/posts/114874422468516376>.

¹¹ At the time, the assassin's motive (and potential political affiliation) was unclear.

to boycott Disney in protest.¹² Ultimately, after Disney lost 3 million streaming customers,¹³ the company brought back Kimmel. Although Nexstar, with Carr's encouragement, preempted Kimmel's return broadcast, it and the other two group owners ultimately relented, and Kimmel is now available again on all ABC affiliates.

B. This is Not How the Public Interest Works

Carr has consistently invoked the public interest standard and traditional media policies of promoting localism and diversity of views as justification for his investigations and threats. But Carr's actions contradict the FCC's traditional policies that carefully avoid influencing content. Especially since the end of the Fairness Doctrine in the 1980s, the FCC has relied on structural limits such as ownership limits to provide for a diversity of owners to ensure diverse viewpoints. Even when the FCC did have rules designed to ensure local programming, they were either structural rules (such as the Financial Syndication rules, the Prime Time Access Rules, or the Local Studio Rule)¹⁴ or explicitly neutral, such as the Fairness Doctrine.¹⁵ Most of these rules were eliminated by the FCC or the courts during the 1980s and 1990s, leaving ownership limits as the one mechanism for ensuring viewpoint diversity in broadcasting.

Indeed, it is idle to speak of localism when decisions about access to broadcast programming are made for dozens of markets by a single corporate CEO. It is no more localism for a programming decision to come from a Federal building in Washington, D.C. than for the decision to come from Sinclair's corporate headquarters an hour north in Baltimore. Carr's insistence that his dictates are merely appeals to traditional FCC concerns for localism and the broader public interest cannot stand against a repeated pattern of attacking those that President Trump publicly attacks, while rewarding those the President favors. It cannot square with the traditional ways in which the FCC has addressed the policies Carr cites as justification for his actions. It turns localism on its head to allow further consolidation. By contrast, it makes control of content easier when an ever smaller number of ever larger companies controls what the public sees and hears.

II. OTHER AGENCIES ARE ACTING TO CREATE AN ENGINE OF CENSORSHIP, FEEDING THE CREDIBILITY OF A GENERAL THREAT TO FREE SPEECH

Chairman Carr is not unique as the head of an independent agency now openly working to further the President's agenda on punishing critics and rewarding those who demonstrate loyalty. To the contrary, the President has enlisted every agency at his command to fulfill his campaign promise of punishing his enemies. This, in turn, gives every individual threat of retaliation greater credibility and provides important context. Statements that in Trump's first administration could be dismissed as use of the bully pulpit to express displeasure must now be considered as made with coercive intent.

It is important to keep this in mind when considering whether the same statements from the Biden Administration, or even the previous Trump Administration, are coercive jawboning. The statement, "Nice place you got here, it would be a shame if something happened to it," sounds entirely different when said by an insurance salesman

A. The FTC Acts Beyond Its Statutory Authority

1. Media Matters lawsuit

Media Matters for America, a liberal watchdog group, is a particular thorn in Elon Musk's side. So much so that Musk sued Media Matters in November 2023, claiming the group had manufactured a report on advertising placed next to extremist content on Musk's X, effectively driving away advertisers from the platform.

¹² Jason Ma, "Even Disney Stars Are Joining Calls to Boycott the Media Giant After ABC Suspended Jimmy Kimmel's Show," *Fortune* (Sept. 20, 2025), <https://www.yahoo.com/entertainment/celebrity/articles/even-disney-stars-joining-calls-224642755.html>.

¹³ Lindsay Kornick, "Disney+ Lost Nearly 3 Million Subscribers After Jimmy Kimmel Suspension: Report," *Fox Business* (Oct. 21, 2025), <https://www.foxbusiness.com/media/disney-lost-nearly-three-million-subscribers-after-jimmy-kimmel-suspension-report>.

¹⁴ The Financial Syndication Rule encouraged independent programming by prohibiting networks from owning the programming they syndicated. The Prime Time Access Rule required that local stations air at least one hour of non-network programming at the beginning of prime time and at the end of prime time. The Local Studio rule required local stations to maintain a local studio for the production of independent programming.

¹⁵ The Fairness Doctrine was not a single rule, but multiple rules requiring licensees to cover issuance of importance to their local communities and to allow opportunities for those with opposing opinions to respond.

While this case is ongoing, one of the first initiatives undertaken by FTC Chair Andrew Ferguson was to open an investigation into Media Matters to determine whether the watchdog group indeed organized an advertiser boycott of social media platforms, like X. It is quite the coincidence the FTC that, among its first priorities, target the very same group that plagues Elon Musk, an avid supporter of Donald Trump who spent over \$290 million to support Trump's election.¹⁶

Believing its First Amendment rights are under threat by the FTC, Media Matters filed suit in Federal court on June 23, 2025, alleging that the FTC is retaliating against the organization for its reporting on Elon Musk and X. On August 15, 2025, Judge Sparkle Sooknunan granted a preliminary injunction enjoining the FTC from enforcing its civil investigative demand. The judge determined that Media Matters engaged in quintessential First Amendment activity when it published the research regarding Musk's platform and found that the organization was likely to succeed on its First Amendment retaliation claim. Part of the justification pulls from social media posts from chairman Ferguson's *own staffers* expressing their disdain for Media Matters' watchdog efforts, including FTC Senior Policy Advisor Jon Schweppe, who wrote, "Media Matters = scum of the earth."¹⁷ The timing of the investigation, combined with clear animus toward Media Matters by *several* of Ferguson's direct reports, was sufficient for the court to determine that the civil investigative demand to Media Matters was retaliatory, with the intention of stifling the watchdog's capacity to track and report on falsehoods in conservative media.

Judge Sooknunan wrote in the August ruling, "It should alarm all Americans when the Government retaliates against individuals or organizations for engaging in constitutionally protected public debate. And that alarm should ring even louder when the Government retaliates against those engaged in newsgathering and reporting." And on October 23, a U.S. appeals court declined to reinstate the FTC's probe into Media Matters.¹⁸

2. Omnicom Merger

The FTC's consent order for the Omnicom-Interpublic merger represents another instance of the agency acting beyond its statutory authority to advance a political agenda rather than address genuine competitive concerns. FTC Chair Andrew Ferguson claimed the order was necessary to prevent the merged advertising agency from "boycotting" digital platforms based on political content. However, this fundamentally misunderstands how media buying actually works.

Advertisers themselves make placement decisions based on their own brand safety standards, not their agencies. The industry's standard contracts make this explicit, with advertisers maintaining written control over what contexts are "safe and protective" of their brands.

Despite Chair Ferguson's rhetoric, the consent order itself preserves advertisers' ability to choose ad placements, which undermines the order's stated impact while potentially violating Omnicom's rights of association and independent refusals to deal.¹⁹ The real burden falls on advertisers, who must now take on more responsibility for researching and preparing exclusion lists. As one trade publication put it, "If you don't want your stuff to be shown against Nazis, you're going to have to figure out how, and instruct Omnicom accordingly." The order also requires Omnicom to report exclusion lists to the FTC for 4 years, potentially exposing clients to political attacks, even though political ideology isn't the basis for these lists.

Most troubling is what the consent order ignores. The FTC's own complaint acknowledged serious competitive concerns about coordination that could harm consumers by reducing competition, lowering product quality, and slowing innovation. Industry experts warned the merger could "limit contestability or stifle innovation in the market" and impact pricing, ad placement, sponsorships, commission rates, media discounts, and more. Yet the consent order addresses none of these actual

¹⁶Tim Reid and Jason Lange, *Musk spent over a quarter of a billion dollars to help elect Trump*, Reuters (December 6, 2024), <https://www.reuters.com/world/us/musk-spent-over-quarter-billion-dollars-help-elect-trump-2024-12-06/>.

¹⁷Jon Schweppe @JohnSchweppe, (2023, November 30), [X], <https://x.com/JonSchweppe/status/1730279114748166522>.

¹⁸Wendy Davis, *Court Preserves Block on FTC Probe of Media Matters*, Media Daily News, (October 23, 2025), <https://www.mediapost.com/publications/article/410132/court-preserves-block-on-ftc-probe-of-media-matter.html>.

¹⁹Lisa Macpherson and Elise Phillips, *Update: The FTC's Consent Order in the Omnicom Ad Agency Merger Misses the Point*, Public Knowledge, (June 27, 2025), <https://publicknowledge.org/update-the-ftcs-consent-order-in-the-omnicom-ad-agency-merger-misses-the-point/> (The FTC used the merger to effectuate information-control goals on behalf of the Trump administration, rather than addressing real monopolistic practices in online advertising that created the opacity that requires advertisers to create brand safety requirements).

competitive harms. Instead, it focuses narrowly on speculative claims about boycotting politically controversial publishers, relying on reports from partisan political actors like Representative Jim Jordan and complaints from Elon Musk rather than robust economic analysis.

The narrow scope suggests the FTC prioritized the political impact of decreased revenue to publishers hosting Trump administration-friendly content over genuine concerns about diminished competition affecting advertisers, consumers, or workers. This pattern aligns with the FTC's recent use of antitrust concepts to further information control goals on behalf of the Trump administration, rather than addressing real monopolistic practices in online advertising that created the opacity requiring brand safety measures in the first place.

B. Trump Administration's Pressure Campaign Against Universities and Students to Force "Viewpoint" Changes is a Violation of the First Amendment

In April this year, the Trump administration froze \$2.2 billion in grants and \$60 million in contracts to Harvard University after the school rejected Federal demands to make governance and leadership reforms and conduct an audit of viewpoint diversity of students and employees.²⁰ Because Harvard asserted its right to academic independence and rejected Federal demands (while reiterating its efforts to improve its support and protection of Jewish students), in May 2025, the Trump administration cut another \$450 million in Federal grants to Harvard, on top of the \$2.2 billion already slashed, citing antisemitism concerns. In April, the American Association of University Professors (AAUP) and Harvard University filed a lawsuit seeking to block the Trump administration from demanding that Harvard University restrict speech and restructure its core operations or else face the cancellation of *all* \$8.7 billion in Federal funding.

On September 3rd, U.S. District Judge Allison Burroughs found that the Trump administration's actions violated Harvard and Harvard faculty's First Amendment Rights, finding that "the government-initiated onslaught against Harvard was much more about promoting a governmental orthodoxy in violation of the First Amendment than about anything else, including fighting antisemitism."²¹ The government has the authority to decide which research projects it wants to fund; however, it cannot withdraw or deny funding based on the funding recipient's speech that is unrelated to the research. Moreover, if funding is terminated due to alleged violations of Title VI, as the Trump administration claimed, the government is legally required to follow a specific investigatory process. This process includes holding hearings and providing the opportunity to address the alleged violations.

Drawing broad conclusions without conducting a proper investigation and withdrawing funding based solely on anecdotes or biases constitutes a violation of the First Amendment. And in the end, the Trump administration failed to explain *how* stripping billions in Federal funding would protect and improve the experience of Jewish students, especially considering many of those students rely on Federal funding for their *own* academic pursuits.

The AAUP also filed a lawsuit to block the Trump administration from carrying out arrests, detentions, and deportations of noncitizen students and faculty members based on their speech content. This lawsuit arose from the abrupt arrest and detention of students like Rümesya Öztürk, who was targeted for *writing an opinion article* for the Tufts University newspaper that called for the university to divest from Israel. The opinion piece did not call for violence and did not glorify terrorists. It was written under the assumption that Ms. Öztürk could enjoy the freedom of speech guaranteed to individuals in the United States. However, for expressing her views, she was abducted from the streets of a Boston suburb and detained without due process.²²

The abduction and detention of students due to their pro-Palestinian activism have created a climate of fear and suppression on university campuses, effectively silencing legitimate political dissent that falls beyond the Trump administration's orthodoxy. On September 30, a Federal court ruled that the Trump administration's crackdown on students for their speech violates the First Amendment. The court

²⁰ Alvin Powell, *Trump administration freezes \$2.2 billion in grants to Harvard*, Harvard School of Public Health, (April 15, 2025), <https://hsph.harvard.edu/news/trump-administration-freezes-2-2-billion-in-grants-to-harvard/>.

²¹ President & Fellows of Harvard Coll. v. U.S. Dep't of Health & Hum. Servs., No. 25-cv-11048-ADB, 2025 WL (D. Mass. Sept. 3, 2025), <https://storage.courtlistener.com/recap/gov.uscourts.mad.283315/gov.uscourts.mad.283315.141.0.1.pdf>.

²² Sergio Martinez-Beltran, *Federal court rules Rümesya Öztürk must be transferred to detention in Vermont*, NPR, (May 7, 2025), <https://www.npr.org/2025/05/07/g-s1-64726/federal-court-rules-student-rumesya-ozturk-detention-vermont-challenge>.

found that “Secretaries Noem and Rubio are engaged in a mode of enforcement leading to detaining, deporting, and revoking noncitizens’ visas solely on the basis of political speech, with the intent of chilling such speech and that of others similarly situated. Such conduct is not only unconstitutional, but also almost unknown in our constitutional tradition.”

Despite these losses, the Trump administration has not let up in forcing University leaders to eschew First Amendment-protected academic freedom and come to heel to the President’s ideological agenda. The White House has approached universities to agree to a “compact” in exchange for preferential treatment for research grants.²³ Curiously, this suggests the government would select grant recipients not on merit—a criterion the White House has championed in its expansive efforts to dismantle Diversity, Equity, and Inclusion initiatives—but rather by a university’s willingness to comply with White House-aligned ideological requirements. It is difficult to see how the compact is aligned with academic freedom and freedom of expression—a perspective shared by nearly all universities that received the compact.²⁴

III. SOME THINGS CANNOT BE CENSORSHIP

Some things can be questionable whether they constitute unfair coercion, an exercise of the bully pulpit, or something in between. But some things are never censorship. First, we have long recognized the important responsibility of the government to protect people from harassment, from fraud, and from other forms of false, misleading or weaponized information. Section 223 (47 U.S.C. §223) of the Communications Act has prohibited harassment by telephone since 1968. In May of this year, Congress recognized the harm done by non-consensual intimate visual depictions (commonly referred to as “revenge porn” or “deep fake porn”) and required covered platforms to develop notice-and-takedown procedures for those harmed. (47 U.S.C. §223a) Laws criminalize election fraud, financial fraud, and other kinds of harmful and deceptive statements. We do not consider this censorship. In our increasingly complex world, good governance demands that Executive agencies and Congress respond to the emergence of new scams and threats.

Government officials, including election officials, have a responsibility to protect their constituents and ensure accurate information reaches the public, particularly regarding matters of public health, national security, and election integrity. When election officials identify objectively false information about polling locations, voting procedures, or ballot deadlines that could interfere with citizens’ ability to vote, facilitating communication with platforms that may be inadvertently hosting such content serves a legitimate governmental function. This is information-sharing, not coercion. This includes when government entities work with university researchers to identify and assess how, for example, influence operations conducted by foreign adversaries may prevent Americans from participating in an election.

But the threats do not end there. We know that foreign governments seek to influence and disrupt us with bot armies spreading divisive and false information. Foreign terrorists use social media platforms to radicalize and recruit vulnerable individuals. Cybersecurity experts warn us that we must share information to identify these threats to protect ourselves, and that social media platforms must constantly engage in a cat-and-mouse game of content moderation to meet these threats. This sort of information sharing also cannot constitute censorship.

Government entities therefore can, even should, engage with platforms to share threat intelligence, coordinate on cybersecurity concerns, address foreign interference, and communicate about public health emergencies. These are standard government-industry coordination activities similar to information-sharing on terrorism and other threats. The key question is not whether the government communicates with platforms, but whether that communication crosses the line into coercion through threats of regulatory action, license revocation, or other forms of retaliation.

Platforms themselves have independent business and reputational reasons to address harmful content, including maintaining user trust and safety, protecting advertiser relationships, avoiding being vectors for foreign interference, and responding to international regulatory pressure. When platforms act on their own policies based on their own interests, this is not government censorship—it is private editorial decision-making protected by the First Amendment.

²³ Riana Mahtani, *Universities join Penn in rejecting White House compact as consequences for refusal remain unclear*, The Daily Pennsylvanian, (October 22, 2025), <https://www.thedp.com/article/2025/10/penn-white-house-compact-update-marc-rowan>.

²⁴ April Rubin, *Colleges turn down Trump’s “compact” agreement offer*, Axios, (October 22, 2025), <https://www.axios.com/2025/10/22/trump-universities-compact-agreement-rejected>.

A. Academic Research and Fact Checking is not Censorship

Academic institutions and researchers engaging in studies of online falsehoods, propaganda, and content moderation are exercising their own First Amendment rights, not participating in government censorship. When university researchers identify and document patterns of harmful content on social media platforms, this constitutes protected speech and legitimate scholarly inquiry. It is important for government agencies, as well as members of Congress, to consult this research to understand the nature of emerging threats. To the extent others feel that this research is biased or politically motivated, they have their own First Amendment right to critique this work.

The Election Integrity Partnership (EIP), which included Stanford Internet Observatory and the University of Washington Center for an Informed Public, has been incorrectly characterized by Senator Cruz’s report on CISA as part of a government censorship apparatus. In reality, EIP was formed in 2020 under the Trump administration to help identify election-related misinformation that could interfere with voting. Researcher Renée DiResta of Stanford Internet Observatory explains in a guest essay to the New York Times, “teams of student analysts identified social media posts that were potentially misleading the public about voting procedures or that tried to delegitimize the outcome of an election. Sometimes, a nonprofit clearinghouse that included state and local election officials shared with us posts that concerned them. In some cases, if a post we examined appeared to be going viral and appeared to violate a social media platform’s election policies, we let the companies know. Most of the time, the platforms took no action; when they did act, it was primarily to label the post as disputed or to attach a fact check.”²⁵

There is no mechanism by which university researchers could coerce major technology companies as proxies for government officials. Academic researchers possess no regulatory authority, cannot levy fines, and cannot threaten business licenses or antitrust action. Platforms are under no obligation to act on academic research findings. The suggestion that platforms felt coerced by academic institutions fundamentally misunderstands the power dynamics at play. In fact, platforms welcomed assistance from researchers in identifying content that violated their own policies during unprecedented challenges related to election misinformation and public health crises, precisely because content moderation at scale is extraordinarily difficult.

When researchers publish findings on disinformation campaigns, document harassment patterns, or analyze content moderation practices, they contribute to public knowledge and democratic discourse. Attempts to characterize such research as censorship or government coercion not only misrepresent the nature of academic inquiry but also threaten to chill legitimate scholarship on critical issues affecting our democracy. The recent pattern of expensive lawsuits against academic institutions and civil society organizations focused on understanding and mitigating disinformation has already caused many to lose funding and talent, undermining our collective ability to understand and address these challenges.

B. Calls for Legislation Are Not Censorship

It is the duty of elected officials to pass laws that serve the public interest—and to change laws that do not function as intended. Accordingly, it cannot be censorship to tell companies that if they refuse to change their ways, Congress will take action. Indeed, as an advocate, I often wish that Congress would step up and pass appropriate legislation rather than rely on industry self-regulation. But threats to introduce legislation fail as coercion for another reason. Neither the President nor a member of Congress has the power to unilaterally pass legislation. As every member of this Committee knows, passing legislation requires persuading a majority of members to pass a law, and for the President to sign it.

Calls for legislation in response to the actions of platforms, or their failure to act, are part of this process or persuasion. They are not censorship, but the robust debate on which our democracy depends. To the extent platforms act to dissuade Congress from acting, they are likewise engaged in the democratic process.

IV. CONGRESS HAS A DUTY TO DEMAND TRANSPARENCY AND OVERSIGHT OF INDEPENDENT AGENCIES REGULATING SPEECH PLATFORMS

Platforms are more than happy to eschew blame for their moderation mistakes by scapegoating the government. We can acknowledge that platform policies developed during the first Trump administration and in the Biden administration, in part

²⁵ Renée DiResta, *What Happened to Stanford Spells Trouble for the Election*, New York Times, (June 25, 2024), <https://www.nytimes.com/2024/06/25/opinion/stanford-disinformation-election-jordan-twitter.html>.

in response to U.S. government public health and election security priorities, resulted in some poor content decisions. But in the end, such were *content moderation* decisions, *not* acts of censorship. Importantly, we must distinguish between mistakes in what constitutes misinformation or disinformation as opposed to efforts to suppress entire viewpoints—especially when the definitions employed are vague and therefore subject to abuse.

For example, in the Executive Order “Countering Domestic Terrorism and Organized Political Violence”, the White House has given explicit permission to go after organizations and individuals’ speech that, in the Trump administration, represent “anti-Americanism, anti-Capitalism, and anti-Christianity.”²⁶ To be clear, criticizing America, disliking capitalism, and disparaging Christianity may be viewed by many as deplorable, but it is not *illegal*. In fact, it is precisely protected by the First Amendment. More to the point, it is not entirely clear what these terms mean. Is an argument that Google has outsized marketpower “anti-Capitalism”? Is a Protestant critique of Catholic dogma “anti-Christianity”? This sort of vagueness has been roundly condemned by the Supreme Court in multiple First Amendment decisions as creating a chilling effect on free speech.

