

Before the  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 ) Docket ID FTC-2025-0023  
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Technology Platform Censorship )  
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COMMENTS OF REASON FOUNDATION

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## Introduction

On behalf of Reason Foundation, we respectfully submit these comments in response to the Federal Trade Commission's (FTC's) request for comment in the proceeding, Technology Platform Censorship, published February 20th, 2025.<sup>1</sup>

Reason Foundation is a national 501(c)(3) public policy research and education organization with expertise across a range of policy areas, including technology and communications policy.<sup>2</sup>

Our comments argue that government interference in online speech is the bigger concern, as illustrated by censoring policies during the COVID-19 pandemic and the Hunter Biden laptop controversy, and this has important implications for how Section 230 of the Telecommunications Act of 1996 is enforced.

### **Government interference in online speech is the bigger concern**

While recent debates about online speech often focus on the content moderation choices made by technology platforms, government jawboning—the informal use of official pressure, threats, or inducements to shape private moderation decisions—poses a potentially even greater threat to free expression online.<sup>3</sup> In recent years, government actors have covertly or overtly pressured social media companies to influence their decisions, circumventing constitutional safeguards and undermining the open internet.

Government officials can publicly express their views on how businesses should operate, and they can provide information or guidance to social media companies that ask for insights. However, when officials use regulatory authority or threats of financial penalties to pressure private firms into censoring speech, they risk infringing on individual free speech and social media companies' right to moderate content on their platforms as they best see fit.

### The COVID-19 Pandemic

In 2023, Reason broke the story on the “Facebook Files,” a trove of communications that

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<sup>1</sup> Request for Public Comments Regarding Technology Platform Censorship, Federal Trade Commission, Docket ID FTC-2025-0023, (February 20, 2025).

<sup>2</sup> See “About Reason Foundation,” Reason Foundation website, <https://reason.org/about-reason-foundation/> (accessed April 9, 2025).

<sup>3</sup> David Inserra, “Stop Government Jawboning and Censorship Via Proxy Through Transparency: An Agenda for Policymakers,” Cato.org, Cato Institute, 4 Dec. 2024. <https://www.cato.org/blog/stop-government-jawboning-censorship-proxy-through-transparency-agenda-policymakers> (Accessed May 12, 2025).

exposed extensive pressure on Meta by federal officials to suppress certain content.<sup>4</sup> In 2024, the House Judiciary Committee, led by Chairman Jim Jordan, conducted extensive investigations into the Biden administration's interactions with social media companies.<sup>5</sup> These interactions involved repeated and direct communication from senior White House officials urging platforms to censor or suppress specific COVID-19-related posts. These investigations, fueled by tens of thousands of emails and internal documents, revealed a sustained campaign by the White House to pressure Facebook, Google, Amazon, and others to censor not only misinformation but also true information, satire, and dissent that did not violate platform policies.<sup>6</sup> Much of the content removed simply conflicted with the administration's public health messaging. The committee's interim report concluded that social media companies changed their moderation policies in direct response to White House pressure and that the administration's leverage was enhanced by ongoing policy concerns involving the companies.<sup>7</sup>

Meta CEO Mark Zuckerberg disclosed in a letter to the House Judiciary Committee that, in 2021, his teams faced months of pressure from high-ranking Biden administration officials to take down or limit access to certain COVID-19 content.<sup>8</sup> The White House expressed significant frustration when Meta did not fully comply with these requests. Zuckerberg described the administration's pressure as "wrong" and expressed regret that Meta was not more outspoken in resisting it at the time, stating that with hindsight, some moderation decisions made under pressure would not be repeated today.

Public statements from President Biden and other officials amplified this pressure. In July 2021, President Biden accused social media platforms of "killing people" by allowing vaccine misinformation to spread,<sup>9</sup> while Surgeon General Vivek Murthy labeled misinformation a "serious threat to public health."<sup>10</sup> These public criticisms were coupled with private

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<sup>4</sup> Robby Soave, "Inside the Facebook Files: Emails Reveal the CDC's Role in Silencing COVID-19 Dissent," Reason.com, Reason Magazine, 19 Jan. 2023 <https://reason.com/2023/01/19/facebook-files-emails-cdc-covid-vaccines-censorship/> (Accessed May 14, 2025).

