

BIG TECH

VS

DEMOCRACY

HOW A FEW SILICON VALLEY
OLIGARCHS SWUNG AN ELECTION AND
WHAT WE CAN DO TO STOP IT
FROM HAPPENING AGAIN



AMERICAN
PRINCIPLES PROJECT

AUTHORS



Craig Parshall

Craig Parshall is an attorney whose work has centered on civil liberties, constitutional rights and communications law. In addition to his work with the American Principles Project, he also serves as Special Counsel to the American Center for Law & Justice, (ACLU). Craig has represented clients before the U.S. Supreme Court, most of the U.S. Courts of Appeal, and several state supreme courts. He has testified before committees of both houses of Congress on constitutional issues and before the Federal Communications Commission (FCC) on communication and media matters. Craig founded the John Milton Project for Digital Free Speech and consults on free speech issues arising on “Big Tech” information platforms and writes and speaks widely on that subject.



Jon Schweppe

Jon Schweppe is the Director of Policy and Government Affairs for American Principles Project (APP). In this role, he develops and advances the organization’s legislative priorities by working with allied groups and with federal and state lawmakers. Prior to joining APP in late 2014, he worked on a number of political campaigns, focusing mainly on communications and policy. In 2020, Schweppe was named a Lincoln Fellow at the Claremont Institute. He has been published at several outlets, including First Things, the New York Post, Newsweek, The Federalist, and the Daily Caller. He graduated from Augustana College in 2010 with majors in Economics and Finance.

CONTENTS

4 INTRODUCTION

11 BIG TECH IS POWERFUL

20 BIG TECH IS BIASED

28 BIG TECH INTERFERED

46 CONCLUSION AND RECOMMENDATIONS FOR ACTION

“The Future of this republic is in the hands of the American Voter.”

— **Dwight D. Eisenhower**

“The ignorance of one voter in a democracy impairs the security of all.”

— **John F. Kennedy**

“It seems like Facebook and Twitter have decided to assume the position they’ve been avoiding for so long. Less than a month from Election Day, both companies finally became arbiters of the truth on the internet. Naive are those who believe this isn’t dangerous.”

— **Cristina Tardáguila, Associate Director, International Fact-Checking Network¹**

¹ Cristina Tardáguila, “Without methodology or transparency, Facebook and Twitter become the ‘arbiters of truth,’” October 15, 2020, <https://www.poynter.org/fact-checking/2020/without-methodology-or-transparency-facebook-and-twitter-become-the-arbiters-of-the-truth/> (accessed March 18, 2022)

INTRODUCTION

Do the largest Big Tech companies pose an existential threat to representative democracy?

This is the question that policymakers must wrestle with as they approach the issue of Big Tech censorship. If the answer is no, then perhaps the Big Tech-funded naysayers are correct — there’s nothing we can do. Private companies should be allowed to do whatever they want. But if the answer is yes, then immediate action is necessary to protect free speech in the digital public square and preserve the integrity of our elections.

Many on the Right have questioned the integrity of the 2020 election, and we now join that chorus. We believe the preponderance of evidence indicates that Big Tech companies — namely Facebook, Twitter, and Google — directly interfered in the election on behalf of the Democrats and ultimately delivered President Joe Biden his victory. And for what it’s worth, President Donald Trump seems to agree. In a speech to CPAC on February 24th, 2022, Trump said, “A Republican Congress should launch a select committee... to get to the bottom of Big Tech’s 2020 election interference. Let’s find out who made the decision to censor.”

In this report, we make the case that Big Tech censorship, particularly when it suppresses election-related information and political expression, is a real and present danger to our entire system of representative government. Ultimately, the power of tech oligarchs to discriminate against their customers and block them from participation in the digital public square should be superseded by the public's right to free speech, free ex-

pression, and self-governance. Thus, it is no longer an option for Congress to continue doing nothing about Big Tech's anti-democratic behavior. We concur with Trump (and others like Rachel Bovard²) that Congress should launch a select committee on Big Tech. But we also believe that Congress should go further. We delineate our specific recommendations for Congress in the final section of this report.