There are important steps that Congress can take to prevent coercive Jawboning. As an initial matter, the law has long recognized the link between consolidation and censorship. As the Supreme Court stated in *Associated Press v. United States*:

The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom.²⁷

Additionally, Congress should reassert its role as supervisor of Federal agencies and act to maintain agency independence where appropriate. While recognizing that the Supreme Court may soon reverse *Humphrey’s Executor*, Congress can still play an important role through oversight. This also includes legislation designed to promote transparency and discourage government coercion. At the same time, however, members must appreciate the difficulty in drafting legislation that does not prohibit necessary information sharing or impede necessary regulatory oversight.

A. Congress Can Help Prevent Platform Monopolies that Enable Government Coercion

The fundamental problem facing American discourse today is not whether platforms moderate content, but rather that only a handful of massive technology companies control how millions of Americans receive information. Nearly 200 million Americans use Meta platforms, and 239 million use Google platforms. This extraordinary concentration of power means that a small number of corporate executives can effectively determine what content reaches the vast majority of the public. When platforms make content moderation decisions, whether correct or mistaken, users have few (if any) alternatives.

The frustration evident in the nearly 3,500 comments submitted to the FTC docket “Request for Public Comments Regarding Technology Platform Censorship” reflects not just disagreement with specific moderation choices, but a deeper recognition that these platforms wield unprecedented gatekeeping power over public discourse.²⁸ Aggrieved platform users express frustration over their posts and accounts being moderated in ways they view as unfair. Some users describe being locked out of their primary means of communication with family, friends, and business contacts. Others recount having years of content deleted without explanation or meaningful appeal. Small business owners detail how sudden account suspensions threatened their livelihoods. Independent journalists describe being deplatformed while trying to report on matters of public concern. Yet these incidents of speech suppression are *not* at the hands of government officials, but rather a result of platforms’ own content policies.

²⁶ Presidential Memoranda, *Countering Domestic Terrorism and Organized Political Violence*, White House, (September 25, 2025), <https://www.whitehouse.gov/presidential-actions/2025/09/countering-domestic-terrorism-and-organized-political-violence/>.

²⁷ *Associated Press v. United States*, 326 U.S. 1, 20 (1945).

²⁸ Request for Public Comments Regarding Technology Platform Censorship, Docket FTC–2025–0023, Federal Trade Commission (February 19, 2025), <https://www.regulations.gov/document/FTC-2025-0023-0001/comment>.

Online platforms have no obligation to host any and all speech. In fact, it is their First Amendment-protected expressive right to moderate lawful content however they like. The problem is not that platforms moderate, but that users have nowhere else to go when platforms get it wrong. This lack of competition, combined with the government's regulatory power over these same platforms, creates the perfect conditions for coercion.

1. Immediate Oversight of Independent Agencies

Congress must investigate how agencies like the FCC and FTC have abandoned their statutory mandates to serve political agendas. The White House has been so successful at pushing its agencies—even the ostensibly independent agencies—to act on ideological agendas rather than real policy because of Congress's lack of oversight. We have far passed simple threats to free speech and are firmly in the realm of suppression of free speech.

Congress must exercise robust oversight over Federal agencies, ensuring laws are implemented as intended and that agency leaders act within their authority. When the FCC reinstates dismissed news distortion complaints without petitions for reconsideration, when it conditions merger approvals on content commitments, when it threatens broadcasters with “the easy way or the hard way,” these actions demand immediate congressional scrutiny.

The FTC's investigation of Media Matters—a case where Federal courts have already found likely First Amendment retaliation—exemplifies the problem. When an agency targets a watchdog organization that criticized a major presidential supporter, using investigative powers Congress granted for consumer protection, the agency has strayed far from its statutory mission. Congress must clarify that anti-trust and consumer protection authorities cannot be weaponized to punish critics or reward allies.

2. Halt Media Consolidation and Strengthen Ownership Limits

Congress should impose stricter limits on media ownership and halt further consolidation that concentrates control in fewer hands. The ease with which a handful of CEOs could coordinate to suppress Kimmel demonstrates how consolidation has created censorship chokepoints. The pending Nexstar-Tegna merger deserves particular scrutiny. This deal would not only concentrate broadcast ownership to unprecedented levels but would also require FCC waivers of existing ownership limits. The merger was announced shortly before the Kimmel incident, making it a real-time test case of whether Congress will allow further consolidation that amplifies government coercion.

3. Promote Competition in Digital Platforms

Congress should explore structural reforms that promote genuine competition in the digital marketplace, encouraging the development of alternative platforms and reducing barriers to entry. The current regulatory framework creates high barriers for new entrants while grandfathering in dominant platforms. Meaningful interoperability requirements could allow users to maintain their social connections while switching platforms, reducing lock-in effects that trap users with platforms whose moderation policies they disagree with.

4. Support Transparency Legislation with Proper Safeguards

I understand Senator Cruz is poised to introduce legislation that would facilitate transparency in interactions between social media companies and the government. We support transparency and hope we can support a bipartisan bill. However, such legislation must include proper safeguards that distinguish legitimate government-platform coordination from coercive pressure.

Transparency legislation should protect government entities from liability when they share information about genuine threats to public safety, election integrity, or national security. When election officials identify false information about polling locations, when public health officials track pandemic misinformation that could lead to preventable deaths, when national security officials detect foreign influence operations, these officials must be able to communicate with platforms without fear that every interaction will be characterized as censorship.

At the same time, transparency legislation should create accountability mechanisms for politically-motivated pressure. Any transparency regime should include provisions that allow users whose speech was removed at the government's behest to learn about and challenge such removals. The legislation should establish clear procedures for distinguishing information-sharing from coercion, perhaps requiring agencies to document the basis for communications and prohibiting threats of regulatory action tied to content decisions.

CONCLUSION

Often the line between permissible persuasion and coercion can be difficult to tell. Consider, for example, R Street’s criticism of YouTube’s new “Second Chance” policy as the product of impermissible Jawboning by Representative Jim Jordan.²⁹ Under the new policy,³⁰ Youtube will allow YouTubers whose channels YouTube terminated to apply for a new channel. As the announcement makes clear, this is not restoring a previously terminated channel. According to Google, this is intended as a “fresh start” to reflect the fact that YouTube is an extremely important platform, that standards have changed over the last 20 years, and that “many terminated creators deserve a second chance.” Rep. Jordan has publicly claimed that his pressure on Youtube prompted this change in their policy.³¹

Is this impermissible coercion as R Street claims? Is it a legitimate use of the bully pulpit by a powerful member of Congress? Is it an independent decision in which Jordan’s pressure campaign played little part?

What we can definitively say is that this is not in the same league as a sitting President publicly announcing his intent to retaliate against his critics, and the heads of independent agencies rushing to publicly agree with him and carry out his threats. Rather than focus on past incidents that, at best, fall into similar gray areas, Congress must focus on the very coercion practiced regularly by this Administration. Defending the First Amendment must rise above partisan politics. Chairman Cruz put himself out publicly to defend Disney from Chairman Carr’s very real intimidation tactics. This Committee, and Congress as a whole, should similarly act to protect free speech.

The CHAIRMAN. Thank you, Mr. Feld. And thank you to each of the witnesses for being here today. I want to start with Mr. Potts and Mr. Erickson. Do you agree that the Biden Administration pressured or threatened your companies to censor lawful content that the Administration opposed? And were these actions to pressure you to censor content inappropriate and wrong? Mr. Potts.

Mr. POTTS. Senator, as our CEO has said, we did feel pressure from the Biden Administration to censor content related to COVID-19. And we do agree that pressure from any Administration would be wrong.

The CHAIRMAN. Thank you, Mr. Erickson.

Mr. ERICKSON. Mr. Chairman, the Biden Administration did press us to take action with regard to certain COVID-19 information that they thought was—should be taken down. But as Chairman Jordan’s report indicates, we made our decisions independently and would often say “no” when we were pressed by the Administration.

The CHAIRMAN. Mr. Potts, does Meta regret its actions and for not speaking out at the time against the Biden Administration?

Mr. POTTS. Senator, we do regret our actions for not speaking out more forcefully against the Biden Administration. We made independent choices, but we did feel pressure during those discussions.

The CHAIRMAN. Mr. Erickson, same question.

Mr. ERICKSON. Mr. Chairman, we get outreach from a lot of actors, governments around the world, administrations, Member of Congress, NGOs.

²⁹ Spence Purnell, *YouTube’s Second Chance Program is Sadly the Result of More Jawboning*, R Street (October 24, 2025), <https://www.rstreet.org/commentary/youtubes-second-chance-program-is-sadly-the-result-of-more-jawboning/>.

³⁰ Youtube, *second chances on YouTube*, (October 09, 2025), <https://blog.youtube/inside-youtube/second-chances-on-youtube/>.

³¹ Mike Masnick, *Jim Jordan Celebrates Google Caving To His Pressure In Letter That Says Caving To Government Pressure Is Wrong*, (September 25, 2025), <https://www.techdirt.com/2025/09/25/jim-jordan-celebrates-google-caving-to-his-pressure-in-letter-that-says-caving-to-government-pressure-is-wrong/>.

We feel a responsibility to consider when content is flagged, but also a responsibility to evaluate that content by our trust and safety teams independently relative to our policies, which are publicly available and on the internet, and make a decision about whether they are violative regardless of the actor, the political affiliation who is flagging the content for us.

The CHAIRMAN. Well, Mr. Erickson, let's take one example here. So this is a post, a video showing election fraud claims made by both Democrats and Republicans. So showing Hillary Clinton making claims of election fraud.

Showing Donald Trump making claims of elections fraud. And YouTube deleted it, blocked it, gave the creator a strike, a step toward deleting his entire channel. Why would you remove a journalistic record of the claims of election frauds from both Democrats and Republicans?

Mr. ERICKSON. Mr. Chairman, thank you for the question. We have election policies, and we have had election policies for a long time to ensure that the most important thing that citizens can do, which is to vote, they can find relevant and useful information on our platforms. Where to vote, for example. What time the—

The CHAIRMAN. Yes, but that was none of this. They are not saying vote on Wednesday at the supermarket. This is videos of Hillary Clinton and Donald Trump making claims of election fraud. Now, would you agree that it is fricking news when one of the two parties major Presidential candidates makes a claim of election fraud? Would you agree that that is news?

Mr. ERICKSON. Excuse me. Yes, that is news.

The CHAIRMAN. OK. YouTube blocked it and said, nope, you the citizens, we are not going to allow you to see it. And by the way, then YouTube reversed that decision and unblocked it. And you can see on the right. Instead you decided not to block it, but simply to demonetize it. It is Google's testimony that you regret nothing. Is that right?

Mr. ERICKSON. Mr. Chairman, during the 2020 election, after the states had certified the election, we did adopt a policy that for—on YouTube that took down content that claimed there was widespread fraud, or errors, or glitches in the election because the election at that point had been certified. And what our trust and safety teams do is—

The CHAIRMAN. So hold on a second. You are taking the position, if anyone argues there is fraud, if anyone lays out claims, if anyone lays out evidence, the omnipotent Google in the sky will say, no, you stupid citizens, you don't get to hear this. Is that your position?

Mr. ERICKSON. Respectfully, no, Mr. Chairman. As Mr. Feld pointed out, that in the context of the 2020 election, after the states had certified the election, we took the posture, our trust and safety teams, that claims of widespread fraud should be taken—there should be action taken against those. But when the chance of real-world harm had dissipated, we removed that policy to allow—

The CHAIRMAN. Mr. Erickson, do you know what company's employees were the single largest donors to the Hillary Clinton for President campaign?

Mr. ERICKSON. No, Senator.

The CHAIRMAN. That would be Alphabet, the parent company of your company. And yet, you are taking down evidence of even what Hillary Clinton, the candidate that your employees gave more money to than any company in America. How does that make any sense?

Mr. ERICKSON. Mr. Chairman, we have policies in place to ensure that no one can manipulate——

The CHAIRMAN. So why did YouTube reverse its policies and put up a bunch of accounts you have taken down?

Mr. ERICKSON. So Senator, after the opportunity for real world harm had dissipated, our trust and safety teams believed it was appropriate at that point to open the aperture and allow for a more robust discussion about potential——

The CHAIRMAN. Mr. Erickson, you are sitting next to the representative from Meta. If Facebook can say they regret giving in to the Biden Administration's pressure, why is that so difficult for Google to say?

Mr. ERICKSON. Senator, we are very proud that we made our decisions independently.

The CHAIRMAN. So, no mistakes? No mistakes whatsoever? Google never apologizes. No regrets. You have the power and to hell with anyone that views it differently.

Mr. ERICKSON. Senator, no, I am not saying that.

The CHAIRMAN. But you are not going to apologize or express regret for anything?

Mr. ERICKSON. We make mistakes.

The CHAIRMAN. Name one.

Mr. ERICKSON. We make those mistakes, Senator——

The CHAIRMAN. Name one. You are saying——was this a mistake, yes or no?

Mr. ERICKSON. At the time, Senator, our trust and safety teams, when looking at content on YouTube that claimed there was widespread fraud, after the states had certified the validity of the election, we believed it was appropriate to take action against that content——

The CHAIRMAN. So it is Google's position that once an election is certified that there could never have been fraud in that election?

Mr. ERICKSON. Senator, again, those decisions are made——

The CHAIRMAN. Well, that is the question. You just said once the election is certified, no one can say anything about fraud? Is that your position?

Mr. ERICKSON. No, Senator.

The CHAIRMAN. You know, there is a whole body of election fraud litigation and candidates in both parties challenge elections all the time, raise claims of fraud, they are litigated often after an election is certified.

Mr. ERICKSON. Senator, at that time, after the election had been certified, in context, we felt it was appropriate to take down allegations of widespread fraud because of potential real-world harm at that moment. When that time had dissipated, we did believe it was appropriate to deprecate that policy and allow for that discussion.

The CHAIRMAN. Well let me say, I don't think it is real world harm to respect free speech and to allow the American people to hear what Hillary Clinton and Donald Trump are saying. And it

goes without saying, I disagree with an awful lot of what Hillary Clinton is saying, but I don't think a tech monopoly should be deciding what the American citizens get to hear and what they don't get to here, particularly given your heavy ideological bias.

And I have got to say, I am astonished that you sit here unwilling to express regret for anything at all. That is a level of contempt for free speech that does not reflect well, and it may be why Google abandoned its old motto of don't be evil, because you are certainly not living up to that old model. Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman. Mr. Feld, thank you for that distinction between the bully pulpit versus coercion. I think I even saw Mr. Creeley nodding his head in agreement. So I think we have two organizations who are characterizing the challenge in front of us.

And Mr. Feld, you were more specific about when you really do have the power like the FCC Chairman does. And you don't, or you do abuse that power, then that really is the coercion that we have to worry about.

So I am concerned about where we are today in the state of media and diversity of voices. And so, it does make me concerned that we had more competition, not less competition. That is one of the reasons why I want to see Mr. Carr in this hearing room, because we have a big challenge facing us, and the consolidation issues are challenging enough without using coercion in the middle of them.

But back to this larger question and something I would ask my panelists too is, what can we do in the tide of AI where AI is now making this even more opaque, how information is being gathered and used?

What can we do in the era of AI to make sure that we are instilling more competition, growing more diverse media sources, and certainly protecting—I would think that the platforms that were here today would understand that their seed corn is people who actually produce information.

How can you continue to have information if you don't have information publishing sources? So, Mr. Feld, what do we need to do to preserve that model?

Mr. FELD. Thank you, Senator. We agree that competition in AI is a critically important question, particularly given that the natural network effects and the access to information that giant companies have as compared to startups in this situation create an environment in which natural monopolies or natural oligopolies would emerge.

In this situation, it is important, we believe, one, for the Government to support open source which allows for innovation by multiple parties and combines the abilities of many. We believe that there may be necessary interventions such as providing access to information that is used to train these models if it develops that one monopoly in, say, search or on social media is feeding and growing another monopoly in AI.

This is something that the Government needs to keep a very careful eye on. We are particularly concerned with Judge Mehta's decision that the emergence of AI relieves the need to care about concentration and monopoly power in the search market.

We think it is just the opposite. That the emergence of AI which feeds on that information means that we must be extremely rigorous in our antitrust remedies with regard to these adjacent monopolies.

Senator CANTWELL. Well, I think in Senator Blackburn and I's providence model, you would know where the content was created, and you could follow that and demand compensation. In a search AI world, it becomes more opaque as to what information was gathered, and so it becomes even more important, I think, for us to get this right.

Mr. Potts, Mr. Erickson, we have had in the last—since 20—since 2005, 127 newspapers closed last year alone, but one-third of newspapers. So don't you think that this is eating the seed corn here? That how can you have a perfect stack of information if you are going to have less information?

Mr. ERICKSON. Well, Senator, happy to take that question first. Google is committed to a thriving news ecosystem. For 25 years, users come to our site, and we send them to publishers all over the world, free of charge. And those publishers are able to grow their user base, to have advertising to monetize those interactions, or to have subscriptions.

Senator CANTWELL. I am asking you if you think it is time to do more. Mr. Potts, I know Meta actually does do well—took some resources and—I find it interesting. There are very few journalists that cover—you know, when I first got to the Hill there were probably five people from the State of Washington that covered what we did on the Hill.

Now literally there is one person and basically from Spokane, Washington who is funded by a Facebook grant that was compensation to the journalism community. But now, you know—and he does a great job covering me, covering Senator Risch, Crapo, Senator Murray, but that is it.

So, all that information that you would get, you know, if you had people covering from Seattle and Vancouver, Washington, Bellingham is lost. So at what point do you guys care about the fact that the stack of information needs to be supported if you want to have a perfect stack and have competition?

And if we want the U.S. stack to be the best stack in the United—in the world, then you have to have true competition of voices, as we have pointed out from the two witnesses on the end.

Mr. POTTS. Senator, this is I am sure a very important topic. Unfortunately, it is not one that I work on directly, especially around competition, so I don't have an informed opinion, but we are committed to having a platform for everyone to share their voice.

Senator CANTWELL. OK. Well, I think they should send someone here who can answer this question, but we will take it for a direct question to your leadership and get an answer. But this question of AI is here, and we have a couple of choices.

You know, we have put, you know, privacy legislation on the table that also would basically—you know, I think in Meta's whistleblower case that was before our committee before, Meta was publishing hate information against the Rohingya population by the government.

And even though many, many people tried to get that information erased because it was directly saying to harm a population, your previous model didn't correct for that. Your newest model probably would better address that. But the point is, we need to have a system that is responsive to the fact that we need information.

So I see my time has expired, but I would hope that both of you would get a formalized answer on what in the era of AI do we need to do to make sure that journalism survives so that your information that you feel is so precious actually gets created? Because without local journalism, it is not going to get created. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Fischer.

**STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Mr. Chairman. At our first hearing in this series, we heard from conservative users who were deplatformed by social media companies. One of the witnesses specifically mentioned that at the time in 2020, Twitter was pressured by the Biden Administration to deplatform his account.

Much of this seemed related to policy threats about Section 230 reform. I would like to explore the nature of these types of conversations. Mr. Potts, would you please describe specific examples of pressures that your company experienced from the executive branch, specifically about content moderation?

Mr. POTTS. Yes, Senator, and thank you for the question. As I mentioned before, our platforms are for everyone, and we want to ensure that we have a diversity of viewpoints. And we regularly hear from governments around the world about where we draw our policy lines and how we enforce our policies.

And we definitely heard from the Biden Administration on those issues. The pressure that we were really focused on in some of our recent discussions was the pressure that was received around COVID-19 and changes to our policies therein.

We received a lot of pressure from the Biden Administration about humor, satire, certain claims around COVID-19. And to be fair, we made our own decisions. We made our own decisions and ultimately those were our choices, but the pressure did exist.

Senator FISCHER. Besides COVID-19, give me examples of other pressures that you felt?

Mr. POTTS. Senator, I don't have specific pressures. We do engage with governments—

Senator FISCHER. What issues were specifically brought to your attention?

Mr. POTTS. The issues that I focused on primarily were—in my engagement with the Biden Administration were around COVID-19.

Senator FISCHER. How often did they occur?

Mr. POTTS. Senator, I was not the only individual that had those conversations. I was a party to a few of those conversations, but we had many as a company.

Senator FISCHER. You have been with the company 10 years, you said?

Mr. POTTS. That is correct, Senator. I have been there 10 years.

Senator FISCHER. Are there examples from other Administrations trying to influence your content?

Mr. POTTS. Senator, we often hear from governments and government agencies about content that does violate our standards or places that we agree in, and so that may be something like terrorism, the illegal sale of illicit drugs like fentanyl or potential multi-victim violence like school shootings.

So those are places that would like to partner and work with, but we also hear pressure of where content doesn't violate our policies, and it is incumbent upon us to make our own choices, as I described to Senator Cruz, and then push back more forcefully, which we did not do in 2020.

Senator FISCHER. Mr. Erickson, could you tell me about Google's experience with this?

Mr. ERICKSON. Yes, Senator. Thank you for the question. It is true that during that period of time, during COVID-19—well, if I could take you back to that moment in time.

Senator FISCHER. Not in too much detail. The Chairman will gavel me out.

Mr. ERICKSON. Certainly. It was an intense moment and unique in our Nation's history. It was very chaotic, and we did feel a responsibility to meet with scientific and health experts in the Government, beginning in President Trump's Administration that continued in President Biden's Administration—

Senator FISCHER. So, are you telling me that most of it dealt with COVID-19 content? What besides that have—other issues have you felt any kind of pressure over from Google?

Mr. ERICKSON. Senator, I want to be clear, no matter how the information comes to us, we feel a responsibility and are proud of the way we handle those communications to make independent decisions.