<sup>5</sup> U.S. House of Representatives. Committee on the Judiciary and Select Subcommittee on the Weaponization of the Federal Government, "The Censorship Industrial Complex: How Top Biden White House Officials Coerced Big Tech to Censor Americans, True Information, and Critics of the Biden Administration," 1 May 2024. <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/Biden-WH-Censorship-Report-final.pdf> (Accessed May 12, 2025).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> "Zuckerberg says the White House pressured Facebook over some COVID-19 content during the pandemic," Apnews.com, Associated Press, 27 Aug. 2024. <https://apnews.com/article/meta-platforms-mark-zuckerberg-biden-facebook-covid19-463ac6e125b0d004b16c7943633673fc> (Accessed May 12, 2025).

<sup>9</sup> Nandita Bose and Elizabeth Culliford, "Biden says Facebook, others 'killing people' by carrying COVID misinformation," Reuters.com, Reuters, 16 July 2021. <https://www.reuters.com/business/healthcare-pharmaceuticals/white-house-says-facebooks-steps-stop-vaccine-misinformation-are-inadequate-2021-07-16/> (Accessed May 12, 2025).

<sup>10</sup> "Confronting Health Misinformation: The U.S. Surgeon General's Advisory on Building a Healthy Information Environment," Hhs.gov, Department of Health and Human Services, 2021.

communications, as documented in Zuckerberg's correspondence, where the administration's dissatisfaction was made clear when platforms did not meet their demands for stricter moderation.

Meta responded to this government pressure by altering its moderation policies and removing millions of posts flagged as misleading about COVID-19 and vaccines.<sup>11</sup> However, Zuckerberg later emphasized that such decisions should not be made under government pressure, and pledged that Meta would push back against similar demands in the future.

The committee also examined the role of third-party organizations in advising the government and platforms on content moderation, raising concerns about indirect government facilitation of censorship. Hearings and reports highlighted the chilling effect of such pressure on lawful speech and the distortion of public debate, with lawmakers from both parties accusing administrations of leveraging government power to silence disfavored viewpoints.<sup>12</sup>

While Meta did decide to deplatform users' posts that questioned the government's handling of the pandemic, vaccines, and other public health topics, the company's actions occurred in a context where government demands were forceful and persistent. If not for this external pressure from the federal government, Meta and other social media companies may not have been as aggressive in removing content the government did not like. This example of jawboning raises concerns about the independence of private platforms and the implications for freedom of expression during public health emergencies.

In 2024, the Supreme Court heard oral arguments in *Murthy v. Missouri*, which addressed whether federal officials violated the First Amendment by pressuring social media platforms to suppress or remove content related to COVID-19 and the 2020 election.<sup>13</sup> Plaintiffs—including the states of Missouri and Louisiana and several social media users—argued that the government's communications with platforms such as Facebook and Twitter amounted to unconstitutional coercion and censorship of protected speech.

In a 6-3 decision, the Supreme Court found that the plaintiffs did not show a concrete, imminent injury traceable to government actions, noting that social media platforms had independent moderation policies and that it was difficult to distinguish between private platform decisions and those allegedly influenced by the government.<sup>14</sup> As a result, the Court did not address the underlying First Amendment questions, and the federal government remains free to communicate with social media companies about content moderation.<sup>15</sup> While

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<https://www.hhs.gov/sites/default/files/surgeon-general-misinformation-advisory.pdf> (Accessed May 12, 2025).

<sup>11</sup> "Zuckerberg says the White House pressured Facebook over some COVID-19 content during the pandemic,"

<sup>12</sup> "The Censorship Industrial Complex: How Top Biden White House Officials Coerced Big Tech to Censor Americans, True Information, and Critics of the Biden Administration,"

<sup>13</sup> *Murthy, Surgeon General et al. v. Missouri et al.*, No. 23-411 (2024).

<sup>14</sup> *Ibid.*

<sup>15</sup> David Greene, "Supreme Court Dodges Key Question in *Murthy v. Missouri* and Dismisses Case for Failing to

the federal government does have the ability to communicate with social media companies to provide information or clarification, it still should not coerce them to make politically motivated content moderation practices.

### Hunter Biden Laptop

Jawboning becomes especially pernicious when it occurs out of the public eye, leaving citizens unaware it is happening and that their speech is being censored at the request of government officials. It can result in companies acting in *anticipation* of government demands, not just a direct threat.