HOW WE GOT HERE

Just a few short years ago, Republicans were touting the success of Silicon Valley as evidence of the incredible might of capitalism. Some Republicans even referred to the GOP as the "Party of Uber."³ Big Tech companies were pouring millions of dollars into the campaign coffers of various Republican politicians, and in return, the Republicans supported policies that got the government out of the way and left the companies alone. It seemed like a match made in libertarian heaven, but somewhere along the way the relationship became one-sided.

As Big Tech information platforms like Facebook, Twitter and Google grew to enjoy immense size, wealth and ubiquity, they also quietly began to suppress political and social viewpoints with which they disagreed. Big Tech's censorship crusade began with the silencing of unpopular, heterodox voices that few in the mainstream were willing to defend: the so-called "alt-right,"

provocateurs like Milo Yiannopoulos, and conspiracy theorists like Alex Jones. But soon after, the same justifications that were used to silence those voices were weaponized to silence more mainstream voices, including elected officials, political organizations, and ultimately the President of the United States. It took that final unforgivable act—deplatforming Donald Trump from all the major social media platforms while he was still Commander-in-Chief—to finally rouse the Republican Party from its love drunk slumber.

Since last year, we've seen a major shift not only among House and Senate Republicans but also within the conservative movement as a whole. Now, there are an increasing number of influential organizations that recognize the existential threat to democracy posed by these Big Tech companies. In its recent report, *Combating Big Tech's Totalitarianism: A Road Map*⁴, the Heritage Foundation—arguably the most

² Bovard, Rachel, "Here's What Republicans Need To Do To Truly Take On Big Tech," *The Federalist*, March 15, 2022, <https://thefederalist.com/2022/03/15/heres-what-republicans-need-to-do-to-truly-take-on-big-tech/> (accessed March 18, 2022)

³ Enjeti, Saagar, "Saagar Enjeti: Crenshaw's conservatism will doom future of GOP," *The Hill*, November 18, 2019, <https://thehill.com/hilltv/rising/470942-saagar-enjeti-crenshaws-conservatism-will-doom-future-of-gop> (accessed March 18, 2022)

⁴ Frederick, Kara, "Combating Big Tech's Totalitarianism: A Road Map," *Heritage Foundation*, Feb. 7, 2022, <https://www.heritage.org/technology/report/combating-big-techs-totalitarianism-road-map> (accessed March 18, 2022)

prestigious conservative think tank in Washington, D.C. — urged Congress to consider proactive solutions based on First Amendment values, citing⁵ among other sources a blueprint for Section 230 reform that we at American Principles Project have advanced in our other writings.⁶

A STOLEN ELECTION

If one listens only to mainstream media voices, one might get the impression that Joe Biden won the 2020 election in a blowout. After all, Biden received more than 81 million votes! But like other recent Democrat popular vote winners, Biden ran up the tally in a few, populous blue states, such as California and New York, while the Republican candidate remained ultra-competitive in key swing states. In fact, based on electoral vote count, just three states swung the election to Biden — Arizona, Georgia, and Wisconsin — and by incredibly close margins.

As any campaign professional will tell you, razor-thin losses tend to result in a lot of kvetching over what could have been. Consider the 2020 victory of Republican Rep. Mariannette Miller-Meeks in Iowa's 2nd District, where she won by just six votes. Each and every commercial, earned media hit, and campaign event likely made *the singular difference* in the race's outcome. Had Miller-Meeks taken just one extra day off from the campaign she was successfully running, she almost certainly would have lost.