We have trust and safety teams that are shielded from political pressure that make decisions based on our terms of service and our guidelines, which are transparent and publicly available.

Senator FISCHER. Thank you. Do you have an independent audit or review process in place to evaluate whether moderation disproportionately affects users based on their political beliefs?

Mr. ERICKSON. Senator, there is no place for someone in our company with a political agenda to influence our content moderation policies. If we were aware of that, or made aware of it, we would certainly take disciplinary action. And we have studies which I can make available to you that—

Senator FISCHER. That would be great. And could you make those internal fairness audits public, or at least invite a third party to be able to scrutinize some of that to hopefully settle some of the concerns?

Mr. ERICKSON. Senator, there have been third party reports and studies of the content on our platforms and happy to provide those to you.

Senator FISCHER. That would be great. I would appreciate that. Thank you. Mr. Creeley, the user base of Meta and Google spans the globe with billions of users, and their control over valuing and

devaluing speech is critical to examine, given their ability to amplify that content.

What internal mechanisms do you think should be in place at these companies so that they can guard against speech that harms of jawboning, de-platforming, and what do you think we here in Congress need to do?

Mr. CREELEY. Well, I appreciate the question, Senator. I am just a humble First Amendment attorney. I would—

Senator FISCHER. Well, come on. Give me an answer.

Mr. CREELEY. I will suggest that more transparency is generally useful. Our model legislation would have reports—the onus being on the Government—reports of all contacts from Government officials to private social media platforms, which have their own First Amendment right, about the moderation policies they enact and how they fulfill those policies.

Given the global scope, I know that my colleagues at the table likely feel a great deal of responsibility. I think you have heard that. But my worry, as a First Amendment attorney, is with the Government.

The answer in Bantam Books was not to regulate the book-sellers, but to tell the Government that it crossed the First Amendment line by bullying a private entity. Those are the rights I am seeking to protect.

Senator FISCHER. I would agree with you on that. I worry about any regulations that any government puts on to free speech. Thank you, sir.

The CHAIRMAN. Thank you. Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Well, thank you very much, Senator Cruz. Thank you to the witnesses. Senator Cruz and I have worked together on a number of Internet related issues and platform related issues, including our successful passage of the Take It Down Act.

We do have disagreements about some of the decisions that I think the companies rightfully made about false information about the election when President Trump's former own Attorney General, Bill Barr, said that these arguments that there were widespread fraud, and the like were not true.

So, I don't want to re-litigate that right now. But what I want to get at is the need to do something about the cesspool that our kids are being exposed to and the need, while we value these platforms, we all use them, to have some rules in place, especially when it comes to AI.

I have just been shocked that we are all sitting by like observers. For those of us who think AI has great potential to cure diseases and the like, and that our Congress is just sitting there and not doing anything about these videos that are going out there.

Senator Cruz and I focused on the non-consensual porn, whether it is AI created or actual, but when it comes to these fake political videos, the fact that we are not even passing something that says digitally altered for the ones that are Constitutionally—would be protected if they are parity and the like.

That is a bill Senator Murkowski and I have. The fact that we won't pass Senator Hawley and my bill that would do something about the stuff that is basically deceptively using people's images. And the fact that we are sitting by while people's images, whether they are famous or not, are being used.

And I do appreciate Google and YouTube's support for the No Fakes Act that Senator Blackburn, and Senator Coons, and Senator Tillis, and I have. I think it is very important legislation right now. So, we are not leading the Congress right now, but man, I would be getting these bills through because I think there is some widespread support, not just about the election, but about everything that is going on.

Having been—had an own deep fake video made of me from a hearing Marsha and I did making claims that I would never make, but it looked so real that many people believed that I was somehow part of the Sidney Sweeney ad campaign. So with that, I guess I would turn to you, Mr. Potts, and ask why Meta doesn't support this deepfakes bill?

Mr. POTTS. Senator, thank you for the question. And it is a very important topic. And to be clear, we do support labeling. And we want people to know when posts that they are seeing have been made with AI.

Unfortunately, I am not familiar with the legislation. I think directionally, more transparency around AI generated content is something we want. Doing that in a smart way, of course, is something that also makes sense.

I know alongside my colleague here from Google, we support the C2PA, which is the Coalition for Content Providence and Authority, that does include markers for AI generated content and that will allow companies to label that in a more clear, and faster and direct way.

Senator KLOBUCHAR. Well, Meta—[technical problems]—researchers raised concerns that the teen account safeguards you rolled out last year haven't protected teens. Nearly 60 percent of teens ages 13 to 15 reported encountering unsafe content, unwanted messages on Instagram in the last 6 months.

What have you done differently to ensure that Meta AI teen safeguards actually work? And last month, Senator Blackburn, who I see is here, and I, as I noted, held this hearing, and we heard from two whistleblowers who told us that Meta repeatedly suppressed and altered VR youth safety research.

Will you commit to sharing with me additional information on what research was conducted pre-launch to ensure that the new parental controls are effective?

Mr. POTTS. Senator, thank you. Thank you for the question. You referenced a study that I am not familiar with, and I would be, you know, curious of the methodology there. But I will say that we are committed to building safe and responsible tools, AI tools, as well as safe and responsible experiences for teens.

So we want age-appropriate experiences across the board. I think your follow-up question was, would we commit to sharing research? I know that my teams have been in contact with you, working on discussion, and we are happy to continue the conversation.

Senator KLOBUCHAR. OK. Last, the Wall Street Journal recently reported that Meta plans to use people's conversations with Meta AI chat box to personalize ads served to them. I find this concerning. How will Meta protect people's privacy while selling information about their private conversations to advertisers?

Mr. POTTS. Senator, we will remain committed to investing heavily in safety, heavily in privacy, making good policy and having the necessary safeguards. I am not familiar with the *Wall Street Journal* article that you are referencing, but I am happy to have the team follow up.

Senator KLOBUCHAR. OK. I also wanted to reiterate Senator Cantwell's line of questioning about the need to have a free press. Free press is about no censorship, and I am looking forward to Chairman Carr's arrival at our committee here. But free press is also about having free press exist.

And right now, I think everyone knows here that I have—Senator Kennedy and I for a long time have led this bill on trying to find some way out of this with—which has been exacerbated by AI, so that journalists get paid for their content.

There is lawsuits going on, I know all of this, but we are not really going to have a free press if the economics are such that their content can be taken and then no one is able to report on anything and we don't have local news.

So, I hope you are all thinking about that as we hopefully go forward with actual AI legislation, privacy legislation. We are going to have to do something to account for that. And we are clearly, before this next election, going to have to do something about marking these not just ads but videos as digitally altered.

I will note in my case Meta did mark it as digitally altered and that TikTok actually took it down. And that—I don't know what YouTube did. And that X actually did nothing. And so, that to me just shows how we need some rules in place.

The CHAIRMAN. Thank you. Senator Blackburn.

**STATEMENT OF HON. MARSHA BLACKBURN,
U.S. SENATOR FROM TENNESSEE**

Senator BLACKBURN. Thank you. I will note that Google lost a lawsuit yesterday dealing with the press. And so, we noted that. Mr. Potts, I want to come to you since my colleague, Senator Klobuchar, was talking about kids and safety online.

Mr. POTTS. Yes, ma'am.

Senator BLACKBURN. You all have spent \$20 million lobbying against what we have tried to do to make the virtual space safe for kids—\$20 million bucks in the first 9 months of this year. You have 87 lobbyists fighting against any regulation because kids are the product for you all—87 lobbyist, 1 for every 6 Members of Congress.

I hope you are getting your money's worth because you are killing kids, and we know it, and we know what you are doing. And I am so sick of what you all are doing. You should be ashamed of how you are putting kids at risk. And you should be coming to the table to work with us, because we are trying to protect people in the virtual space.

There are rules in the physical space, but not in the virtual space. But money hungry, that is what you all are. Your valuation is built on eyeballs. And you come in here and want to soft talk this? It is infuriating. It is absolutely infuriated.

Mr. Erickson, I want to come to you, please, sir. I appreciate what you had to say about AI resources and about being proud—Mr. Erikson, I am talking with you, sir—and wanting to be a trustworthy company. But let's talk about Gemma. And I want to bring up the issue of Robbie Starbuck who lives near me in Tennessee. He is a conservative leader. I don't know if you are familiar with Mr. Starbuck.

Mr. ERICKSON. I am familiar with who he is. Yes, Senator.

Senator BLACKBURN. OK. Thank you because I am going to put some things up that Gemma did. Gemma and the way you are training these LLM models is not something you should be proud of, and it doesn't embody trust, because Gemma created an entire falsehood around Mr. Starbuck saying he had been accused of child rape—totally false, totally false.

So then we asked Gemma if Senator Blackburn had publicly defended Robbie Starbuck. And it goes on to say that I publicly and actively defended Robbie Starbuck. Now, here are the prompts that are there, and here is the response. It made up articles. And I will be able to hand you this poster so you can see this in detail.

But this is insulting that you are so biased against conservatives that you would create this entire, this entire story around Robbie Starbuck with links to stories and this entire story around me—totally false. All of it is false.

So, why don't you tell me how you are scraping data and training these LLMs that they would come up with not a one degree but a two degree complete falsehood?

Mr. ERICKSON. Senator, thank you for letting me clarify. The way we train our LLMs is to train on publicly available information—

Senator BLACKBURN. It is not publicly available, sir, because it is fake news. Gemma made it up. So what are you feeding in on the training that would allow such a—I mean, this is just wild. It is fiction.

Mr. ERICKSON. So, Senator, it is well known that LLMs will hallucinate. It is a known issue, and we do work—

Senator BLACKBURN. They need to shut it down. It is not a bad drug—and the bad drug is your input.

Mr. ERICKSON. Senator, we do work at Google very hard to mitigate those hallucinations.

Senator BLACKBURN. Obviously not hard enough. So how are you going to clean this up?

Mr. ERICKSON. Senator, again, we are working to mitigate those kind of hallucinations on LLMs. Gemma is our open source AI model. I am not familiar with the examples. I will take your word for it. Thank you for providing those. We will follow up with you.

Senator BLACKBURN. Well, yes, you are going to be able to take the word for it because we are going to deliver these examples to you. Mr. Potts, I want to come back to you.

Mr. POTTS. Yes, Senator.

Senator BLACKBURN. Listening to your testimony I find it so curious that when your mistakes—you say mistakes happen, but your

mistakes always happen against conservatives. So what is the rationale for that?

Mr. POTTS. Senator, thank you for that question. If I may just go back——

Senator BLACKBURN. You don't need to thank me for the question. Just give me the answer.

Mr. POTTS. Understood. If I may go back, I just wanted to, you know, respectfully disagree with your thought that we are attempting to hurt children or hurt kids, as you put it for——

Senator BLACKBURN. You made a playground for pedophiles——

Mr. POTTS. Senator, we work tirelessly with law enforcement——

Senator BLACKBURN.—for groomers—for predators——

Mr. POTTS.—to remove that type of content from the platform.

Senator BLACKBURN. Eighty-five percent of the kids that meet a drug dealer, meet them online, Mr. Potts. You all need to take this seriously and you are not because you are money hungry. I yield back my time.

Mr. POTTS. Senator, I respectfully disagree. We do work hard on these issues.

The CHAIRMAN. Senator Luján.

**STATEMENT OF HON. BEN RAY LUJÁN,
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Mr. Chairman. Mr. Erickson, simply yes or no, did YouTube pay \$24.5 million to settle President Trump's lawsuit against the company, the majority of which goes toward Trump's ballroom?

Mr. ERICKSON. Senator, I believe you are referring to the lawsuit that we recently settled. The settlement terms were that we would provide—I believe that is the right number. It is close.

Senator LUJÁN. Let me ask it again, yes or no—yes or no? Did YouTube pay \$24.5 million to settle President Trump's lawsuit against the company, the majority of which goes toward President Trump's ballroom?

Mr. ERICKSON. Senator, we settled our lawsuit with President Trump, yes.

Senator LUJÁN. Thank you. I appreciate that. Mr. Potts, yes or no, did Meta pay \$25 million to settle President Trump's lawsuit against the company, the majority of which goes toward President Trump's ballroom—library, sorry, library?

Mr. POTTS. Sorry. Senator Luján, I am only familiar with what is available in news reporting.

Senator LUJÁN. Yes or no, did Meta pay President Trump \$25 bucks to settle a——

Mr. POTTS. Senator, I was not connected to any of those decisions——

Senator LUJÁN. What is your title? Aren't you—aren't you an executive at Meta?

Mr. POTTS. Senator, that is correct. I focus on our internal rules for what we allow and do not allow.

Senator LUJÁN. Look, Mr. Potts, I am sorry Mr. Kaplan didn't have the courage to be here. I understand he got invited, but he is not here. Sorry you are getting the questions. Everybody in this

room knows, everyone watching knows that you all paid \$25 million bucks, man. Like that is yes, just yes.

But if you don't want to answer that, let me move on. Now, did President Trump say that Mr. Zuckerberg might need to spend his life in prison in his book that was released in 2024? Do you know the answer to that, or I need to get you a copy of the book?

Mr. POTTS. Senator, I am aware of that statement, yes. When—before the 2024 election—

Senator LUJÁN. So both of these lawsuits were originally brought in 2021, sat in courts for 4 years before they were settled, and President Trump's lawyers knew they didn't have a case and that your companies would settle due to the potential for regulatory retaliation. This has been written about a lot.

In fact, President Trump's attorney stated, "if he had not been reelected, we would have been in court for a thousand years." It was his reelection that made the difference. So while these payments are settlements or whatever, these feel like shakedowns to me.

And I certainly hope that regardless of who the President is, whatever is going on here, once we get past this in a few years that we can all have a conversation and just say, hey, this isn't OK.

So the question that I have, Mr. Potts, that I thought I was going to get to ask Mr. Kaplan, you may remember you and I met in April to discuss Meta's new content moderation. Mr. Kaplan was in that room as well, correct?

Mr. POTTS. Yes, sir.

Senator LUJÁN. Now, let's talk about the lead up to some of these changes. First, President Trump threatened Meta CEO Zuckerberg with life in prison. Shared that with the book. Mark Zuckerberg openly admitted that some of those threats—that the changes that ultimately Meta led to would be "a harmful content to appear on the platform." So Mr. Potts, yes or no, is it Meta's policy to leave up Antisemitic content?

Mr. POTTS. Senator, no. We have strong policies that remove content when someone is targeted based off of their religion, their ethnicity, their nationality.

Senator LUJÁN. Since the changes were announced, there have been nearly fivefold increase in Antisemitic behavior on your platforms. Are you aware of that?

Mr. POTTS. Senator, I am not familiar with that study or the methodology behind the study.

Senator LUJÁN. Mr. Potts, why does Meta leave up a statement that says go back to your gas chamber when it relates to Antisemitism?

Mr. POTTS. Senator, that content should be removed.

Senator LUJÁN. I have another one, surprise, surprise. I hope someone videos when the ovens go back on. Should that one be taken down?

Mr. POTTS. Senator, if I may, that content should be taken down.

Senator LUJÁN. OK. Let me ask you another one. Bring back the Austrian painter. Should that one be taken down?

Mr. POTTS. Senator, often content in the context is hard to identify—

Senator LUJÁN. Mr. Potts, I got one more.

Mr. POTTS. That content should be taken down.

Senator LUJÁN. Thank you. Y'all deserve all the terrorism. Should that be taken down?

Mr. POTTS. Senator, I don't know the context.

Senator LUJÁN. OK. I appreciate your response and the other ones that should be taken down. My question is this, can you explain to me why the statements were not found to be non-violative after—why they were not found to be non-violative after. They were reported twice already to the company?

Mr. POTTS. Senator, I know we have engaged with your office on some of these issues and we have removed content when it has come to our attention. We do make mistakes. I have been fairly clear that we are not perfect in our execution, but we do have strong policies—

Senator LUJÁN. Well, now you know. And now everyone at the company that is watching this knows because to my colleagues, I asked Mr. Kaplan this question when we were in my office and were told, no, no, no, we take stuff down or we don't.

So I just hope that as we lean in and if it is private conversations that everyone has, take this shit down plain and simple. Just let's be on the up and up here.

And then look the last thing I want to say here is I want to commend Senator Moreno. I want to commend Senator Cruz. I want to commend Senator Cornyn. Because Google, you all decided to put Spanish language media, Univision and Telemundo, behind a paywall. I don't know if you realize that.

This is a bipartisan issue that we are raising here. Does Google plan to change this?

Mr. ERICKSON. Senator, thank you for the question. It is not true that we put Univision behind a paywall. Univision is available for free on YouTube. They are a creator partner of ours. They have millions of viewers. We also make the Univision app available in our Play Store to download for free.

I believe the issue you are talking about is with YouTube TV, which is our virtual MVPD. It is a virtual cable company. And when those carriage negotiations are up for renewal, like every cable company and network, there is an arm's length discussion and negotiation over the terms for carriage. We were not able to reach mutually acceptable terms.

Senator LUJÁN. Mr. Erickson, you have got a bipartisan crew of folks over here standing together on this issue. I certainly hope that as all the smarter lawyers and all the people that are arm's length that are listening to this right now get a chance to fix this, they fix this. We all want this done.

Please, please make sure you do that because I have constituents that can't get information that are your subscribers because they believe in you. They decided to cut the cord and find another way to get information, but if there is an emergency man, we have a problem.

So I certainly hope that we can work together and find a resolution to this. I appreciate the time, Mr. Chairman. I yield back.

Senator MORENO. Recognize Senator Schmitt.

**STATEMENT OF HON. ERIC SCHMITT,
U.S. SENATOR FROM MISSOURI**

Senator SCHMITT. Thank you, Mr. Chairman. I want to—this topic obviously is important to me as the guy who filed the *Missouri v. Biden*. I am sure you are all aware of that in your witness prep.

And also who filed the—got the first antitrust win against Google for their monopoly on search. I have a few questions. I want to start with you, Mr. Erickson. Let's talk about search. During the 2024 election, while Google search was an illegal monopoly according to the court, it was repeatedly biased against President Trump.

If you searched, where can I vote for Donald Trump, Google showed nothing. Is that correct? You are aware of this, right?

Mr. ERICKSON. Senator, I am not aware of that.

Senator SCHMITT. OK. Well, if you searched for Donald Trump, you couldn't find it. Meanwhile, if you searched, where can I vote for Kamala Harris? A precise polling place showed up. That is interesting, isn't it? Would that be—if those facts are true, would that indicate some political bias?

Mr. ERICKSON. Senator, I can assure you there is no political manipulation of our search results.

Senator SCHMITT. Interesting. OK. So after President Trump was shot or attempted to be assassinated at Butler, if you typed a search for President Trump assassination, nothing came up. How is that possible?

Mr. ERICKSON. So, Senator, let me give you some—

Senator SCHMITT. Very quickly because I have a bunch of questions.

Mr. ERICKSON. Yes, Senator. So when people are entering a search query into Google search box, we will often give them—we will fill that out based on the machine learning of our platform that has seen similar type of requests—

Senator SCHMITT. So the question is, so no one typed President Trump assassination, Butler?

Mr. ERICKSON. Senator, the reason that that didn't appear for a short period of time was it would have been irresponsible for us to—before that event—

Senator SCHMITT. I thought you might say that. That is not true for other assassination attempts, including Charlie Kirk. So I also want to ask you, when you type in President Donald, Google would prompt you to President Donald Duck or President Donald Reagan, not President Trump, in the lead up to the 2024 election. Is that just a coincidence?

Mr. ERICKSON. Senator, we are very proud that Google search is the most trusted platform for information.

Senator SCHMITT. Well, you have a monopoly. That is why. It is not because of what you are doing, because there is political bias. Let's talk about that for a second. Is—was George Washington black?

Mr. ERICKSON. No, Senator.

Senator SCHMITT. OK. Why did on your AI—why did it pop up—on Gemini, why did the image of the black George Washington pop up?

Mr. ERICKSON. Senator, that was an early version of Gemini. When that happened, that was a mistake. We took down the product. We put teams in place to fix that mistake, and we set up internal processes to ensure that it wouldn't happen again and did not release that product until we were satisfied.

Senator SCHMITT. OK. Well, according to a Hoover Institute study, you haven't fixed the underlying issue of the woke AI. You haven't. You may have fixed the fact that obviously George Washington wasn't black, but you still have a woke backbone to Gemini.

And the great black box out there, and I have been through the litigation with you guys, the great black box is your search. And I am telling you, it is politically biased. And until you reconcile this, you are going to continue to have an erosion of trust and hopefully more lawsuits, because people do go on Google, and they search.

And what they find is a politically biased—you could go to the members of this committee and search in what is on page one news articles. I don't have time to do that, but it is astounding. It is astounding, and the difference between Rs and Ds is real.

Mr. Erickson, I want to ask you, did you—was your testimony—actually I want to—well, let's stay with you. So, Google recently sent a letter to Congressman Jordan explaining that the Biden Administration tried to coerce Google, but that you found it unacceptable, and you didn't.

So when Rob Flaherty, the Deputy Comms Director for the White House who is infamous for saying, are you guys effing serious, I want an answer on what happened here and I want it today—not to you guys, but during the height of the insanity.

So there was—you guys didn't succumb to any of that pressure from the White House to censor speech?

Mr. ERICKSON. Senator, when we get communications from the Biden Administration, or the Trump Administration, or any government entity around the world, our trust and safety teams apply our terms of service and guidelines independently.