In October 2020, just weeks before the presidential election, Twitter suppressed the distribution of a *New York Post* story detailing materials allegedly found on Hunter Biden's laptop. The company immediately blocked users from sharing links to the article, locked the *New York Post's* account, and suspended accounts that attempted to circulate the story.<sup>16</sup> Twitter justified these actions by citing its policy against the distribution of hacked materials, as internal deliberations revealed concern that the story could be part of a “hack and leak” operation similar to those seen in previous foreign interference campaigns.<sup>17</sup> The company later admitted this was a mistake, reversed the decision, and updated its hacked materials policy to allow news reporting about such materials with contextual warnings.

The Twitter Files—internal documents released in late 2022—shed light on the internal debate among Twitter executives about how to handle the story.<sup>18</sup> While some, including then-CEO Jack Dorsey, were not initially aware of the decision, others pushed for caution due to warnings from federal law enforcement about potential foreign disinformation campaigns. These warnings were part of regular briefings in which the FBI advised social media companies to be vigilant for “hack and dump” operations by foreign actors, but did not specifically instruct Twitter to suppress the Hunter Biden story. Testimony from former Twitter executives and reporting from the Twitter Files confirm that while there was a general climate of caution created by government advisories, there is no direct evidence that the

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Connect The Government's Communication to Specific Platform Moderation,” Eff.org, Electronic Frontier Foundation, 22 July 2024. <https://www.eff.org/deeplinks/2024/07/supreme-court-dodges-key-question-murthy-v-missouri-and-dismisses-case-failing> (Accessed May 13, 2025)

<sup>16</sup> Steven Nelson, “Facebook execs suppressed Hunter Biden laptop scandal to curry favor with Biden-Harris admin: bombshell report,” Nypost.com, New York Post, 30 Oct. 2024. <https://nypost.com/2024/10/30/us-news/fbi-tried-to-minimize-hunter-biden-laptop-bombshell-days-before-scoop-as-facebook-exec-warned-against-offending-dems/> (Accessed May 12, 2025).

<sup>17</sup> U.S. House of Representatives. Committee on the Judiciary and Select Subcommittee on the Weaponization of the Federal Government. “Election Interference: How the FBI “Prebunked” a True Story About the Biden Family's Corruption in Advance of the 2020 Presidential Election.” 30 Oct. 2024. <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/FBI-Election-Interference-Report-FINAL--10-30-24-.pdf> (Accessed May 12, 2025).

<sup>18</sup> Ibid.

government explicitly ordered Twitter to censor the story.<sup>19</sup>

However, the FBI's approach contributed to the story's suppression. In the hours after the *New York Post* story broke, Twitter representatives asked the FBI's Foreign Influence Task Force about the laptop's authenticity. Although the FBI had the laptop and knew it was real, officials refused to comment, maintaining silence even when directly asked by both Twitter and Facebook.<sup>20</sup> This lack of clarification, combined with prior warnings about Russian disinformation, contributed to Twitter's decision to block the story. The FBI was not wrong to warn about foreign disinformation, but it should have provided more transparency about the laptop story when Twitter asked for information. Congressional investigations and House hearings have since characterized this as a coordinated campaign among social media companies, mainstream news, and intelligence officials to suppress and delegitimize the laptop's contents.

While Twitter's suppression of the Hunter Biden laptop story was driven by internal caution and existing policies, it was heavily influenced by a climate of government warnings about foreign interference. The Twitter Files and subsequent testimony do not provide evidence of explicit jawboning—direct government orders to censor the story—but do show that persistent government advisories and a lack of transparency from the FBI played a significant role in the platform's decision to suppress the story.

### Section 230

Section 230, part of the Telecommunications Act of 1996, provides immunity to online platforms for third-party content and allows platforms to moderate content in “good faith.”<sup>21</sup> While the FTC does not have rulemaking authority to interpret provisions of the Act, it does have the ability to investigate platforms that violate consumer protection laws. This enforcement of consumer protection laws may include if an online platform makes false or misleading claims about their content moderation policies. Many users who post political content, particularly conservatives, believe that social media companies that remove political posts act more as publishers than as merely platforms.<sup>22</sup> They also claim that social media sites shield themselves with Section 230 protections to avoid accountability for what users post. While there have been calls for Section 230 to be changed, including reclassifying online platforms as common carriers, those decisions must be made by Congress, not the FTC.