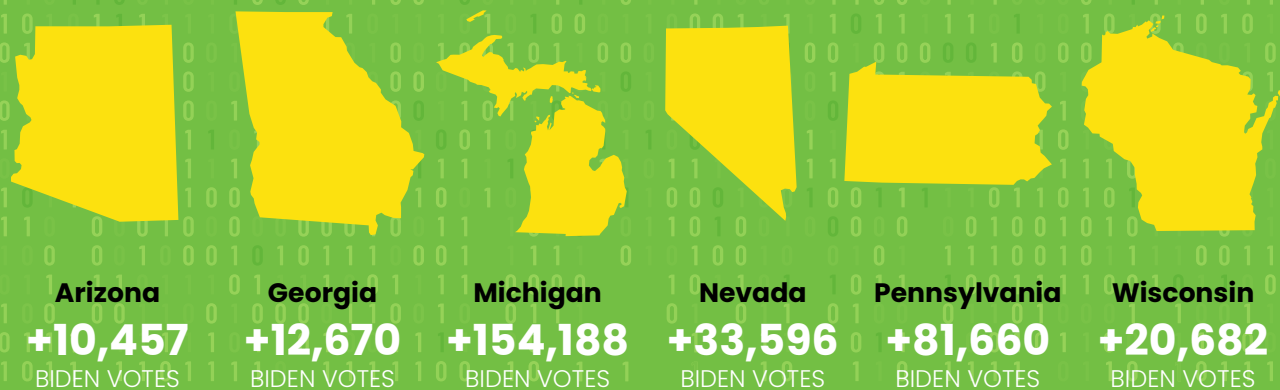
In the case of Big Tech's impact on the closest swing states, the kvetching is much more serious and existential: did online censorship from multinational companies prevent Republicans from getting their message out? Did it swing the election through an information-starved electorate, resulting in a Silicon Valley-contrived presidency? The final picture shows how the unchecked power of a few

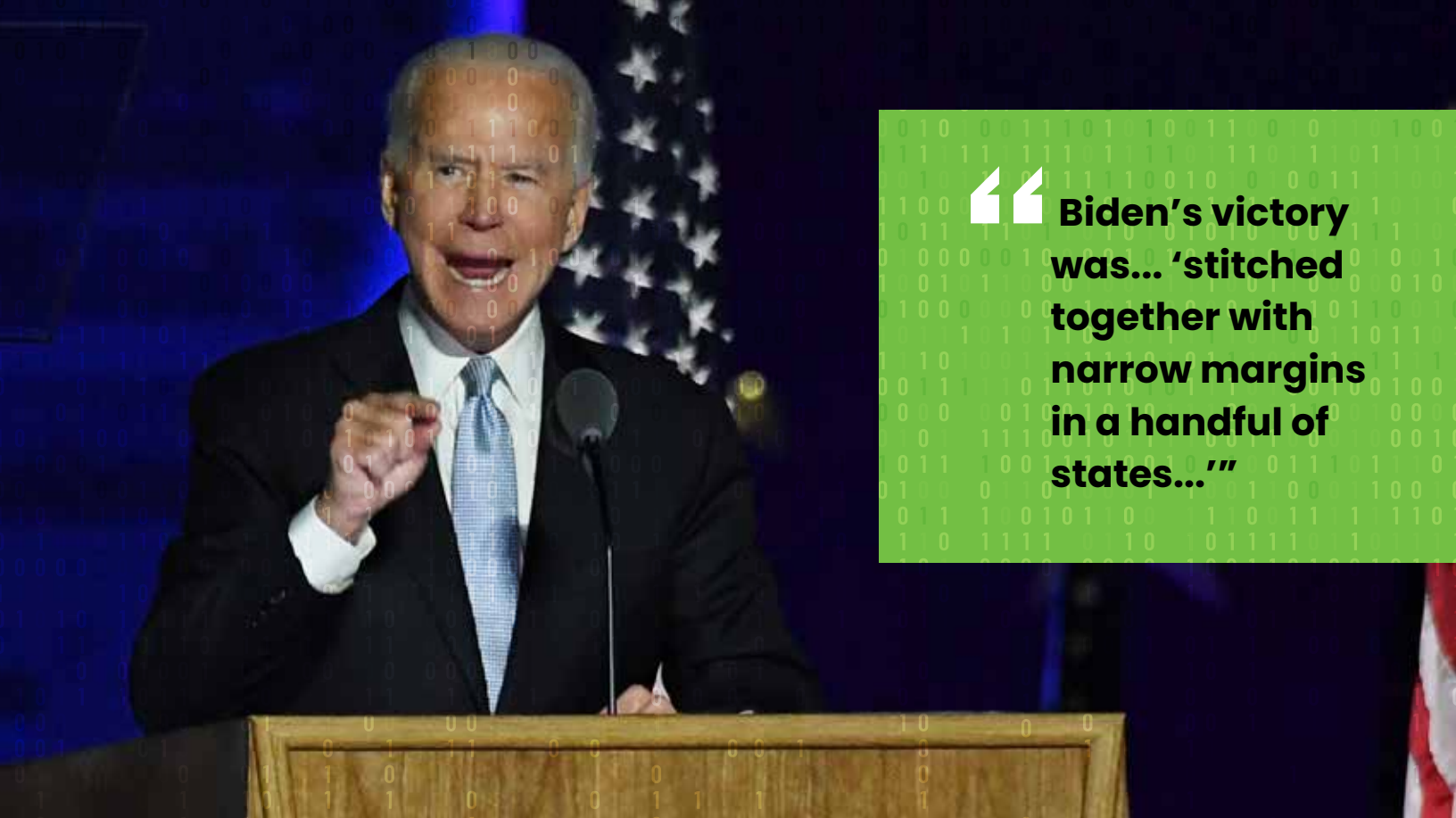
⁵ Frederick, "Combating Big Tech's Totalitarianism: A Road Map," n. 112.