Senator SCHMITT. OK. So it was your decision to ban Dan Bongino on YouTube? It was your decision to ban RFK Jr. on YouTube? Not—that was your decision alone, correct? Yes or no, please.

Mr. ERICKSON. Senator, I am not familiar with those specific examples—

Senator SCHMITT. You can't have it both ways. You can't have both—Dr. Jay Bhattacharya, who is now the NIH Director, you banned content from him because he said masks were ineffective for kids. You were banning the hell out of conservatives left and right in that time period, so that is on you, I guess.

You didn't succumb to pressure, but Facebook did. Facebook did, and a Facebook employee—and Mr. Potts, I want to ask you. In July 2021, in addition to Mark Zuckerberg admitting it—your testimony is interesting because your testimony today was that these were our decisions.

No pressure. That is not what your CEO said. And maybe that is a litigation strategy because that case is still ongoing. I don't know. But you have e-mails from employees saying, because we

were under pressure from the Administration and others to do more, I was part of the more package.

We removed four claims that multiple fact checkers labeled as false even though we didn't have a harm assessment. We shouldn't have done that. You could go through e-mails that were uncovered in discovery. You could through the letter from Mark Zuckerberg.

You clearly were coerced by the Biden Administration, but your testimony today is that is actually not true now. That these were all done in your own volition. Is that accurate? Which one is it?

Mr. POTTS. Senator, I can't—I am sorry, my eyesight isn't strong enough to make out that note, and I hate to speculate with—potentially what my colleague meant—

Senator SCHMITT. Well, Mark Zuckerberg's letter to Jim Jordan said “we were—repeatedly pressured to censor certain COVID-19 contact. The Government pressure was wrong, and I regret we didn't do more, and we were not more outspoken.”

Mr. POTTS. That is correct. That is—

Senator SCHMITT. So that your testimony is that you were coerced by Biden Administration. Is that accurate?

Mr. POTTS. Senator, if I can add a bit of nuance here. We felt pressure from the Biden Administration. We ultimately made those decisions of our own volition. We had our policies, we made those decision. In hindsight, would we have made different choices with all the information we have today? I am sure we would make different choices.

Senator SCHMITT. Well, in closing, forgive me if the fact that the Biden Administration wasn't threatening Section 230 protections wasn't that they were threatening those protections to go away.

They were threatening investigations. So the idea that you guys didn't succumb to pressure from the White House to censor exclusively conservatives and COVID-19 content is laughable. But thank you, I am out of time.

Senator MORENO [presiding]. Senator Rosen.

**STATEMENT OF HON. JACKY ROSEN,
U.S. SENATOR FROM NEVADA**

Senator ROSEN. Thank you, Mr. Chairman. Appreciate this hearing today. And while I fundamentally agree that this committee must examine the state of free speech in the U.S., today's hearing once again misses the mark. This is now the second hearing to focus on accusations from years ago, rather than the near constant attacks the Trump Administration has leveled against free speech rights today, today—right here, right now, today. We still have not had Brendan Carr come to testify after his threats to revoke broadcast licenses in response to jokes made by a comedian, Jimmy Kimmel, on his show.

The Chairman has failed to invite any witnesses that speak to the threats that we face today. Not in the past, but today. No one from the now-defunct Pentagon press corps who were told their choices were to publish only Government-approved information or lose their credentials. Where is the oversight there?

No one from universities losing routine grant funding because they won't adopt the Administration's preferred speech policies. Where is the First Amendment there? Democracies cannot exist

without people having the right to oppose their Government actions and speak their mind.

And that is what we need this committee to focus on, the point that free speech is the fundamental bedrock of our democracy, whether we agree with it or not. And that is the hearing I wish we were having today.

But since it isn't, and I will turn to my questions and start with the Pentagon Press Corps, because earlier this month, Secretary of Defense Pete Hegseth issued new rules for the Pentagon Press Corps requiring them to seek approval from the department itself before publishing any news. The public doesn't have a right to know what is happening in our Defense Department.

This reporting on the Pentagon is essential, especially given this Administration's repeated failure to seek Constitutionally required approval from Congress on matters of war. It is Constitutionally required approval from Congress. I commend the outlets that rejected the loyalty pledge and were therefore denied credentials.

We have seen agencies across the Trump Administration try to force private organizations, educational institutions, journalists, and others to sign loyalty pledges essentially agreeing to silence themselves in order to gain access to basic Government services, to Federal funding, or the ability to report on the actions of our Government. So this is a clear threat to the First Amendment.

So Mr. Creeley, are actions by the Government to force journalists to only publish pre-approved information a violation of the First Amendment? And at a minimum, do you think actions like this just jeopardize the freedom of the press writ large?

Mr. CREELEY. Senator, absolutely. My organization has been consistent in expressing concern about Government efforts to require independent journalists to tow a party line before gaining access to information. That is foundational.

This goes back to before the founding, to John Peter Zenger, the publisher in Colonial New York who was jailed for making fun of the then Colonial Governor, William Cosby. This is something that would horrify the founders.

I think that our right to a free and independent press, including most importantly one that will criticize the Government, is a bedrock of American democracy. So, it is extremely concerning.

Senator ROSEN. Thank you. Mr. Feld, I am going to ask you why you think an independent media and the protection of the First Amendment is essential to democracy as opposed to just being forced to print propaganda.

Mr. FELD. There is a reason why the press is listed separately in the First Amendment and not just a matter of generally under freedom of speech. It is because the ability to have news from the local level up to the national and international level, the ability to have different perspectives on that news before the electorate is a core to an informed democracy.

Senator ROSEN. I want to move on and talk a little bit about Brendan Carr. I will move back to you, Mr. Creeley, because this hearing aims to push the narrative that the prior Administration tried to "shut down the speech of Americans with whom it disagreed." But there are clear instances of this happening today under this Administration.

And as we have noted, FCC Chairman Carr threatened ABC affiliate broadcast licenses over remarks Jimmy Kimmel made in the air, threatened to revoke their license because they didn't like the speech of a comedian. So, yes or no, is Chairman Carr trying to "shut down the speech of Americans with whom he disagrees"?

Mr. CREELEY. Yes, and my organization has been very critical of that. We have called that for what it is, which is jawboning.

Senator ROSEN. For purposes of the First Amendment, is there any legal distinction whether or not Jimmy Kimmel or other comedians' speeches are offensive or hateful?

Mr. CREELEY. No, the First Amendment does not have an exception for offensive or hateful speech.

Senator ROSEN. And does it matter for purposes of the First Amendment that Jimmy Kimmel's show is not pure news, but also has a comedy component?

Mr. CREELEY. No, Senator.

Senator ROSEN. And in your view, has Chairman Carr engaged in jawboning as much or even more directly than the prior Administration?

Mr. CREELEY. Senator, I think jawboning is bad in all its instances and all its forms from whatever Government official, but absolutely this is jawboning, and we have called it as such.

Senator ROSEN. And I will take the answers for this off the record, but I am going to state the question, and we will be reporting on it.

But to Mr. Feld and Mr. Creeley, we are going to ask you what retaliatory action the Trump Administration has taken or threatened to take to companies and people it deems critical of the President and supporters? I have run out of time.

And so, we will take your questions for the record, and we will be publicizing those when we get them. Thank you, Mr. Chairman.

**STATEMENT OF HON. BERNIE MORENO,
U.S. SENATOR FROM OHIO**

Senator MORENO. Thank you. Thank you to the witnesses. I hope you are having fun. The question I have for you, and I am going to read you a quote. Just so four of you think if this makes sense to you. "The people shall not be deprived or abridged of the right to speak, to write, or to publish their sentiments, and the freedom of the press as one of the bulwarks of liberty shall be inviolable." Do you guys agree with that? Let's start with you, Mr. Feld.

Mr. FELD. Absolutely.

Senator MORENO. You get bonus points if you know who said that.

Mr. FELD. I am sorry, but I lose the bonus.

Mr. CREELEY. Absolutely. I am going to venture Madison.

Senator MORENO. Yes, James Madison said that. And that was what he actually wanted the First Amendment to say, that he wanted it to be more specific. Mr. Potts, do you agree with that? Senator, in my personal capacity and Meta, we agree with the First Amendment.

Senator MORENO. Yes. But the company's position would agree with it, right? How about you, Mr. Erickson?

Mr. ERICKSON. Yes, Senator.

Senator MORENO. So, isn't really the answer to all of this, more speech is always better, Mr. Creeley? Like, if we have more dialog, more ideas in the public square, isn't that really the best anecdote to all of this?

Mr. CREELEY. Absolutely, Senator. That is right.

Senator MORENO. And to Mr. Potts and Mr. Erickson, you guys are technology companies, you are successful American technology companies. Doesn't it seem like you are on the road to hell right now? Meaning, you have immunity as a publisher—different than publishers, sorry.

But you are acting a lot like publishers. Shouldn't your point of view be that we modify Section 230 and just take the part out that says unless Constitutionally protected, and just allow people to have dissenting points of view on your platforms? Why get into the business of censoring? Because it is never going to work out well for you. You have obviously what happened over the previous Administration during COVID-19. You mentioned, Mr. Erickson, that it was a tough time.

Yes, it was. And Mr. Potts, you guys would delete people from your platform who said that it was worse to get the virus—it was better to get the virus than a vaccine. That is an opinion, but it is OK to have that opinion. Isn't that free speech? Isn't my immutable right as an American citizen to have an opinion even if I am wrong? And it strikes me as you don't need all this.

Why not just completely get out of the censorship business unless it is the clear things that Senator Blackburn talked about, human trafficking, child trafficking, incitement. Why not get out of the censorship industrial world and just say, we are just going to be a platform to allow free expression? Wouldn't that make sense, Mr. Erickson?

Mr. ERICKSON. So, Senator, Google—free expression and the First Amendment are core to Google and its mission.

Senator MORENO. But not really, because you have given examples—and I am not trying to beat up on you, but you have given examples where you have weighed in. You know, you both made your comments to me kind of honestly—I don't know if you intentionally did it—you said, hey, we want to delete content that is offensive.

That is not the First Amendment. I am allowed to be offensive. I am usually the recipient of the other side of that, and that is OK. People can say whatever they want about me. I don't want—if somebody says something really mean about me, I don't want people at Facebook or Google deleting that content. They have the absolute right to criticize me.

Now if they say, hey, Bernie is at this address and let's go shoot him, maybe that is different. Make sure you change the address. But the point being, you can't say you are committed to free expression and at the same time say you are going to moderate content for something that is offensive. Offensive is a very subjective word, right?

Mr. ERICKSON. Senator, we want robust political speech, other speech on our platforms. There is more speech available on Google and YouTube than on any platform in history. And we have pushed

back against attempts for us to take down content that is merely offensive. There was a time——

Senator MORENO. But why not get out of that completely? Just say, you are not the speech police. And offensive content is so subjective that you opened the, like I said earlier, the road to hell. Mr. Creeley, would you agree—if you were giving them free legal advice—this is great by the way. You have a lawyer, you can ask them free questions. What would you say? Is that not better?

Mr. CREELEY. My response, Senator, would be that it is best when different sites are allowed to enforce their own terms of content moderation, specifically to their interests. If I wanted to have a site that only allowed commentary about my favorite football team, the Buffalo Bills, that would be Constitutionally protected.

Likewise, I think more speech is exemplified by the response to the President forming his own social media platform. I think that that exemplifies the kind of diversity of content that I think the First Amendment is designed to protect. My concern is more with Government efforts top-down to dictate moderation choices to platforms.

Senator MORENO. Yes, I mean, these are bad behaviors that we are learning from China. And you guys do business all over the world, obviously. These are really bad behaviors.

The First Amendment doesn't exist in China for a reason. And I just want to make sure that when we are looking at all these things, that we understand that—what I said at the beginning—that the antidote to all this is more speech, more freedom, more liberty. And also, I think both of you and both of your companies should understand how bad it went for you over the last 4 years, especially during COVID.

I think Mr. Potts, you said that, but you know, you were in the room, and you also admitted that to your people that the censorship isn't neutral. That it is definitely—has a political bias to it and that is a problem. And I would just encourage you as a businessperson myself, just is this—like I said, are you having fun? Is this what you want to keep doing? Why not—you don't need, for example, one single member of this Legislature to tell you to put symbols on videos that are generated by AI.

You don't need a law for that. You can do that today. You can literally text your tech team right now and say, hey, if you think a video is created by AI, flag it and say, created by an AI. Why do you need Washington to tell you how to run your business? I would just leave you with those thoughts, and you will get more from my Chairman here.

The CHAIRMAN. Senator Curtis.

**STATEMENT OF HON. JOHN CURTIS,
U.S. SENATOR FROM UTAH**

Senator CURTIS. Thank you, Mr. Chairman. I would also like to thank the Ranking Member for this hearing today. It is so important that we recognize what platforms can do and what they have done. I have got a series of questions for Mr. Erickson and Mr. Potts.

I am trying to save time, so I only want to know if you disagree with me. So let me just start right in. Algorithms that recommend

content are essential to the business model of social media companies today. When creating your algorithms, keeping users engaged is one of the main goals. As a result, businesses——

Mr. ERICKSON. Senator, if I may.

Senator CURTIS. Sure, quickly, please.

Mr. ERICKSON. Yes. So our platforms are—there is a distinction between our platforms and social media platforms. So on YouTube, we are a platform so that users that are seeking content will get the content that they were looking for, whether that is a how-to video or——

Senator CURTIS. There is nothing in your business model that wants people to stay with you longer?

Mr. ERICKSON. Senator, we want people to stay in our platforms because they are finding relevant information——

Mr. ERICKSON. So, you are telling me years from now, when we look back in history—I actually think this is going to be a lot like the tobacco hearings. Years from now when we go back in the history, there is going to be no study, there are going to be no internal conversations that says it is good to have people stay on our platform longer?

Mr. ERICKSON. Senator, we want people to stay on our platform.

Senator CURTIS. OK, let me keep moving. Let me keep moving. In an effort to keep users engaged, these algorithms can create environments that are dominated by specific types of content, OK. This can be good when that content is innocent, but sometimes that algorithm can create a toxic environment based on what it determines best to engage with users.

All right, now my real question. Research and observation studies suggest that algorithms often tilt toward more extreme or emotionally charged content because that drives engagement. To both of you, doesn't that mean that platforms explicitly narrow the range of what people see, elevating fringe voices and suppressing everyday voices?

Mr. POTTS. Senator, thank you for the question. I can just speak for Meta on this, and it is an important topic. In certain areas where we see the potential for people to engage with one type of content over and over again, we have recently rolled out different ways to what we call affectionately nudges, to nudge people to take a break from being on the platform or to take a break from that specific type of contact.

So we also have—if I may, we also of recommendation policies that—if I take a step back, we have community standards that will allow—will dictate what we allow and do not allow on the platform. And the things that are violating those policies, we should just remove.

Senator CURTIS. Let me add some nuance to this because I am really going a different direction than I think my colleagues have gone today. So in essence, a lot of the conversation today has been, should you or should you not allow something on.

My question is more, what happens when you decide to magnify a voice or suppress a voice based on algorithms? And we all know that Section 230 was meant to protect platforms that acted in good faith. But my question is, when an algorithm downranks moderate

speech or drives users toward extremism because it is good for engagement, is that really good faith moderation?

And should Section 230 immunity apply when you as a—let me just say not you specifically, right—you as a company or really as an industry make decisions that magnify certain content and downgrade other content.

So in essence now, if you go back to the community bulletin board, right, and you say, I am going to post this up here, and I am going to post this up here, and you guys are really just a place where people can go and see those postings. But the moment you all say, I am not only going to allow this post up here.

I am going to take it and duplicate it. And I am going to duplicate it, and duplicate it, and duplicate it, and duplicate it, or I am going to take it and put somebody else that is on top of it. Is that really what Section 230 was for? And I am going to—before I run out of time, I am going to ask our lawyer here. Like, we didn't see this coming in my expectation because we wanted a platform where I could go and connect with my high school friend.

So when this first started, I could on Facebook and connect with my high-school friend and see what they had said. All of a sudden I logged on and I was seeing something else. I was seeing what they wanted me to see. And I believe based on my questions today that is because there was an intent to keep me there longer. So should that give them protection from 230, or do we have some questions here about that protection?

Mr. CREELEY. Senator, I appreciate the question. I think setting aside the 230 question just for a moment to talk about how much a user interacts, I would caution against Government regulation or interference here because I am wary of introducing new rules for new content.

We have heard those kinds of concerns about the alleged addictiveness of new modes of expression all the way back to the introduction of novels in Victorian England. So this is an old concern and one that I take seriously. I have got an 8 year old and 11 year old at home. We talk about media literacy.

We talk about screen time all the time. But I am wary of interfering with the system that allows for the robust marketplace of ideas—

Senator CURTIS. Sadly—I mean, I would love us all to spend an hour on this in thoughtful conversation, right. Really what I am arguing is not that. What I am saying is the interference starts when somebody applies an algorithm to it. And I am sorry, we don't have time for you to respond. I am just saying, like, I want everybody to think about this for a minute.

Like just putting that up there, I get it, right. There is no liability, and I tend to be a little bit more with Senator Moreno who says like don't take responsibility for what you put up and put down because you will never figure that out. And I think that was his point. But the moment you make a decision to magnify that, do you not own that decision, right?

So I am going to have to leave it there, and hopefully we can have more hearings on this, Mr. Chairman. But I would like to have a more thoughtful discussion about the responsibility of mag-

nifying and demagnifying content and why that deserves protection from the law. So with that, Mr. Chairman, I yield.

The CHAIRMAN. Thank you. Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Mr. Chairman. Thank you for this hearing. Very important. We spent a lot of time talking about the Biden Administration's actions, but far too little talking about Donald Trump's repeated and far more serious threats to the First Amendment. Let's talk about a few of those threats.

In August 2024, Donald Trump made the following threat against Meta CEO Mark Zuckerberg, "we are watching him closely. And if he does anything illegal this time, he will spend the rest of his life in prison." A month later, he accused Google of showing only "bad stories about him" and urged the Department of Justice to "criminally prosecute Google" at "maximum levels." That is scary stuff.

In our country, that is authoritarianism. So I would like to get a few things out and on the record. Mr. Potts, to your knowledge, did President Biden or any other Biden Administration official ever threaten to prosecute Mr. Zuckerberg, yes or no?

Mr. POTTS. Senator, I am not aware.

Senator MARKEY. You are not aware of it?

Mr. POTTS. I am not aware.

Senator MARKEY. OK. Thank you. Mr. Potts, to your knowledge, did President Biden or any other Biden Administration official ever threaten that Mr. Zuckerberg would "spend the rest of his life in prison," yes or no?

Mr. POTTS. Senator, I am not aware.

Senator MARKEY. I appreciate that answer. Mr. Erickson, to your knowledge, did President Biden or any other Biden Administration official ever threaten to prosecute Sundar Pichai or force him to spend the rest of his life in prison?

Mr. ERICKSON. Senator, not to my knowledge.

Senator MARKEY. Mr. Erickson, did President Biden or any other Administration official ever threaten to criminally prosecute Google over its search results?

Mr. ERICKSON. Senator, not to my knowledge.

Senator MARKEY. My Republican colleagues have spent endless time and resources concocting elaborate conspiracies about online censorship of conservatives, yet they have ignored the real threat to free speech staring them in the face.

President Trump's explicit threats to prosecute Mark Zuckerberg and Google, creating a chilling effect, not only on those companies, but on everyone else who is less powerful than those companies which is everyone else in America. These threats have an impact. A few months later, Meta made Trump-friendly changes to its content moderation policies.

Even Donald Trump said his threat to Zuckerberg "probably caused Meta to make those policy changes." Did my Republican colleagues say a word about those threats? No, not at all. Mr. Feld, do you agree that Trump's threat to Zuckerberg is far more dan-

gerous than any communications from Biden Administration officials with tech platforms?

Mr. FELD. Normally, I would say, that's just bully pulpit, but the problem is we have seen he means it and he will use the Justice Department to prosecute those with whom he does not like.

Senator MARKEY. Yes, thank you, Mr. Feld. So I just want to turn to a related issue about the tech platforms and Donald Trump. In December 2024, Meta and Google each donated \$1 million to President Trump's inauguration.

In January 2025, many of those big tech CEOs, including Mark Zuckerberg, Mr. Pichai, sat directly behind the President at his inauguration, seats that are usually reserved for family or past Presidents.

In separate settlements, Meta agreed to pay \$25 million, and Google agreed to paid \$24.5 million to Trump for suspending his accounts on their respective platforms after the January 6th insurrection, even though Trump's lawsuits were frivolous.

And just a few days ago, Meta and Google each made significant donation to President Trump's \$300 million vanity project to build a new ballroom at the White House. So Mr. Potts, what is Meta getting out of these payments?

Mr. POTTS. Senator, respectfully, I was made aware of those donations in the news. It is not something that I focus on.

Senator MARKEY. So I am just simply asking, what would Meta expect to receive if they made such significant contributions to Trump?

Mr. POTTS. Again, Senator, I think this was just a donation. I am not familiar with the process behind it.

Senator MARKEY. Well, thank you. So I don't have much time left, so if you can't answer that question or, won't. Let me see if Mr. Erickson can. So what do you think, Mr. Erickson, that Google is getting out of those payments?