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<sup>19</sup> Evan Perez, Donie O'Sullivan, and Brian Fung, “No directive: FBI agents, tech executives deny government ordered Twitter to suppress Hunter Biden story,” CNN, December 23, 2022, <https://www.cnn.com/2022/12/23/politics/twitter-files-elon-musk-fbi-hunter-biden-laptop> (Accessed May 12, 2025).

<sup>20</sup> “Election Interference: How the FBI “Prebunked” a True Story About the Biden Family’s Corruption in Advance of the 2020 Presidential Election.”

<sup>21</sup> Valerie C. Brannon and Eric N. Holmes, “Section 230: An Overview,” Congressional Research Service, January 4, 2024, <https://www.congress.gov/crs-product/R46751>

<sup>22</sup> Joel Thayer, “Platform or Publisher? Social Media Can't Be Both,” Newsweek.com, Newsweek, 29 Feb. 2024. <https://www.newsweek.com/platform-publisher-social-media-cant-both-opinion-1874001> (Accessed May 12, 2025).

As shown in the Biden administration's censorship campaign of social media sites during the pandemic, government jawboning has played a major role in online content moderation regarding political topics. This jawboning restricted platforms' ability to moderate their sites in good faith, as the government directly or indirectly coerced platforms to deplatform posts they did not like. While social media sites should be transparent in their content moderation practices and procedures, it is important to note that some of the biggest examples of "Technology Platform Censorship" has come from government coercion. This is not a Section 230 concern; this is a government censorship concern.

On January 20, 2025, President Trump signed an executive order entitled "Restoring Freedom of Speech and Ending Federal Censorship." In it, President Trump stated that government censorship is "intolerable in a free society" and that "no Federal Government officer, employee, or agent [shall] engage[] in or facilitate[] any conduct that would unconstitutionally abridge the free speech of any American citizen."<sup>23</sup> This executive order comes with the intent on ending government jawboning of social media platforms that had occurred during the previous administration. Under this new direction, all parts of the Executive Branch should not conduct in jawboning and leave social media companies to moderate content on their platforms.

### Conclusion

Government jawboning has shown to pose a more serious threat to free expression online than private companies' independent decisions to moderate content. As seen during the COVID-19 pandemic and in the Hunter Biden laptop controversy, government actors used their authority and influence to push platforms toward censorship that aligns with political objectives, often bypassing constitutional safeguards. This pressure, whether direct or indirect, undermined the independence of social media companies, chilled lawful speech, and distorted public debate by turning private moderation into a tool of state censorship. While executive actions like President Trump's 2025 order against federal jawboning are steps in the right direction, lasting solutions require legislative clarity and robust oversight to ensure that government guidance does not become coercion.

In September 2024, FTC Commissioner Andrew Ferguson wrote that the Commission "must be mindful not to stretch the scope of consumer-protection laws beyond their rightful purpose. We must stay in our lane."<sup>24</sup> Ferguson, now Chairman of the Commission, is correct; the FTC should not abuse its consumer protection enforcement authority to address broader political

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<sup>23</sup> "Restoring Freedom of Speech and Ending Federal Censorship," 20 Jan. 2025.

<https://www.whitehouse.gov/presidential-actions/2025/01/restoring-freedom-of-speech-and-ending-federal-censorship/> (Accessed May 12, 2025).

<sup>24</sup> Andrew N. Ferguson, "Staying in Our Lane: Resisting the Temptation of Using Consumer Protection Law to Solve Other Problems," prepared remarks, 2024 International Consumer Protection and Enforcement Network (ICPEN) Fall Conference, Washington, D.C., 27 Sept. 2024, U.S. Federal Trade Commission, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/9.27.2024-Ferguson-ICPEN-Remarks.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/9.27.2024-Ferguson-ICPEN-Remarks.pdf). (Accessed May 14, 2025).

and societal issues, such as content moderation. If the FTC were to attempt to regulate and/or jawbone social media companies for third party speech posted on their platform, they would be just like other parts of the Executive Branch that chilled free speech during the pandemic.

Ultimately, protecting the integrity of online speech demands vigilance against government overreach, reaffirming that the greatest threat to a free and open internet is not platform moderation itself, but the covert hand of government steering these decisions behind the scenes.

Thank you for the opportunity to provide these comments to the Commission. We look forward to further participation and stand by to assist the Commission as requested.

Respectfully submitted,

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