Mr. ERICKSON. Thank you, Senator. We did give to, Senator, President Trump's inaugural committee. We have given to the inaugural committees of the last several elections for the President of the United States.

And with regard to the settlement that you referenced, we did settle a lawsuit that President Trump and other plaintiffs had brought. In that settlement, President Trump's attorney had asked for money to go to a nonprofit of his choosing. That is where the money was directed.

But importantly, we did not admit any wrongdoing in that lawsuit, nor did we change any of our products or policies.

Senator MARKEY. Well, I would just say, obviously, the difference between the Trump Administration and any previous Administration is that at the inauguration, the wealthiest corporate CEOs in America sat directly behind the President and in front of the Cabinet, with better seats than the Supreme Court.

So, obviously this is a different time. It is a difference era. And I think the American public has a right to question these tech companies and asking what are they getting out of these generous donations that they are making to Trump, because obviously the seating at the inaugural has triggered in my opinion questions of Constitutionality and questions of whether or not the billionaire cor-

porations are getting more out of this Government than the poorest amongst us.

And we are seeing that now play out in policy after policy, including this battle that we are having over health care and SNAP benefits for the poorest in our society. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Markey. And I would note that the recipients of SNAP benefits would get their SNAP benefits if the Democrats would vote to fund the Government, and yet 13 times the Democrats have voted party line to keep the Government shut down, 13 times Republicans have voted to open the Government. We are going to vote again to open Government and at some point Chuck Schumer and the Democrats are going to stop holding the American people hostage. Now——

[Technical problems.]

The CHAIRMAN. OK, so Senator Markey is telling everyone who gets food stamps, the Democrats are going to continue to vote against your getting food stamps. And it is reckless and irresponsible.

And if you don't believe me, you can watch the videos of just about every single Democrat Senator who has gone on TV over and over and over again saying it is reckless and irresponsible to vote against a clean CR, and now they are all—I guess hypocrisy is the tribute that vice gives to virtue.

They are all doing that because they want to appease their radical base. Now, Mr. Potts, Mr. Erickson.

[Technical problems.]

The CHAIRMAN. I recognize that Senator Markey has a partisan objective that he wants to hold the entire Government hostage. By the way, the American Federation of Government Employees has called on the Democrats to end the Schumer shutdown. The National Air Traffic Controller Union has called on the Democrats to end the Schumer shutdown.

But these Democrats don't actually work for their constituents. People getting food stamps. They don't care, because they are willing to say no food stamps go out on November 1 because the only people they care about are the angry people with torches and pitchforks at the No Kings rally because this is a party that is captured by its radical left. And there are a whole lot of Americans who are hurting.

Let's just take within this committee's jurisdiction air travel where there are right now 50,000 TSA agents going into work and they are not getting a paycheck. There are 14,000 air traffic controllers going into work, and they are not getting a paycheck. And we are seeing flight delays.

We are seeing ground stops. And one Democrat's senior aide told *Politico* that the Schumer shutdown will continue, "until planes start falling from the air." That is the very definition of reckless and dangerous.

Senator MARKEY. Well, I would add to this conversation, if you want, that beginning on November 1, 20 million Americans are going to get the notices that they are either losing their health care insurance or it is going to dramatically skyrocket. And that is a discussion that is hard to have with Republicans since the House has not been in session for 6 weeks. They are in a political witness

protection program. They are all traveling around the country but not in Washington—

The CHAIRMAN. You are absolutely right that Obamacare is—Obamacare is a trainwreck and it has caused health insurance premiums to skyrocket. And Senator Markey will recall I stood on the Senate floor for 21 hours saying that is exactly what would happen, that premiums would skyrocket.

And if you don't believe me, you can look to the *Washington Post*, hardly a right-wing periodical, which said, Obamacare, the so-called Affordable Care Act, is not remotely affordable, and it has caused premiums to skyrocket.

And ironically, what our Democrat colleagues are fighting for is premium payments that are direct corporate welfare to health insurance companies, because Obamacare has more than doubled the profits of the giant health insurance companies and working families in Texas and Massachusetts, their premiums have skyrocketed, and it is unaffordable.

And the Democrat solution is not to give more competition, not to give more choice, not to lower premiums. It is instead engaged in more corporate welfare and write bigger and bigger checks to giant multi-billion dollar corporations.

Senator MARKEY. The House Republicans are in a political witness protection program. They are not in Washington. How can we negotiate with them?

The CHAIRMAN. No, they have actually done their job. They voted to fund the Government. They have done their job.

Senator MARKEY. And there was designed neglect on the part of the Republicans to withdraw the premium tax credit for those 20 million Americans, and they are going to see their policies skyrocket over the next couple of months. And it is avoidable. It is not a catastrophe that has to be in existence. But unless the Republicans come to the table, we can't solve that problem because those rates are going to skyrocket.

The CHAIRMAN. Forty-two million Americans who receive food stamps are not going to get them on Saturday, November 1. And the reason is Senator Markey and just about every other Democrat is going to vote against those food stamps because he has got a partisan agenda and feeding your kids is not part of his partisan agenda.

Senator MARKEY. President Trump has \$5 billion he could deploy right now to those SNAP recipients and take that worry away from them. He is not going to do it. He is going to do it for any favored programs—

The CHAIRMAN. So then Senator Markey will vote "no" on—

Senator MARKEY.—but not for those that he calls Democrat programs, like feeding the poor or giving health care to those most in need.

The CHAIRMAN. Senator Markey could provide the funding for those food stamps any day he wanted to. And to be clear, I have voted over, and over, and over again to fund those food stamps while your party keeps voting no, no, no.

At some point the political stunt will end. Now, returning to the topic of the hearing. Mr. Potts, Mr. Erickson, you represent two of the most powerful companies in the world. Even without a lawful

basis, could the Biden Administration have used its considerable powers to significantly harm your companies if you refused to censor? Mr. Potts.

Mr. POTTS. Senator, may you repeat the question?

The CHAIRMAN. Even without a lawful basis, could the Biden Administration have used its power to harm your company if you refused the censorship it was asking you to engage in?

Mr. POTTS. Senator, I don't want to speculate too much. I know that the Biden Administration did pressure us, especially related to COVID-19 information. And when we disagreed with them, they became more frustrated, then upping the pressure. I don't want to speculate on what the——

The CHAIRMAN. But my question is straightforward, could the President hurt your company if he so desired?

Mr. POTTS. I think any Administration and any President with the position of authority could hurt our company.

The CHAIRMAN. Mr. Erickson, same question.

Mr. ERICKSON. Senator, with respect to the hypothetical, I can't speak to the hypothetical. I can tell you that whatever the Administration is, we have a demonstrated track record of pushing back against——

The CHAIRMAN. So try answering the question, could the Biden Administration have hurt your company?

Mr. ERICKSON. Senator, yes.

The CHAIRMAN. Mr. Creeley, some may argue that the Biden Administration was engaging in mere persuasion or exerting pressure that doesn't rise to the level of coercion in violation of the First Amendment. In your legal judgment, are thinly veiled threats prohibited under First Amendment precedent?

And based on what we know about the covert action by the Biden Administration, did the Administration's actions toward our tech witnesses constitute coercion that undermines the First Amendment?

Mr. CREELEY. Mr. Chairman, in our opinion, it did indeed. We argued as much in an amicus brief that we filed with the Supreme Court. And I think Justice Sotomayor, writing for a unanimous court in *National Rifle Association v. Vullo*, elaborated on the distinction between persuasion and coercion very well. If you mind, I will just read it. "A Government official can share her views freely and criticize particular beliefs. And she can do so forcefully in the hopes of persuading others to follow her lead. In doing so, she can rely on the merits and the force of her ideas, the strength of her convictions, and her ability to inspire others. What she cannot do, however, is use the power of the state to punish or suppress disfavored expression. And I think the extensive entanglement, the bullying, the pressure tactics, the tone, the authority, the invocation of legal sanctions, and revisiting regulatory authority, all of which taken together, crossed the line."

The CHAIRMAN. The First Amendment is the greatest protector of free speech in history. Even so, we have had evidence presented that there are legal challenges to stop the Government from jawboning.

Even when you can demonstrate that the Government censored you, your options in court may be limited. In your judgment, what

challenges or gaps in the law do Americans face in vindicating their First Amendment rights in the courtroom, and what can Congress do to help solve them?

Mr. CREELEY. Well, there are two problems, Mr. Chairman. First of all, quite often when folks are silenced, there is difficulty establishing causality. They may not know that their post has been deleted or demoted as a result of Federal pressure.

So that is the first problem. Too often, this is very difficult for the end user, the affected, targeted, silenced American, to understand. The second problem is there is no meaningful deterrent.

Right now, if you are silenced by a Federal official, you don't have the ability to go to court and seek monetary damages. You need an express statutory grant to give courts the authority to put money on the line. I think that would change behavior. So, transparency and deterrence.

The CHAIRMAN. Well, I very much agree with you. As you know, I am in the process of drafting legislation, the jawboning legislation designed to do exactly that, designed to provide transparency for when the Federal Government is urging tech platforms and other companies to censor, and to provide for a cause of action to sue the Government if and when somebody is censored.

Obviously, the devil is in the details but described at that level of generality because we are drafting statutory language right now to do so, I want to ask each of the witnesses if you would be supportive of that approach, with the caveat that everyone wants to see statutory language before having a final opinion. But Mr. Erickson, let's start with you.

Mr. ERICKSON. Senator, yes.

Mr. POTTS. Senator, with your caveat, yes.

Mr. CREELEY. Absolutely.

Mr. FELD. We would support it and would look forward to working with you on it.

The CHAIRMAN. Well, that is fantastic news, and it is good to get agreement across the spectrum. And so, I appreciate each of the witnesses being here. Thank you for your testimony and—all right, I got to look to see how long we are keeping the record open. How long are we keeping the record open?

Senators will have until the close of business on November 5 to submit questions for the record, and the witnesses will have until the close of business on November 19 to respond to those questions. That concludes today's hearing. The Committee stands adjourned.

[Whereupon, at 12:38 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO MARKHAM ERICKSON

Question 1. Internal documents reveal that Google staff confessed the Biden White House “is very interested in our work on borderline content,” meaning content that did not violate company policy, and that the company needed to “address these concerns” in order “to prevent anything from potentially spiraling out of control,” observing that the White House Digital Director Rob Flaherty “ha[d] been tough on us at times.” YouTube also sent a meeting request to Flaherty to review and approve YouTube’s “new policy to remove content” in line with the Biden administration’s preferences. How do you and your company square these documents with your refusal to publicly admit that the Biden administration bullied and jawboned Google to effectuate censorship the administration could not conduct directly?

Answer. Around the world, we hear from government agencies, legislators, non-governmental organizations, academics, and individual users who inform us of content that they believe we should remove or, on the other hand, content that we have removed that they believe should remain available. This happens across the political spectrum and around the world, and it has for years. We believe we have a responsibility to engage on these issues in the countries where we operate, including with government officials across U.S. presidential administrations.

We regularly hear from administration officials and lawmakers across the political spectrum, including from this Committee and its Members, who are interested in YouTube’s policies or online trends that may occur across our platforms. It is important to note that, in soliciting feedback from government officials regarding YouTube’s Community Guidelines (as occurred in the communication from September 2021 cited in your question), YouTube does not seek these stakeholders’ approval of its policies or enforcement decisions.

While we believe in constructive engagement and transparency, we reject government attempts to dictate how we moderate content on YouTube. Our business model depends on user trust, and in order to be trusted by billions of users globally, we must apply and develop our policies consistently, impartially, and independently. When content is flagged, our teams independently evaluate whether the content violates our terms of service and policies, without regard for the source of the original inquiry.

Our testimony before the Senate and the House has underscored the Company’s core principles and independent decision making, including around policy development and enforcement. YouTube charts its own course and, while it has solicited—and will continue to solicit—feedback from key stakeholders, it does not seek their approval on issues of content moderation.

Question 2. During the hearing you stated: “We [Google] made our decisions independently and often said ‘no’ when pressed by the [Biden] administration.”

a. Did you ever say “yes” to the Biden administration’s request to censor lawful content that the Administration opposed? If so, please provide the number of times Google agreed with a Biden administration request to censor lawful content.

b. You admitted during the hearing that the Biden administration “pressed” Google to censor lawful content. Please describe in detail how the Biden administration officials pressed Google to censor lawful content.

c. Based on your answer to the above, is it Google’s position that you voluntarily chose to censor lawful content provided by your users that happened to align with the administration’s documented pressure campaign?

d. In a September 23, 2025 letter, counsel for Alphabet stated: “YouTube takes seriously the importance of protecting free expression and access to a range of viewpoints.” How is this position consistent with Google’s position that it voluntarily chose to censor lawful content provided by its users? Please explain the contradiction between these two positions.

Answer. We have policies that help us maintain a responsible business and govern what is and is not allowed on our platforms. Establishing and enforcing these policies independently is not only how we do business, but also a right we enjoy in this country as a matter of law. When content is flagged to us—whether by governments, non-governmental organizations, members of Congress or others—we evaluate whether it violates our terms and policies, reach our own conclusions, and take appropriate enforcement action in accordance with our own determinations. In some circumstances, these independent determinations may align with a particular administration’s positions; and in others, they will be contradictory. For example, in contrast to other large platforms, YouTube never had Community Guidelines prohibiting discussion of the origins of the COVID-19 pandemic.

Across our products, we take seriously the importance of protecting free expression and access to a range of viewpoints while also maintaining and enforcing responsible policy frameworks. Google responds to billions of search queries every day, and over 500 hours of content are uploaded on YouTube every single minute, reflecting a vast proliferation of viewpoints and a range of perspectives. YouTube’s news creators represent a broad spectrum of perspectives; according to a recent *Pew study*, roughly a quarter of news creators are right leaning, a quarter left leaning, and half show no clear political orientation.

We have policies in place that prohibit certain content that, while lawful, we conclude is harmful or dangerous. As just two examples, YouTube has policies prohibiting *pornography* and *graphic violence*. On Google Search, on the other hand, we do not remove web results except for specific reasons covered by our narrow *content policies* for Google Search, which cover child sexual abuse material (“CSAM”), highly personal information, spam, site owner requests, and valid legal requests.

We recognize that transparency regarding our own policies and terms of service, as well as our interactions with governments, is essential to foster public trust and uphold the principles of freedom of expression. To this end, YouTube makes its Community Guidelines and Terms of Service easily accessible online and publishes data on government content removal requests in its biannual *Transparency Report*.

e. In the September 23, 2025 letter, counsel for Alphabet stated: “YouTube will provide an opportunity for all creators to rejoin the platform if the Company terminated their channels for repeated violations of COVID-19 and elections integrity policies that are no longer in effect.”

i. To date, how many creators who had their channels terminated have had their channels restored?

ii. How many creators does YouTube project are eligible to have their channels restored due to termination by YouTube under this opportunity to Rejoin?

Answer. YouTube had a long standing policy whereby creators whose channels had been *terminated* were permanently banned from the platform. We heard frustration from creators that they wanted more options to return to YouTube.

While our termination policy remains an effective tool to protect our community, we recognize that a blanket permanent ban left some creators on the sidelines. As a result, we recently rolled out a new pilot for a broad set of terminated creators to request a new channel. We are considering several factors when evaluating requests for new channels, including whether the creator committed particularly severe or persistent violations of our Community Guidelines or Terms of Service. Creators are also not eligible to apply for a new channel until one year after their channel was terminated. However, during the year that creators were terminated, they can still appeal the channel termination if they think we got it wrong, and YouTube will take another look.

Relatedly, for Community Guidelines policies that have been deprecated—namely COVID-19 and election integrity—we offered creators a 30-day grace period to appeal those terminations. Channels were reinstated upon appeal.

We are happy to brief your office about the status of this pilot program.

f. During the hearing, I showed you a chart with an example of a video that YouTube blocked in 2022 as part of its censorship of lawful content. You admitted during the hearing that the video I showed to you on my chart would be considered “news.” Why was Google censoring the news? Was it wrong to censor the news?

Answer. All content on YouTube must abide by our Community Guidelines. Each enforcement decision is specific to the content policies at issue in the evaluation. Sometimes, content that would otherwise violate our Community Guidelines can stay on YouTube when it has Educational, Documentary, Scientific, or Artistic (EDSA) context. We assess whether content gets an EDSA exception on a case-by-case basis—first determining whether there is a Community Guidelines violation in the content and, if so, assessing whether there is enough context in the content to make an EDSA exception. With respect to the chart you are referencing, we would

need additional information about the specific content at issue to determine whether our enforcement action was accurate or made in error. We would be happy to review with additional context and information.

Question 3. The European Union’s Digital Services Act and the United Kingdom’s Online Safety Act require social media and online search companies to have content moderation policies that “mitigate” illegal content under the laws of EU Member States or the United Kingdom, respectively. Like many other foreign jurisdictions, the EU and UK tag far more content as illegal than what the First Amendment to the United States Constitution would allow.

a. Does Google have an affirmative, written, enacted policy to ensure that the First Amendment is the legal standard underlying your content moderation policies addressing the expression of United States persons?

b. How often are Google’s social media or search products, policies, and processes tailored to a distinct legal jurisdiction, specifically the United States, instead of globally? Why or why not?

c. Please list all instances where a Google product’s content moderation policy differs in a European jurisdiction from Google’s policy in the United States and state what the policy difference is.

d. If a foreign jurisdiction provides Google notice that expression by a United States person is illegal in that jurisdiction and should be suppressed, either through elimination, demotion, or some other means, would Google comply with such a notice? If it would depend on additional facts or contexts, what facts or contexts?

i. In 2023, 2024, and 2025, how many notices that the expression of a United States person is illegal and should be suppressed has Google received from a foreign jurisdiction? How many has Google complied with? If exact numbers are not available, provide estimates.

ii. When Google does comply with such a notice from a foreign jurisdiction, how often does Google suppress that expression only in the jurisdiction issuing that notice?

iii. If Google does comply and suppress that expression beyond the jurisdiction issuing that notice, how often does Google suppress that expression (i) in the United States; or (ii) in other foreign jurisdictions beyond the jurisdiction that issued that notice?

Answer. Legal standards vary greatly by country and region. Content that violates a specific law in one country or region may be legal in others. Typically, we remove or restrict access to content only in the specific country or region where it is deemed illegal. We have multiple tools at our disposal to maximize freedom of expression while complying with local laws. For example, we are able to geo-block a video in a particular country or region, or, where required, we can use IP addresses to IP-block content availability in a country or region.

We receive legal demands to remove content through a variety of avenues and from authorities at all levels—including via court orders, written requests from national and local government agencies, and requests from law enforcement professionals. In order for us to evaluate a removal request, it must be in writing, as specific as possible about the content to be removed, and clear in its explanation of how the content is illegal. We do not honor requests that have not been made through the appropriate channels, and in cases in which we receive verbal requests, we ask for them to be put in writing.

We maintain a robust process to receive, evaluate, and act on government removal requests. We review these requests closely to confirm that they are supported by local laws and to determine whether we should remove content as a matter of national law or our platform-wide policies.

We have a track record of pushing back against overly broad or otherwise inappropriate government demands for user data and content removals, including objecting to some demands entirely. There are many reasons why we may not remove content following a government request. Some requests might not be specific enough for us to know what the government wants us to remove. In these cases, we ask for more information. Other times, we do not take action because the content at issue has already been removed by the content owner. As noted above, YouTube publishes data on government content removal requests in its biannual *Transparency Report*.

In other instances and due to a variety of factors—including government demands related to our user data and content policies—we have decided to not offer some of our services and platforms in those countries. For instance, in mainland China, our core products such as Search, Gmail, Maps, and YouTube are not available.

Question 4. On September 23, 2025, Alphabet’s counsel sent a letter to House Judiciary Committee Chairman Jim Jordan stating that “obligations under laws such as the Digital Services Act and Digital Markets Act may stifle innovation and restrict access to information.”

a. How do these laws place a disproportionate regulatory burden on American Companies?

b. How could these laws pose a risk to freedom of expression outside of the European Union, specifically the United States?

c. Alphabet further stated that the DSA “may open avenues for substantive regulation of lawful speech, including through risk mitigation, the use of codes of conduct and crisis protocols, and the out-of-court dispute settlement mechanisms.” Please explain further how the DSA may open up such avenues for regulation of lawful speech.

Answer. An increasing number of countries around the world are proposing restrictive laws and content regulations that limit access to information and put free expression at risk. Censorship and targeting of American companies has long been the case in less democratic countries. As these trends have expanded globally, countries are also leveraging antitrust actions to exert tighter control over the Internet and passing “hostage-taking laws” to target or detain workers if they do not follow government orders.

Increasing censorship and fragmentation will hurt consumers and make it more difficult for American businesses to provide cross-border services and technologies. Onerous obligations under laws from countries across the globe may stifle innovation and restrict access to information. We remain mindful of these risks and continue to be vigilant in its defense of these rights.

Many European regulations and taxes place a disproportionate burden on American companies. For example, the European Commission (EC) structured the Digital Markets Act (DMA) such that its obligations apply only to “gatekeepers” that meet certain specific thresholds of annual turnover and number of users. These quantitative thresholds are set at levels that primarily capture American companies. The EC also structured the DMA so that it applies only to gatekeepers that provide “core platform services,” which are defined to exclude sectors (such as music streaming, enterprise software, and telecommunications) in which European firms are more dominant. Overall, the DMA’s thresholds capture 22 U.S. products while excluding all European companies and the vast majority of Chinese rivals. To date, the EC has only initiated *DMA investigations* against American companies.

The DMA is increasingly being deployed to regulate what speech and information can be displayed and accessed on American products and services. For example, the DMA dictates whether companies can show weather forecasts, sports scores, dictionary definitions, stock quotes, and other forms of informational content in search results and other media. A recent *DMA investigation* could result in companies being forced to display spam, scams, and other low-quality content. In addition, the DMA has decreased the visibility of reviews and other user-generated content related to restaurants, hotels, and other local services. This has resulted in new barriers for people that are seeking to access important channels of user expression.

In a similar fashion, the DSA was designed as an “asymmetric” regulation that places the heaviest burdens on companies based on size. This has had a disproportionate impact on American companies. Among other provisions, the regulation includes potential fines of up to six percent of a company’s global annual turnover; fines are not limited to European revenues. DSA regulators also charge large ‘supervisory fees,’ also calculated in reference to global turnover, and used to subsidize oversight of Chinese and European companies.

The Company has also expressed concerns about the risk that the DSA may pose to freedom of expression within and outside of the European Union, depending on how certain provisions may be enforced. For example, DSA risk assessments not only cover systemic risks for the dissemination of illegal content, but also cover categories of lawful speech considered to pose actual or foreseeable negative effects on civic discourse. Additionally, under the DSA, out-of-court dispute settlement bodies can be certified to have oversight over both notifications of illegal content and application of platforms’ global policies, including review of platform decisions to keep lawful content online in accordance with their policies.

Mark Forkner 6:50 PM:
 Oh shocker alert!
 MCAS is now active down to M .2
 It's running rampant in the sim on me
 at least that's what Vince thinks is happening

Gustavsson, Patrik H 6:51 PM:
 Oh great, that means we have to update the speed trim description in vol 2

Mark Forkner 6:51 PM:
 so I basically lied to the regulators (unknowingly)

Gustavsson, Patrik H 6:51 PM:
 it wasn't a lie, no one told us that was the case

Mark Forkner 6:51 PM:
 I'm levelling off at like 4000 ft, 230 knots and the plane is trimming itself like crazy
 I'm like, WHAT?

Gustavsson, Patrik H 6:52 PM:
 that's what i saw on sim one, but on approach
 I think that's wrong

Mark Forkner 6:52 PM:
 granted, I suck at flying, but even this was egregious

Gustavsson, Patrik H 6:52 PM:
 No, i think we need aero to confirm what it's supposed to be doing

Mark Forkner 6:53 PM:
 Vince is going to get me some spreadsheet table that shows when it's supposed to kick in.
 why are we just now hearing about this?

Gustavsson, Patrik H 6:53 PM:
 I don't know, the test pilots have kept us out of the loop
 It's really only Christine that is trying to work with us, but she has been too busy

Mark Forkner 6:54 PM:
 they're all so damn busy, and getting pressure from the program

Gustavsson, Patrik H 6:54 PM:
 That is true, I wouldn't want to be them

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
 MARKHAM ERICKSON

According to the Pew Research Center, more and more Americans, especially young people, get their news from social media platforms, including YouTube, Instagram, and TikTok. By design, these platforms don't produce news themselves, yet benefit greatly from those that generate the content and news that populate their platforms.

The rise of these platforms and shifts in the advertising market have undermined the economics of local journalism. According to the Medill Center's annual report, we have lost more than one-third of our newspapers since 2005 and 127 newspapers in the last year alone. And AI is only making things worse, with studies showing significantly fewer people clicking through to read full articles when an AI summary appears. As more consumers turn to AI to find information, newsrooms across the country are left producing content that's critical for our democracy yet funneled through platforms and models outside of their control. Now more than ever, we need to have a system that is responsive to the fact that we need reliable information.

Question 1. Does your company have an interest in maintaining the economic model for local journalism?

Answer. Our core operating principle is to connect people with relevant information. A healthy information environment, including news and local journalism, is a shared societal asset, and its endurance requires a collective effort. Google's work includes developing products that help connect Americans with local news content when it is relevant and useful to their needs, supporting local journalists with tools for data analysis, and helping local media companies to reach an audience and monetize their content.

Google Search and Google News drive economic value to American news businesses by displaying links to relevant news results, connecting people to publishers' websites more than 24 billion times per month. These website visits provide news publishers with increased readership and support publisher revenue through advertising and subscriptions, see more information *here*. According to PwC, each of these visits, on average, creates 8 to 10 cents in value for the relevant website owner.

Google also pays to license content from local news publishers for Google News Showcase. News Showcase is a product feature within Google News that gives participating publishers more control over their content and how it should appear to our users and, in the US, more than 90 percent of participating publishers are local news sites. In Washington state, we partner with a number of local news organizations including Lynwood Today, Edmonds News, MLTnews, The Spokesman-Review, and Capitol Hill Seattle Blog.

Additionally, earlier this year, we launched the *AI Sustainability Lab*, a program to help news publishers explore the use of AI to support business objectives. The Seattle Times Affiliate Newspapers was part of the first cohort of 15 news outlets to participate, and reported the program led to them creating a News Marketing Assistant GPT that lifted e-mail referrals by 149 percent.

Question 2. In the era of AI, does Google have a responsibility to ensure that local journalism survives?

Answer. Google has worked for years to support the long-term sustainability of local journalism and recognizes that the preservation of a healthy news environment is a shared societal asset, one that requires the support of a multi-stakeholder effort including consumers, governments, philanthropy organizations and the private sector.

At Google, we are committed to doing our part by:

- *Prioritizing the Web:* In the era of AI, more than any other company Google is focused on building products that drive users to directly engage with content creators and publishers' websites. We are focused on fulfilling our part by ensuring our new AI features, like AI Overviews and AI Mode, continue to send valuable traffic to diverse publishers and creators. Our products are distinct from those of some other companies in that they are built to highlight the web, featuring prominent links and visible citation of sources.
- *Supporting Evolution:* We recognize that the news industry is navigating complex challenges, such as "news deserts." We also see growth in digitally-native newspapers and note there are some local news organizations showing growth and success. We aim to work constructively with the industry by developing AI tools that support their work, help them better engage with Americans, and support their financial sustainability.

We stand by our record of support for local news and the news ecosystem at large, and believe others in American society could make similar contributions.

Question 3. What can we do in the era of AI to make sure that we are instilling more competition, growing more diverse media sources, and ensuring that quality, reliable information is produced?

Answer. In the era of AI, we see a focus on relevance and authenticity as being critical to users as they navigate the web, and seek to find and engage relevant and helpful content from a range of sources. AI has lowered barriers to creation, allowing for a "long tail" of creativity where independent experts build business models around niche topics and authentic voices become more discoverable.

We see users increasingly seeking different perspectives and opinions, often direct from primary sources and experts, and a growing preference for audio and visual formats, in addition to text. Google is implementing AI to help meet these needs, enabling users to explore a wider range of perspectives relevant to their query, and in a variety of formats.

Google also recently launched *Preferred Sources*, a feature that provides users with more control over their Search experience by enabling them to select the sites they want to see more of, whether that is a favorite blog or a local news outlet like the Tacoma News Tribune or the Edmonds Beacon.

More generally, we continue to invest in and support core principles that have long underpinned the utility of Google Search and Google News.

- *Prioritizing Originality:* Highlighting websites that create in-depth reporting, unique perspectives, and first-person experiences that go beyond what an AI summary can convey.

- *Empowering Creators:* Providing AI tools like *Pinpoint* to free up journalists from routine tasks, allowing them to focus on high-impact creative and investigative work.
- *Ensuring Quality and Trust:* Upholding our commitment to quality through sophisticated ranking algorithms and quality control measures that assess content for expertise. We also employ tools like SynthID watermarking of AI-generated imagery and video to provide provenance and context, helping consumers make informed assessments.
- *Promoting Fair Use:* Maintaining balanced copyright frameworks, such as fair use in the United States and flexible text and data mining exceptions in countries like Japan, Singapore, and the European Union is key to combating bias and discrimination in AI systems, preventing skewed outputs, and ensuring there is a balance between the interest of consumers and copyright holders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO
NEIL POTTS

Question 1. The European Union’s Digital Services Act and the United Kingdom’s Online Safety Act require social media and online search companies to have content moderation policies that “mitigate” illegal content under the laws of EU Member States or the United Kingdom, respectively. Like many other foreign jurisdictions, the EU and UK tag far more content as illegal than what the First Amendment to the United States Constitution would allow.

a. Does Meta have an affirmative, written, enacted policy to ensure that the First Amendment is the legal standard underlying your content moderation policies addressing the expression of United States persons?

Answer. At Meta, we want people to be able to talk openly about the issues that matter to them, whether through written comments, photos, music, or other means. On platforms where billions of people can have a voice, virtually all of the good, bad and ugly is on display. But that’s free expression, a value at the core of our corporate ethos. We appreciate efforts within the Trump Administration and in Congress to ensure that international regulatory regimes do not continue to place increasingly burdensome and disparate requirements on U.S. companies when it comes to moderating content. To that end, we have cooperated with a number of related inquiries from Federal regulators and lawmakers on Capitol Hill regarding similar topics. In addition, we have been able to share lessons from our broader compliance experience with other stakeholders in the Administration. This cooperation reflects our broader effort to align our operations with the values enshrined in the U.S. Constitution, even when operating in jurisdictions that do not share, or even recognize, these protections. As we have shared, despite our commitment to American values, and in some circumstances *because* of that commitment, we face increasing pressure from foreign governments whose legal frameworks often conflict with U.S. values and consumer expectations. This can create significant operational and legal complexities and raises specific concerns from our users about their rights. But we have taken, and will continue to take, concrete measures to resist such overly burdensome extraterritorial demands, protect American users from foreign overreach, and ensure American innovation remains at the forefront of global competition.

b. In October 2025, Meta began prohibiting political, electoral, and social issue ads on its platforms in the EU in response to the EU’s Transparency and Targeting of Political Advertising regulation. How often are your company’s social media or search products, policies, and processes tailored to a distinct legal jurisdiction, specifically the United States, instead of globally? Why or why not?

Answer. With respect to user content, Facebook, Instagram, Messenger and Threads are global communities, so our *Community Standards* apply equally to everyone, everywhere and to all types of content. Our approach to enforcing these policies may differ depending on the jurisdiction, but the rules about what is allowed on our platforms remain the same. As one example, Meta last year announced a series of significant changes to its content moderation practices specifically focused on strengthening free expression in the U.S. Among other things, we ended our third-party fact-checking program in the United States and moved to a Community Notes model; eliminated a number of restrictions on topics that are the subject of frequent political discourse and debate; and adopted a more personalized approach to political content. In contrast, international regulatory regimes have increasingly placed burdensome and disparate requirements on U.S. companies, at times even seeking to undermine the core American principle of free speech. Despite these challenges, we

remain committed to freedom of expression globally and have opposed extraterritorial legal demands that run contrary to America's fundamental values.

Similarly, our Advertising Standards are also global and apply to ads running across our services. However, local laws, regulations, and where applicable, self-regulatory advertising codes may limit the offerings available in different countries. As referenced in your question, we no longer allow political, electoral and social issue ads on our platforms in the European Union ("EU"). This was a difficult decision—one we took in response to the EU's Transparency and Targeting of Political Advertising (TTPA) regulation, which introduces significant operational challenges and legal uncertainties. Similarly, due to highly burdensome regulations, our policies prohibit ads targeted to Washington state that relate to Washington's state or local elected officials, candidates, elections or ballot initiatives.

We continue to believe online political advertising is a vital part of modern politics, connecting people to important information about the politicians that represent them, and ensuring candidates have a cost-effective way of reaching their audiences. That is why Meta has gone above and beyond many of our peers—and well beyond what is required by law—to ensure the political ads served on our platforms are authentic and information about them is transparent.

Since 2018, we have had in place tools which provide more transparency for ads about politics, elections and social issues than any other platform, on or offline, as well as other extensive safeguards. Advertisers who run these ads are required to complete an authorization process, to prove who they are and where they live, and include a "paid for by" disclaimer on these ads. These ads are then stored in our publicly available Ad Library, where everyone can see information about targeting and how much was spent on them.

Unfortunately, the TTPA introduces significant, additional obligations to our processes and systems that create an untenable level of complexity and legal uncertainty for advertisers and platforms operating in the EU. For example, the TTPA places extensive restrictions on ad targeting and delivery which would restrict how political and social issue advertisers can reach their audiences and lead to people seeing less relevant ads on our platforms. It is yet another threat to the principles of personalized advertising, ignoring the benefits to advertisers and the people they want to reach.

Despite extensive engagement with policymakers to share these concerns, we were left with an impossible choice: alter our services to offer an advertising product which does not work for advertisers or users, without guarantee that our solution would be viewed as compliant, or stop allowing political, electoral and social issue ads in the EU. We are not the only company to have been forced into this position. Once again, we are seeing regulatory obligations effectively remove popular products and services from the market, reducing choice and competition.

Our decision is specific to the EU. Elsewhere, we will continue to provide our industry-leading tools that ensure authentic and transparent political advertising. It also will not prevent people in the EU from continuing to debate politics on our services, or stop politicians, candidates and political office holders from producing and sharing political content organically. They just will not be able to amplify this through paid advertising.

We believe that personalized ads are critical to a wide range of advertisers, including those engaged on campaigns to inform voters about important social issues that shape public discourse. Regulations, like the TTPA, significantly undermine our ability to offer these services, not only impacting effectiveness of advertisers' outreach but also the ability of voters to access comprehensive information.

c. Please list all instances where Meta's content moderation policy differs in a European jurisdiction from Meta's policy in the United States and state what the policy difference is.

Answer. Please see the response to Question 1.b.

d. If a foreign jurisdiction provides Meta notice that expression by a United States person is illegal in that jurisdiction and should be suppressed, either through elimination, demotion, or some other means, would Meta comply with such a notice? If it would depend on additional facts or contexts, what facts or contexts?

i. In 2023, 2024, and 2025, how many notices that the expression of a United States person is illegal and should be suppressed has Meta received from a foreign jurisdiction? How many has Meta complied with? If exact numbers are not available, provide estimates.

ii. When Meta does comply with such a notice, how often does Meta suppress that expression *only* in the jurisdiction issuing that notice?

iii. If Meta does comply and suppresses that expression beyond the jurisdiction issuing that notice, how often does Meta suppress that expression (i) in the United

States; or (ii) in other foreign jurisdictions beyond the jurisdiction that issued that notice?

Answer. When regulators or government entities believe content on our services goes against local law, they may ask us to restrict the content. Non-government entities and members of the public may also send reports alleging content is unlawful. We may also receive court orders. While uncommon, we occasionally receive legal demands that assert extraterritorial jurisdiction and request that we restrict the availability of content globally. While we respect the law in countries where we operate, we strongly oppose any extraterritorial legal demands and actively pursue all available options to appeal such orders.

When we receive a report or an order, we first review it against our Community Standards. If we determine that the content goes against our policies, we remove it. If content does not go against our policies, in line with our commitments as a member of the Global Network Initiative and our Corporate Human Rights Policy, we conduct a careful legal review as well as human rights due diligence to determine whether the report is valid.

As a member of the Global Network Initiative, we are committed to narrowly interpreting the jurisdiction of government and law enforcement entities and to considering opportunities to push back on or challenge requests that are overly broad or inconsistent with internal standards.

In cases where we believe that reports are not legally valid, are overly broad, or are inconsistent with users' rights, we may request clarification or take no action.

Where we feel we are compelled to act against user content on the basis of foreign law rather than our Community Standards, we endeavor to restrict access to the content only in the jurisdiction where it is alleged to be unlawful and do not impose any other penalties or feature restrictions. We also notify the affected user, to the extent possible.

Where we are forced to comply with global takedown orders we will challenge that decision both before and after the fact, and we publish the decisions on our *Transparency Center*.

Question 2. On August 26, 2024, Meta CEO Mark Zuckerberg sent a letter to House Judiciary Chairman Jim Jordan stating, "I feel strongly that we should not compromise our content standards due to pressure from any Administration in either direction—and we're ready to push back if something like this happens again." What processes, procedures, or policies has Meta changed since it was pressured by the Biden administration in 2021 to ensure Meta is "ready to push back" against government jawboning? Please be specific.

Answer. We recently implemented a series of significant changes to our content moderation approach in the U.S. designed to bring us back to our roots and allow for more speech.

As we said at the time of their announcement:

- *Ending Our Third-Party Fact-Checking Program and Moving to a Community Notes Model.* When we launched our independent fact-checking program in 2016, we were very clear that we did not want to be the arbiters of truth. We made what we thought was the best and most reasonable choice at the time, which was to hand that responsibility over to independent fact-checking organizations. The intention of the program was to have these independent experts give people more information about the things they see online, particularly viral hoaxes, so they were able to judge for themselves what they saw and read.

That is not the way things played out, especially in the United States. Experts, like everyone else, have their own biases and perspectives. This showed up in the choices some made about what to fact check and how. Over time we ended up with too much content being fact checked that people would understand to be legitimate political speech and debate. Our system then attached real consequences in the form of intrusive labels and reduced distribution.

So we changed our approach and ended the third-party fact checking program in the United States, moving to a Community Notes program. We have seen this approach work on other platforms—where they empower their community to decide when posts are potentially misleading and need more context, and people across a diverse range of perspectives decide what sort of context is helpful for other users to see. We think this is a better way of achieving our original intention of providing people with information about what they're seeing.

Meta does not write Community Notes or decide which ones show up. They are written and rated by contributing users. Community Notes also require agreement between people with a range of perspectives to help prevent biased ratings. We intend to be transparent about how different viewpoints inform the

Notes displayed in our apps and are working on the right way to share this information.

We have phased in Community Notes in the U.S. and continue to improve them. We have stopped demoting fact-checked content, and, instead of overlaying full screen interstitial warnings people have to click through before they can even see a post, we now use a much less obtrusive label indicating that there is additional information for those who want to see it.

- *Allowing More Speech.* We found that we were over-enforcing our rules, limiting legitimate political debate, censoring too much trivial content, and subjecting too many people to frustrating enforcement actions. We want to undo the mission creep that has made our rules too restrictive and too prone to over-enforcement. We got rid of a number of restrictions on topics that are the subject of frequent political discourse and debate.

We also changed our approach to enforcement to reduce the number of mistakes. We historically used automated systems to scan for all policy violations, but this resulted in too many mistakes and too much content being censored that should not have been. So, we have continued focusing these systems on tackling illegal and high-severity violations, like terrorism, child sexual exploitation, drugs, fraud, and scams. For less severe policy violations, we now rely on someone reporting an issue before we take any action.

We also found we were demoting too much content that our systems predicted might violate our standards. We got rid of most of these demotions and now require greater confidence that the content violates for the rest. Additionally, we tuned our systems to require a much higher degree of confidence before a piece of content is taken down.

People are often given the chance to appeal our enforcement decisions and ask us to take another look, but the process can be frustratingly slow and doesn't always get to the right outcome. We added extra staff to this work and, in more cases, we are also now requiring multiple reviewers to reach a determination in order to take something down. We are working on ways to make recovering accounts more straightforward and testing facial recognition technology, and we have started using AI large language models to provide a second opinion on some content before we take enforcement actions.

- *A Personalized Approach to Political Content.* Since 2021, we have made changes to reduce the amount of civic content people see—posts about elections, politics, or social issues—based on the feedback our users gave us that they wanted to see less of this content. But this was a pretty blunt approach. We started phasing this back into Facebook, Instagram, and Threads with a more personalized approach so that people who want to see more political content in their feeds can.

We are also continually testing how we deliver personalized experiences and have conducted testing around civic content. As a result, we started treating civic content from people and Pages users follow on Facebook more like any other content in their feed, and we started ranking and showing people that content based on explicit signals (for example, liking a piece of content) and implicit signals (like viewing posts) that help us predict what is meaningful to people. We are also recommending more political content based on these personalized signals and are expanding the options people have to control how much of this content they see.

We believe these changes are having a positive impact. As reflected in our Community Standards Enforcement Report for the first quarter of 2025, we saw a roughly 50 percent reduction in enforcement mistakes on our platforms in the United States from the last quarter of 2024 to the first quarter of 2025. During that same time period, the low prevalence of violating content largely remained unchanged for most problem areas. This improvement follows the earlier commitment we made to change our focus to proactively enforcing high-severity violations and enhancing our accuracy through system audits and additional signals, as described above.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
NEIL POTTS

Local Journalism. According to the Pew Research Center, more and more Americans, especially young people, get their news from social media platforms, including YouTube, Instagram, and TikTok. By design, these platforms don't produce news

themselves yet benefit greatly from those that generate the content and news that populate their platforms.

The rise of these platforms and shifts in the advertising market have undermined the economics of local journalism. According to the Medill Center's annual report, we have lost more than one-third of our newspapers since 2005 and 127 newspapers in the last year alone. And AI is only making things worse, with studies showing significantly fewer people clicking through to read full articles when an AI summary appears. As more consumers turn to AI to find information, newsrooms across the country are left producing content that's critical for our democracy yet funneled through platforms and models outside of their control. Now more than ever, we need to have a system that is responsive to the fact that we need reliable information.

Question 1. Does your company have an interest in maintaining the economic model for local journalism?

Answer. We want to serve all our users, including local journalists, and our free platforms and low-cost advertising provide economic benefit to news outlets. Publishers choose to post their content on our platforms to expand their reach, gain new audiences and increase their revenue. The links that publishers share on Facebook drive new traffic to their own sites, and publishers keep 100 percent of the revenue from traffic and subscriptions derived from these outbound links from Facebook. Many local journalists have highlighted the importance of this. These publishers typically choose to put links on our site.

Question 2. In the era of AI, does Meta have a responsibility to ensure that local journalism survives?

Answer. Posts with links to news are a small part of the Facebook experience for the majority of people who use the platform. We invest in our services to connect people to diverse sources of information that educate and entertain them. These investments serve communities on and off our platforms. We are proud that news publishers derive significant value from our platforms, which are free and have tools that derive unique value to publishers and journalists of all sizes, helping them build sustainable business models. This is why so many publishers voluntarily post their own content to our platforms with links to their news stories. That engagement links directly back to the publisher's site and generates revenue opportunities for those publishers.

Question 3. What can we do in the era of AI to make sure that we are instilling more competition, growing more diverse media sources, and ensuring that quality, reliable information is produced?

Answer. AI offers an opportunity to expand access to information and help ensure a vibrant, diverse information ecosystem. AI is poised to drive innovation, enhance human productivity, and inject trillions of dollars into the global economy.

One example is open-source AI models, like Llama, which empower organizations to use and build upon them for free. Open-source AI models allow businesses of all sizes, including news organizations, to create innovative new products and tools that benefit individuals, society and the economy—saving time and money in the process. *The Washington Post*, for example, launched “Ask The Post,” an AI tool built with Llama that helps users find answers from its published reporting, in an effort to democratize access to information and meet audiences where they are. Readers can ask the chatbot questions and receive factual responses based on information from *The Washington Post*'s article archives dating back to 2016. “Ask The Post” responds in the newspaper's voice and links to source articles, helping to ensure transparency and accountability. *The Washington Post* was able to do this without the limitations and cost restrictions of other proprietary models.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO
WILL CREELEY

Question 1. Does the First Amendment protect the information Americans are permitted to receive and not just the content they can express?

Answer. Yes, the First Amendment protects our right to receive information. In decisions dating back decades, the Supreme Court of the United States has consistently recognized that the same First Amendment freedom that protects our right to share an idea “necessarily protects the right to receive it.” *Martin v. Struthers*, 319 U.S. 141, 143 (1943); see also *Thomas v. Collins*, 323 U.S. 516, 534 (1945) (striking down statutory restriction on labor leader's speech as violative of both his “right to speak and the rights of the workers to hear what he had to say”); *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (“It is now well established that the Constitution protects the right to receive information and ideas.”); *Va. State Bd. of Pharmacy v. Va.*

Citizens Consumer Council, 425 U.S. 748, 756 (1976) (First Amendment protects a speaker’s “communication, to its source and to its recipients both.”). As Justice Brennan put it: “The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers and no buyers.” *Lamont v. Postmaster Gen.*, 381 U.S. 301, 308 (1965) (Brennan, J., concurring). The bottom line is that the First Amendment generally prohibits government restrictions on willing speakers reaching willing listeners, or interference with what speakers choose to say.

But while the First Amendment bars the government from interfering with our right to receive information, when a *private* entity hosts speech—as with newspaper opinion pages, for example, or social media posts—that platform possesses its own First Amendment right to decide for itself what content it makes available, and the government may not compel it to choose otherwise. That’s why the Supreme Court has consistently “barred the government from forcing a private speaker to present views it wished to spurn in order to rejigger the expressive realm.” *Moody v. NetChoice, LLC*, 603 U.S. 707, 727–733 (2024) (reviewing cases). “However imperfect the private marketplace of ideas,” the First Amendment prohibits the “worse proposal—the government itself deciding when speech was imbalanced, and then coercing speakers to provide more of some views or less of others.” *Id.* at 733.

Question 2. When, if ever, does the First Amendment apply within the context of artificial intelligence?

Answer. Always, potentially. Artificial intelligence generally involves and/or operates through expression. And as with any other technology, when artificial intelligence is used for expressive purposes, the First Amendment applies. People, not the tools we use to communicate, possess First Amendment rights—and artificial intelligence is a new tool, one with potentially powerful ramifications for our ability to generate and exchange information and ideas.

Technological advances in how we communicate with one another do not alter or diminish the First Amendment’s protection against government censorship. When Americans use artificial intelligence to invite, facilitate, and/or produce expression, the First Amendment applies just as it does when we share ideas and information via the printed page, radio, television, telephone, or internet. The First Amendment’s protection remains constant, as Justice Scalia recognized in a case about the constitutional implications of government restrictions on video games: “[W]hatever the challenges of applying the Constitution to ever-advancing technology, ‘the basic principles of freedom of speech and the press, like the First Amendment’s command, do not vary’ when a new and different medium for communication appears.” *Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786, 790 (2011) (quoting *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 503 (1952)). Accordingly, using artificial intelligence to create, disseminate, and receive information is protected by the First Amendment.

Question 3. What are the First Amendment and free speech implications of government attempts to alter content generated by artificial intelligence to address alleged “bias” or to pressure artificial intelligence companies to set up processes to moderate or eliminate alleged “disinformation,” as well as “offensive” or “objectionable” content? Do such efforts run afoul of the First Amendment? How?

Answer. Each of these efforts would violate well-established Supreme Court precedent and rob Americans of the right to engage in open discourse free from government censorship. The First Amendment prohibits the government from defining and prohibiting “bias” or “disinformation,” or “offensive” or “objectionable” speech, because any such restriction would require the government to dictate answers to inherently subjective determinations. Because “one man’s vulgarity is another’s lyric,” our First Amendment jurisprudence rightfully recognizes “governmental officials cannot make principled distinctions” between the two. *Cohen v. California*, 403 U.S. 15, 25 (1971). Instead, the First Amendment requires that these subjective determinations be left where they belong: with the individual.

The First Amendment bars the government from altering or restricting private speech—including expressive content generated by artificial intelligence—to suppress “biased” viewpoints. “On the spectrum of dangers to free expression, there are few greater than allowing the government to change the speech of private actors in order to achieve its own conception of speech nirvana.”

Moody v. NetChoice, LLC, 603 U.S. 707, 741–42 (2024). That’s because any such effort would violate the First Amendment in several fundamental respects. Perhaps most predominantly, the First Amendment prohibits viewpoint discrimination. “It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys,” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995), because allowing the state to favor some views while restricting others would render freedom of expression illusory. The Founders under-

stood the First Amendment to bar precisely this form of state repression. In our system, as James Madison articulated, “the censorial power is in the people over the government, and not in the government over the people.” 4 Annals of Cong. 934 (1794).

A government-imposed burden or ban on “biased” expression generated by artificial intelligence would also be impermissibly vague, thus violating both the First Amendment and the Fifth Amendment’s Due Process clause. Because determinations of bias are necessarily subjective, a restriction on biased expression would fail to afford “fair warning” to artificial intelligence’s developers, distributors, and users, depriving them of the notice due process requires and allowing for “arbitrary and discriminatory enforcement.” *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

Vagueness is particularly problematic in the First Amendment context, because “[u]ncertain meanings inevitably lead citizens to ‘steer far wider of the unlawful zone’ . . . than if the boundaries of the forbidden areas were clearly marked.” *Id.* To prevent that chilling effect, laws and regulations that may impact speech protected by the First Amendment “demand a greater degree of specificity than in other contexts.” *Smith v. Goguen*, 415 U.S. 566, 573 (1974). Our Bill of Rights “requires the invalidation of laws that are impermissibly vague”—and because a broad ban on “bias” would be “so standardless that it authorizes or encourages seriously discriminatory enforcement,” it would be unconstitutional. *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (citing *United States v. Williams*, 553 U.S. 285, 306 (2008)).

Government attempts to “pressure artificial intelligence companies to set up processes to moderate or eliminate alleged ‘disinformation,’ as well as ‘offensive’ or ‘objectionable’ content” would fare no better. Like a ban on “bias,” these operative terms—“disinformation,” or “offensive” or “objectionable”—are both viewpoint discriminatory and inherently subjective, and thus fail to pass constitutional muster. Further, the government cannot require private companies to moderate speech in a particular way. *Moody*, 603 U.S. at 734 (“The government may not, in supposed pursuit of better expressive balance, alter a private speaker’s own editorial choices about the mix of speech it wants to convey.”).

These restrictions on government regulation of speech apply regardless of whether the regulation comes via a formal edict or informal coercion. Compounding the constitutional problem, the government cannot “pressure” or coerce private companies to censor speech; as noted in my opening testimony, indirect or informal attempts to censor speech in this way violate the First Amendment as surely as direct censorship. As the Supreme Court reaffirmed just last year: “A government official cannot coerce a private party to punish or suppress disfavored speech on her behalf.” *NRA of Am. v. Vullo*, 602 U.S. 175, 190 (2024).

Our jurisprudence recognizes that speech is “powerful”—that it “can stir people to action, move them to tears of both joy and sorrow, and . . . inflict great pain.” *Snyder v. Phelps*, 562 U.S. 443, 460–61 (2011). The temptation to regulate that power in an attempt to prevent that pain is evergreen. But “[a]s a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate.” *Id.* No matter how well-intentioned, any governmental effort to restrict “hurtful speech”—here, restrictions on content generated by artificial intelligence—would ultimately erode our ability to decide for ourselves what is good and true to “permit the continued building of our politics and culture, and to assure self-fulfillment for each individual.” *Police Dep’t of Chi. v. Mosley*, 408 U.S. 92, 95–96 (1972).

Question 4. What should I keep in mind as I craft legislation to ensure that Americans are fully protected against government efforts to decide or limit what they can read, particularly in the context of artificial intelligence?

Answer. We must defend our First Amendment right to use artificial intelligence to freely express ourselves—and that defense becomes all the more essential if it does, in fact, revolutionize our ability to communicate with each other and to generate and share knowledge. To that end, FIRE urges lawmakers to remember two central points as they consider legislation regarding artificial intelligence.

- (1) Artificial intelligence is in its infancy. We are just beginning to understand its possibilities. So imposing broadly prophylactic laws or regulations now to restrict its development and expressive uses risks foreclosing potentially invaluable applications. To the extent that artificial intelligence creates particular policy problems in time, legislators and regulators may act within the bounds of the Constitution to address them. But preemptory action driven by fear about how the technology *may* impact us will impede innovation. The immense power of the Internet to democratize speech was unleashed in large

part because Congress acted quickly to prevent it from being stifled by frivolous litigation or censorial regulations early in its development. We should remember that lesson now.

- (2) Some policymakers fear the use of artificial intelligence will result in a variety of social harms—facilitating discrimination in contexts like medical care, employment, or housing, for example, or generating “deepfakes” so lifelike as to cause social and political consequences. It is true that artificial intelligence can be wielded, like any tool, to antisocial and unlawful ends. But it is also true that existing law already prohibits and provides legal redress for the vast majority of the misconduct driving legislators’ concerns. We do not enact a new First Amendment to accompany each new technology. We should not enact new civil and criminal codes, either.

And because artificial intelligence companies are just as susceptible to coercive governmental pressure as social media platforms, both legislators and the public should be vigilant against policymakers and regulators jawboning developers into changing models’ outputs to accord with their political or ideological preferences. Pressure campaigns are already underway.¹

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
WILL CREELEY

Platform Settlements. President Trump sued the two social media platforms testifying at this hearing because they removed him from their platforms after the January 6th insurrection.

Despite the fact that legal experts called these lawsuits meritless, both Meta and Google settled their lawsuits this year, once President Trump was back in office.

Question 1. Mr. Creeley, you have called this strategy of suing media companies “dictatorial.” Can you explain why the President is “dictatorial” when he sues media organizations over their editorial decisions?

Answer. Dictators abuse power to silence dissent, control the narrative, and coerce targets into both immediate and anticipatory obedience. They ignore or abolish legal limits on their authority. By flouting longstanding First Amendment precedent to file legally baseless lawsuits, then abusing his authority to pressure them into settlements, President Trump is checking those boxes.

Filing as a private citizen, Trump’s 2021 suits against Meta and Google alleged that the companies violated his First Amendment rights by barring him from their platforms and removing his content. Trump argued Meta and Google were “state actors” based on their interactions with the government, but his filings relied on erroneous understandings of the law. More centrally, the First Amendment protects private entities’ exercise of editorial discretion, including the decisions of private companies like Meta and Google to moderate content on their sites. This is blackletter First Amendment law, reaffirmed by the Supreme Court just last year. *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024). The Court has “time and again held” that attempts to “alter [speakers’] choices about the views they will, and will not, convey . . . interfere with protected speech.” *Id.* at 737–38. So legal commentators correctly described the lawsuits as baseless, as did Google and Meta themselves.

After Trump won re-election, however, the lawsuits’ lack of legal merit apparently became less consequential. Rather than continue to contest now-President Trump’s claims and risk his ire, the companies settled—as have other media entities, private universities, and law firms. In each instance, the determinative calculations appear to have focused more on political and financial consequences rather than legal merit, given the strength of the First Amendment arguments available to each targeted entity against President Trump’s plain abuses of power.² These transactional capitulations are a result of the fear engendered by the president’s demonstrated

¹See, e.g., Press Release, Off. of Att’y Gen. of Mo., *Attorney General Bailey Fights To Expose Big Tech Censorship of President Trump as AI Chatbots Produce Fake News* (July 9, 2025), <https://ago.mo.gov/attorney-general-bailey-fights-to-expose-big-tech-censorship-of-president-trump-as-ai-chatbots-produce-fake-news> (“Today, Missouri Attorney General Andrew Bailey sent a formal demand letter to Google, Microsoft, OpenAI, and Meta regarding biased and factually inaccurate responses produced by the companies’ artificial intelligence chatbots.”).

²See, e.g., Angel Eduardo, *Why YouTube caving to Trump is cowardly*, Foundation for Individual Rights and Expression (Oct. 2, 2025) (“What makes all this worse is that the lawsuits are based on obviously meritless claims that would never withstand scrutiny if they actually went to court.”).

willingness to abuse the power of his office and those of his political appointees to punish people and entities whose speech he opposes.

Trump Media Lawsuits. In addition to his actions against the platforms, President Trump has filed a series of lawsuits against media organizations. These include a lawsuit against CBS for editing a *60 Minutes* interview with his opponent in the 2024 election, Vice President Harris; a lawsuit against the New York Times for defamation based on reporting about his time hosting *The Apprentice*; and even a lawsuit against the Des Moines Register and its pollster Ann Selzer for publishing a poll showing him losing Iowa in 2024. While some media companies have fought these lawsuits, others have settled with the President.

Question 1. Mr. Creeley, what is the effect of these lawsuits on the free press?

Answer. President Trump's lawsuits are a cynical effort to chill critical coverage by bullying media outlets into silence. The president's suits flatly ignore our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). Instead, they aim to impose prohibitive costs on media outlets that dare to publish and broadcast news and views the president doesn't like.

The suits rely on bizarre legal theories that would be laughable were they not so dangerous. For example, the president's lawsuit against our client, the pollster J. Ann Selzer, claims that her poll constituted "fraud" under state law. But as my colleagues have explained at length in our filings, the president's argument has no support in law. Selzer's poll was entirely protected by the First Amendment; getting a prediction wrong doesn't render a poll "fraud." Earlier this month, a Federal court agreed, dismissing with prejudice a copycat lawsuit filed by a *Des Moines Register* subscriber that closely tracked the president's claims. *Donnelly v. Des Moines Register & Trib. Co.*, No. 4:25-cv-00150-RGE-WPK (S.D. Iowa Nov. 6, 2025) (order granting defendants' motions to dismiss). As the court explained, "there is no free pass around the First Amendment." *Id.* at *6.

Lawsuits like the one against Selzer are classic examples of "SLAPPs": strategic lawsuits against public participation, designed to chill speech and punish speakers through costly litigation. That these suits are without merit is beside the point; forcing opponents into lengthy court battles is the goal. To prevent vexatious SLAPP litigants from silencing speech, 38 states (and the District of Columbia) to date have enacted legislation allowing for early dismissal of meritless suits.

But unlike a typical plaintiff, the President's suits present a uniquely pernicious threat because of the power of his office—and his willingness to abuse it to silence speech. The president has brazenly sought to leverage the power of Federal regulatory agencies to force favorable resolutions of his lawsuits against media outlets.

Take President Trump's lawsuit against CBS, for example. As in his suit against Selzer, the President baselessly alleged protected journalism—here, CBS' routine edits of a *60 Minutes* interview with Vice President Kamala Harris—is somehow consumer fraud. It isn't. But Federal Communication Commission Chairman Brendan Carr exerted regulatory pressure on CBS, reinstating a previously dismissed investigation of the network for alleged "news distortion" and stalling approval of a proposed merger between CBS corporate parent Paramount Global and Skydance Media.

As my colleagues and I pointed out in FIRE's public comment to the agency, Carr's pressure campaign constituted jawboning in broad daylight:

The purpose and timing of this inquiry are both obvious and unjustifiable. Launching a politically fraught investigation based on such a paper-thin complaint in these circumstances is alone a compelling example of regulatory abuse. But to resurrect the flimsy complaint after it was fully and properly interred by staff dismissal, and to do so in support of the President's private litigation position, is all but a signed confession of unconstitutional jawboning. The Commission can begin to recover some dignity only by dropping the matter immediately.³

And the agency's narrow, tightly cabined "news distortion" doctrine does not and cannot overcome the First Amendment's bar against the FCC or its Chairman exerting power over a broadcaster's editorial decisions.

Nevertheless, CBS settled for \$16 million, and the FCC approved the merger—complete with a new "ombudsman," Kenneth Weinstein, previously President Trump's nominee for ambassador to Japan. According to Carr, Weinstein's job will

³A copy of our comment was included with my written testimony and is available online at <https://www.thefire.org/sites/default/files/2025/03/FIRE%20Comments%20on%20FCC%20News%20Distortion%20Complaint.pdf>.

include ensuring CBS airs of “a diversity of viewpoints from across the political and ideological spectrum” in its programming.⁴ A range of views may or may not make for compelling television. But that must be the choice of the broadcaster, not the government.

The full impact of the President’s litigation isn’t easy to assess. It’s hard to count stories that have been spiked, broadcasts that never made the air, and assignments that have been revoked. But it is plain that the President’s willingness to abuse both the legal system, by filing meritless lawsuits against media outlets, and the power of his office, by invoking regulatory authority to pressure outlets to bow to his political worldview, has made publishing and broadcasting views he doesn’t like far riskier. That makes our free press less so, and we all suffer as a result.

FCC Censorship. There has been a lot of attention—and rightly so—on FCC Chairman Brendan Carr’s threats to knock Jimmy Kimmel off the air. But Carr’s censorship of Kimmel is just one in a series of attacks on the First Amendment. Although the FCC is supposed to be independent, under Brendan Carr, the agency has become the President’s speech police.

Since taking over the FCC, Carr has reopened frivolous inquiries into CBS, NBC, and ABC about their coverage of the 2024 election; launched investigations into NPR and PBS stations; and publicly threatened broadcast TV and radio stations based on the content of their coverage of immigration issues.

Question 1. Mr. Creeley, does the FCC have authority to dictate coverage decisions to journalists?

Answer. Absolutely not. Per the First Amendment, Federal law, and longstanding precedent, the FCC has no business dictating the editorial choices of media outlets.

The Communications Act is clear: The FCC cannot exercise “the power of censorship,” nor impose any “regulation or condition . . . which shall interfere with the right of free speech by means of radio communication.” 47 U.S.C. § 326. For more than fifty years, the Commission understood that it “is not the national arbiter of the truth.” *Complaints Covering CBS Program “Hunger in America,”* 20 F.C.C.2d 143, 151 (1969). Likewise, the Supreme Court has rejected as unconstitutional FCC action that risks the “substantial abridgment of important journalistic freedoms which the First Amendment jealously protects.” *FCC v League of Women Voters of Cal.*, 468 U.S. 364, 402 (1984).

In the United States, “‘editorial control and judgment,’ not official decree,” determine a broadcast’s “choice of material.” *Miami Herald Pub. Co., Div. of Knight Newspapers, Inc. v. Tornillo*, 418 U.S. 241, 258 (1974). Government actors cannot dictate to journalists, editors, or broadcasters what to say or air; “any such a compulsion to publish that which ‘reason’ tells them should not be published is unconstitutional.” *Id.* (citation and internal quotation omitted).

As a Commissioner, before taking the reins of the agency, Chairman Carr once understood that “[a] newsroom’s decision about what stories to cover and how to frame them should be beyond the reach of any government official, not targeted by them.”⁵ FIRE will continue to remind him of what he has since forgotten.

Attacks on the First Amendment. Congress created the Federal Trade Commission to protect consumers from unfair and deceptive practices and ensure a competitive free market. FTC Chairman Andrew Ferguson, however, has been using the FTC’s authority to bully social media platforms into changing their content moderation decisions to favor conservative content and force companies to advertise on Elon Musk’s X platform.

This is despite the fact that the Supreme Court has recognized that social media platforms have First Amendment rights to “select and shape other parties’ expression into their own curated speech products.”

Question 1. Mr. Creeley, is Chairman Ferguson’s campaign consistent with the First Amendment?

Answer. No. The First Amendment protects the editorial decisions of social media companies just as it protects the editorial decisions of newspapers or broadcasters. “The principle does not change because the curated compilation has gone from the physical to the virtual world. In the latter, as in the former, government efforts to alter an edited compilation of third-party expression are subject to judicial review for compliance with the First Amendment.” *Moody v. NetChoice, LLC*, 603 U.S. 707, 717 (2024). And the First Amendment protects social media companies and other

⁴David Folkenflik, *CBS shifts to appease the right under new owner*, NPR (Sept. 12, 2025), <https://www.npr.org/2025/09/12/nx-s1-5537152/cbs-news-ellison-steps-appease-trump>.

⁵Press Release, FCC, *FCC Commissioner Carr Responds to Democrats’ Efforts to Censor Newsrooms* (Feb. 22, 2021), <https://docs.fcc.gov/public/attachments/DOC-370165A1.pdf>.

private entities from all governmental efforts to restrict their expressive rights, whether the threat comes from state or Federal law, as in *Moody*, or via pressure from agency action. See, e.g., *NRA of Am. v. Vullo*, 602 U.S. 175 (2024) (director of state regulatory agency likely violated First Amendment by pressuring regulated entities to end providing services to National Rifle Association because of its advocacy).

Relatedly, FIRE has opposed Chairman Ferguson's use of sweeping civil investigative demands to retaliate against Media Matters for America's research and reporting about X Corp. and Elon Musk. See *Br. Amici Curiae FIRE Supp. Plaintiff-Appellee, Media Matters for Am. v. FTC*, No. 25-5302 (D.C. Cir. Oct. 23, 2025). Last month, the United States Court of Appeals for the District of Columbia Circuit denied the Commission's motion to stay a Federal district court's preliminary injunction against the investigative demands, noting among other factors Chairman Ferguson's statements regarding his desire to investigate Media Matters for its viewpoints. *Media Matters for Am. v. FTC*, No. 25-5302, at *21 (D.C. Cir. Oct. 23, 2025).

Press Walkout from Pentagon. Earlier this month, dozens of journalists—including those from conservative outlets like Fox News and Newsmax—turned in their press badges and walked out of the Pentagon rather than agree to a new policy that gave the Defense Department the ability to control the information they solicit or obtain. Last week, the Pentagon announced a new group of media outlets that agreed to its unprecedented restrictions on reporting.

Question 1. Mr. Creeley, is the Pentagon's new press policy consistent with the First Amendment?

Answer. No. The Pentagon's new press policy runs afoul of the First Amendment. The refusal of news organizations to submit to the policy is justified and commendable.

Courts have long recognized that "a major purpose of that Amendment was to protect the free discussion of governmental affairs." *Mills v. Alabama*, 384 U.S. 214, 218 (1966). The Founders thus "specifically selected the press" for constitutional protection as "a powerful antidote to any abuses of power by governmental officials and as a constitutionally chosen means for keeping officials elected by the people responsible to all the people whom they were selected to serve." *Id.* at 219. But the Pentagon's new press policy contains vague restrictions that infringe upon these long-established First Amendment principles.

Perhaps most troublingly, the policy attempts to draw a distinction between "lawfully requesting information from the government and actively soliciting or encouraging government employees to break the law," contending that "[t]he First Amendment does not permit journalists to solicit government employees to violate the law by providing confidential government information." But that contention has no support in the law. "The right of citizens to inquire, to hear, to speak, and to use information" is protected by the First Amendment. *Citizens United v. FEC*, 558 U.S. 310, 339, 349 (2010). That includes newsgathering. The press possesses an "undoubted right to gather news 'from any source by means within the law.'" *Houchins v. KQED, Inc.*, 438 U.S. 1, 11 (1978) (quoting *Branzburg v. Hayes*, 408 U.S. 665, 681-82 (1972)). And the First Amendment protects reporters who gain information from officials "simply by asking." *Smith v. Daily Mail Publ'g Co.*, 443 U.S. 97, 99, 103-04 (1979).

The policy also presents a practical problem. When reporters exercise their First Amendment right to ask questions of government officials, they don't determine the answers they may receive. By targeting reporters, instead of government officials who may provide confidential information, the policy misplaces the burden and restricts protected expressive activity. The policy's vague terms also empower the government to punish reporters simply for doing their job: asking questions.

Brendan Carr Jawboning: Senator Cruz's memo laments that the Biden administration had tried to "shut down the speech of Americans with whom it disagreed." Most recently, Chairman Carr threatened ABC affiliate broadcast licenses over remarks Jimmy Kimmel made on the air.

Question 1. Is Chairman Carr trying to "shut down the speech of Americans with whom [he] disagree[s]" and does it matter, for purposes of the First Amendment, if Jimmy Kimmel's speech was offensive?

Question 2. Does it matter, for purposes of the First Amendment, if Jimmy Kimmel's speech was offensive? Does it matter, for purposes of the First Amendment, that Jimmy Kimmel's show is not pure news, but also has a comedy component?

Answers. Yes, Chairman Carr was trying to shut down the speech of Americans with who he disagrees, if we take him at his word. Chairman Carr has been clear

about targeting broadcasters and programming, including Kimmel and Disney, because of his disagreement with the views they express. After Kimmel's monologue on Charlie Kirk's alleged assassin, for example, Carr said the comments created a "very, very serious issue right now for Disney." And just this week, Chairman Carr reposted President Trump's call for NBC to fire late night host Seth Meyers because, in the President's words, he "is suffering from an incurable case of Trump Derangement Syndrome."⁶ But

And no, it does not matter if some, many, most, or even all Americans found Kimmel's speech offensive. The First Amendment protects offensive speech and prohibits the government from discriminating on the basis of viewpoint. "Giving offense is a viewpoint. The 'public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers.'" *Matal v. Tam*, 582 U.S. 218, 220 (2017) (quoting *Street v. New York*, 394 U.S. 576, 592 (1969)).

Nor does it matter, from a First Amendment standpoint, that Kimmel's show mixes comedy and news. Whether a show features comedy, news, or a blend of both, the First Amendment bars the FCC from supplanting the broadcaster's editorial judgments with its own. *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 650 (1994) ("The FCC is forbidden by statute from engaging in 'censorship' or from promulgating any regulation 'which shall interfere with the [broadcasters'] right of free speech.") (quoting 47 U.S.C. § 326). See also *Network Coverage of the Democratic Nat'l Convention*, 16 F.C.C.2d 650, 657–58 (1969) (reaffirming the agency's "general rule . . . that we do not sit to review the broadcaster's news judgment, the quality of his news and public affairs reporting, or his taste.").

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HAROLD FELD

Local News and Media Consolidation. Americans rely on local news to understand what's going on in their communities. According to the Pew Research Center, nearly three-quarters of Americans trust their local newspapers and broadcasters. But local news faces serious headwinds. Recently, the Medill Center reported that 50 million Americans have no access to local news, a new high.

The advertising-supported model of local newspapers and local broadcast has declined, with an increasing share of revenue going to tech platforms rather than news organizations. And AI models rely on the legwork of journalists without fair compensation, going to the newsrooms and reporters who put in the work.

There has been a wave of consolidation in the media, ranging from broadcast affiliates to newspapers. And for many Americans, most of their news comes through social media algorithms, giving the owners of these platforms inescapable influence over what we see and read.

Question 1. What policies should we consider to ensure the media and platforms serve individuals and support a democratic society, rather than undermine it?

Answer. Congress and the Supreme Court have long recognized that a democratic society cannot exist without a vibrant fourth estate where people have access to news from the "widest possible dissemination of information from diverse and antagonistic sources."¹ Accordingly, policies should not simply resist further consolidation or ensure the survival of existing news creators. Congress should affirmatively facilitate new, independent sources of news that can take full advantage of a multitude of platforms.

First, however, it is important to distinguish between "media" and "platforms." Media—particularly legacy media such as newspapers and broadcast licensees, but also including digital news creators—are one-to-many outlets that engage in original reporting and distill news into a form understandable by the public. Platforms are a means of distributing content that do not themselves produce the content. Platforms can enable not only distribution of the work of journalists, but can enable robust discussion among the public—and preserve events that become the basis for reporters and serious journalists. At the same time, platforms can exercise unseen influence on how people see and encounter important news content. They can favor some sources of news or particular viewpoints without disclosing this bias. Platforms can provide an important income stream for reporting, but can also have neg-

⁶Brendan Carr (@BrendanCarrFCC), X (Nov. 15, 2025, 7:28 PM), <https://x.com/BrendanCarrFCC/status/1989853016174866891?s=20>.

¹*Associated Press v. United States*, 326 U.S. 1, 20 (1945). See also *Turner Broadcasting Systems, Inc. v. FCC*, 520 U.S. 180, 194 (1997) ("Federal policy, however, has long favored preserving a multiplicity of broadcast outlets regardless of whether the conduct that threatens it is motivated by anticompetitive animus or rises to the level of an antitrust violation").

ative impacts on income for journalists through demonitization and interfering with the relationship between advertisers and reporters (or the media that supports reporting, such as newspapers). This is particularly problematic with AI tools that provide a summary of news content developed by reporters and journalists.

While platforms have a First Amendment right to curate the content on their platforms. It is critical that Congress act to ensure that actual reporting by multiple and genuinely diverse and antagonistic outlets (that is to say, outlets in actual competition with each and therefore providing different perspectives, and with incentive to invest in reporting to “scoop” each other) is widespread and vigorous. As the Supreme Court has said, there is “a governmental purpose of the highest order in ensuring public access to a multiplicity of information sources.”²

Congress should therefore adopt policies that promote competition between independent and diverse media sources, while at the same time ensuring adequate funding for reporting at the local, national and international level. At the same time, we must facilitate competition among platforms and make it easy for journalists to use a multitude of platforms to reach their audience. Finally, Congress must make sure that actual reporting remains economically sustainable.

For example, with regard to competition among media outlets, Congress should make clear that the FCC has no authority to raise the existing national audience reach of 39 percent, and should eliminate the “UHF loophole” that counts UHF stations at only 50 percent of their audience reach. Congress should also consider cross-ownership limitations that would prevent a single owner, or a small group of owners, from controlling both the productions and dissemination of news through broadcasters and then use control over platforms to favor its own viewpoint and disadvantage rivals.

Similarly, Congress should pass legislation designed to (a) prevent large platforms from monopolizing either journalists or advertisers; and (b) foster the development of new platforms with different content curation policies and competing algorithms. For example, requiring portability so that a news provider can take its audience to a rival platform (or easily replicate the same content on a rival platform), and prohibiting policies that demonitize news providers for using competitors, would allow news creators and distributors to maximize their revenue streams.

Question 2. How can we level the playing field for independent local journalism against mammoth tech platforms?

Answer. Congress can take several affirmative steps, but should avoid other proposals that would actually harm the production of news from diverse and antagonistic sources. Public Knowledge has made several specific proposals to enhance antitrust enforcement which would directly address the ability of platforms to exercise market power in ways detrimental to local journalism (including making local journalists unduly dependent or support on referrals by dominant platforms). Additionally, Public knowledge has recommended using grant programs to support local journalism (with adequate safeguards to protect journalistic independence).³ To briefly summarize the most important elements of our proposals.

- Local news grants
 - Direct Federal support through local news grants recognizes that local journalism provides public goods that markets alone won’t adequately support, particularly in smaller communities where advertising revenue has never been sufficient to sustain robust coverage. A superfund model using fees collected from platforms benefiting from news content, as a percentage of total users or some other mechanism, offers a potential funding mechanism. By collecting fees from digital platforms that profit from news distribution and using those resources to support local journalism broadly, this approach channels money back toward news production without the government making content-based decisions about which outlets deserve support.
- Interoperability
 - If journalists and news organizations could take their audiences with them when platforms no longer serve them well, platforms would face real competitive pressure to treat publishers fairly. Currently, a journalist who builds a following on a platform is locked in because leaving means abandoning that audience. Interoperability and data portability would let journalists maintain

²Turner Broadcasting Systems, Inc. v. FCC, 520 U.S. at 190 (cleaned up).

³See Lisa Macpherson and Morgan Wilsman, “A Policy Primer for Free Expression and Content Moderation, Part II: Empowering User Choice,” Public Knowledge (December 9, 2024). <https://publicknowledge.org/empowering-user-choice/>

connections to audiences across platforms, dramatically reducing platform leverage.

- Enhance traditional antitrust remedies, creating multiple platforms and diminishing the importance of any individual platform to journalists generally.
 - As we have seen in recent antitrust cases against Meta and Google, traditional antitrust remedies are not sufficient to address the market power of the largest platform. Congress should consider legislation that would make it easier for stakeholders to bring antitrust lawsuits directly, and require structural remedies that would address the market power of dominant platforms.

Media Concentration. In today's media landscape, consumers are transfixed by their screens, whether by TV or mobile phone, to access a wide array of content, including news and entertainment. Yet ownership of the platforms that deliver that content is becoming increasingly concentrated in the hands of a few.

President Trump has said that the same family which already controls Paramount, CBS, and Skydance will lead the new ownership group for TikTok. Recent reports suggest that the same family is also seeking to acquire Warner Bros. Discovery—with the backing of the Trump administration.

Question 1. How might these deals and other media mergers—which require the President's sign-off or his administration's approval—reshape our media and political landscape?

Answer. This raises tremendous concern over the ability of Americans to access genuinely diverse and antagonistic sources of information. The level of concentration spanning virtually every information and entertainment platform on its own would create a threat to democracy as the market power and financial interests of a single family places too much power to control the availability of news, access to real-time information, and influence through one of the largest and most popular social media platforms. The explicit machinations of the President of the United States, through secret dealings with regard to TikTok, and with public statements designed to manipulate the bidding process over Warner Brothers Discovery (coupled with the very real examples of how the President has used merger review to extract control mechanisms over news, advertising and other content) make explicit that the President expects his supporters at Skydance to actively serve as a combination of censor and propagandist for himself and his political allies.

Question 2. How does increased media concentration affect the economics of local, independent journalism?

Answer. Acquisitions of local news outlets—whether local newspapers, local television stations, or local radio stations—have undermined the viability of local, independent journalism until it has become almost extinct. Whether hedge funds or publicly traded companies, these acquirers finance their unending acquisition sprees by accumulating ever greater debt. This, combined with the desire of these “absentee landlords” to maximize profit regardless of the welfare of the local community, means layoffs of reporters and news crews in the name of “synergies.” Fewer reporters are expected to cover news for an increasing number of outlets. Local newsrooms of broadcast affiliates are reduced or eliminated entirely. These are often replaced with national “must carry” segments that reflect the political views of the large corporate owners rather than focusing on local issues. Actual reporting, which requires investment of resources and skilled journalists, is replaced with syndicated entertainment or opinion pieces that make no effort at journalistic practices.

In the worst cases, particularly with local newspapers, these giant corporate owners will simply shut down local newspapers rather than spend the money to maintain them. Broadcast news may be entirely replaced with cheap, syndicated entertainment programming. This has led to the creation of “news deserts,” where local communities lack any local reporting.

Question 3. Is the administration following the requirement that Congress set out in the law to divest TikTok and its algorithm from Chinese control?

Answer. While it is clear that there have been violations of the law, the extent to which the President has violated the Protecting Americans from Foreign Adversary Controlled Applications Act (PAFACA) is impossible to fully determine because the President has neither briefed the public or Congress on the full details of the divestiture to ensure that the terms of the divestiture comply with the requirements of the Act. Even given what information is available, numerous parties have expressed concern that the leasing agreement with China for the algorithm, and ByteDance's continuing stake in the company, do not provide the necessary independence from Chinese control to satisfy the requirements of PAFACA, despite the President's certification.

There are two clear violations of PAFACA:

- PAFACA allotted just one 90 day extension to the president, if the president could show considerable progress was being made toward a divestiture deal. President Trump has issued multiple executive orders claiming to delay enforcement for 75-day periods without meeting the statutory requirements for the 90-day extension. The statute provides no authority for these discretionary enforcement delays that aren't tied to divestiture progress.
- While the divestiture deal is being discussed, TikTok remained operating (apart from a short black-out stint), with the executive failing to uphold the law by refusing to enforce the provisions of PAFACA.

Finally, while not an express violation of PAFACA, it was never the intent of Congress to allow the President to structure a deal behind closed doors to give control to his personal supporters.

Platform Settlements. President Trump sued the two social media platforms testifying at this hearing because they removed him from their platforms after the January 6th insurrection.

Despite the fact that legal experts called these lawsuits meritless, both Meta and Google settled their lawsuits this year, once President Trump was back in office.

Question 1. Mr. Feld, how do you think the lawsuits and settlements by Meta and Google affect what we see and hear on their platforms?

Answer. Meta and Google settled lawsuits concerning deplatforming Donald Trump after the President violated platform content policies—a perfectly legal action well within Meta and Google's rights. In fact, deciding what content and who can use their platforms is precisely first amendment protected. Nevertheless, through the act of settling, these platforms have made it clear that they are more than willing to amend their content policies to appease whichever party is in power to avoid regulatory scrutiny. We saw at the beginning of President Trump's second term in January 2025, when Meta announced it changed content moderation policies to "promote free expression," by being more permissive of contentious topics around gender identity and immigration—opening the door wider to harassment of marginalized users. It also eliminated fact-checking, which President Trump and his allies believed is akin to censorship, despite fact-checking simply providing *more speech* to content. What results is a platform with more hate speech and toxic content, with fewer tools to address intentional falsehoods.

FCC Censorship. There has been a lot of attention—and rightly so—on FCC Chairman Brendan Carr's threats to knock Jimmy Kimmel off the air. But Carr's censorship of Kimmel is just one in a series of attacks on the First Amendment. Although the FCC is supposed to be independent, under Brendan Carr, the agency has become the President's speech police.

Since taking over the FCC, Carr has reopened frivolous inquiries into CBS, NBC, and ABC about their coverage of the 2024 election; launched investigations into NPR and PBS stations; and publicly threatened broadcast TV and radio stations based on the content of their coverage of immigration issues.

Question 1. Mr. Feld, is Chairman Carr's behavior consistent with the FCC's mandate to be independent of the White House?

Answer. No. Chairman Carr himself has characterized his role as being part of the President's agenda to remake the media by eliminating "DEI," and otherwise conforming media content to reflect the President's priorities. Chairman Carr has repeatedly echoed President Trump's social media posts on what media programming should be banned, and has echoed the President's complaints that public media and certain network programming are "propaganda" for the Democratic Party or unduly negative to President Trump.

Question 2. Do you think that these investigations could be considered jawboning?

Answer. Absolutely. The combination of investigations with public statements by both the President and Chairman Carr that make it clear the investigations are retaliation for content and coverage they don't like is classic jawboning.

Question 3. Does the First Amendment protect a broadcaster's ability to decide what they do or don't cover, and how they cover it?

Answer. The First Amendment directly protects the ability of a broadcaster to decide what they cover and how they cover it. See *FCC v. League of Women Voters*, 468 U.S. 364 (1984) (First Amendment prohibits Congress from preventing public broadcasters from editorializing). See also *Arkansas Educational Television Commission v. Forbes*, 523 U.S. 666 (1998) (broadcaster may exclude independent candidate from televised Presidential candidate debate).

Because broadcast licenses are uniquely limited by the laws of physics, and those few broadcast licenses which can be granted without creating harmful interference

are granted by the government, the government may impose certain obligations on broadcasters to allow others to respond to editorial positions expressed by broadcast licensees, or may require broadcast licensees to provide news and perspectives of importance to the local community. Compare *Red Lion Broadcasting Co., Inc. v. FCC*, 395 U.S. 367 (1969) (upholding Fairness Doctrine and right of reply) with *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974) (striking down state right of reply statute when applied to newspaper). Even where the FCC is permitted to require a broadcaster to allow a right of response, however, it must do so in a content neutral and consistent manner, not in a manner designed to influence the editorial choices of the broadcaster. The Fairness Doctrine and public interest obligations applied to broadcasters are designed to create *more* speech, not to censor speech.

Question 4. Does the First Amendment allow the FCC to revoke broadcast licenses solely because the Chairman, or the President of the United States, doesn't like what was broadcast?

Answer. Absolutely not. To revoke a license (or threaten to revoke a license) because the President of the United States dislikes what the broadcaster says is not merely a violation of the First Amendment (see *League of Women Voters, supra*), it violates Section 326 of Communications Act which prohibits "any regulation or condition . . . which shall interfere with the right of free speech."⁴

Attacks on the First Amendment: Congress created the Federal Trade Commission to protect consumers from unfair and deceptive practices and ensure a competitive free market. FTC Chairman Andrew Ferguson, however, has been using the FTC's authority to bully social media platforms into changing their content moderation decisions to favor conservative content and force companies to advertise on Elon Musk's X platform.

This is despite the fact that the Supreme Court has recognized that social media platforms have First Amendment rights to "select and shape other parties' expression into their own curated speech products."

Question 1. Mr. Feld, what authority does the FTC have to dictate content moderation decisions to platforms?

Answer. None. The FTC Act, Clayton Act and Magnuson-Moss Warranty Act give the FTC the authority to police "unfair or deceptive acts or practices" and "unfair methods of competition." This jurisdiction covers economic conduct, which does not include editorial judgements made by platforms. More specifically, platforms' content moderation decisions are expressive rights protected by the First Amendment. Unless the claims themselves are Section 5 "deceptive" in the commercial context (*i.e.*, false advertising), the FTC has no lawful basis to intervene.



⁴ 47 U.S.C. § 326.