⁶ Parshall, Craig and Schweppe, Jon, "Protecting Free Speech and Defending Kids: A Proposal to Amend Section 230," *American Principles Project*, June 2020, p. 3, <https://americanprinciplesproject.org/wp-content/uploads/2020/07/APP-Sec230-paper.pdf> (accessed March 21, 2022).

2020 ELECTION RESULTS

Biden's 2020 Narrow Victory





technology monopolies can restrict Americans' access to crucial information and how market-dominant tech powers can influence *and did influence* a national election.

It is beyond debate that Biden's victory was, as NPR noted, "stitched together with narrow margins in a handful of states," namely the six swing states of Arizona, Georgia, Michigan, Nevada, Pennsylvania and Wisconsin.⁷ Even more precisely, the difference in three of those states — Arizona, Georgia, and Wisconsin — was just 44,000 total votes. Had those states gone to Trump, the result would have been an electoral college tie, which almost assuredly would have led to Trump winning a second term.⁸ The

Constitution tasks the House of Representatives with determining the winner in the event of a tie, with each state delegation controlling one vote. And Republicans controlled a majority of state delegations.

The fact that a slim election victory could be reduced down to a few battleground states was conceded during the short-lived news cycle that actually focused on it. An opinion piece in *The Washington Post* summed it up with this headline: "Biden's margin in key states wouldn't fill the Rose Bowl."⁹ But those facts are not the end of this story. This report will show how a small handful of mammoth technology platforms, through a concerted effort in selectively

⁷ Jin, Connie Hanzhang and Swasey, Benjamin, "Narrow Wins In These Key States Powered Biden To The Presidency," *NPR*, December 2, 2020, <https://www.npr.org/2020/12/02/940689086/narrow-wins-in-these-key-states-powered-biden-to-the-presidency> (accessed March 18, 2022)

⁸ Jin and Swasey, "Narrow Wins In These Key States Powered Biden To The Presidency."

⁹ Byler, David and Peçanha, Sergio, "Biden's voter margin in key states wouldn't fill the Rose Bowl. That will affect how he governs," *The Washington Post*, updated November 23, 2020, <https://www.washingtonpost.com/opinions/2020/11/23/bidens-voter-margin-key-states-wouldnt-fill-rose-bowl-that-will-affect-how-he-governs/> (accessed March 18, 2022)

“ [K]eeping a free and open internet portal for political thought and relevant news is crucial for the future of our constitutional republic.”



stifling certain news stories, election information, and political opinion, became a prime mover in influencing votes in these three key states (at a minimum), resulting in a victory for Joe Biden and impacting the results for important congressional seats as well.

These facts have nothing to do with political partisanship. Nor is it a matter of “Monday morning quarterbacking” the last national election. It is about the necessity of America having a fully informed citizenry — and how that prospect now faces an existential threat from a small number of Silicon Valley monopolies. Certainly, we can all agree on one thing: keeping a free and open Internet portal for political thought and relevant news is crucial for the future of our constitutional republic. Unfortunately, that essential digital information portal is now under the grip of a few Big Tech companies that have engaged in a historic, one-sided suppression of election-related political news and opinion.

All three tech platforms that we examine here share a remarkably similar set of political values. We will demonstrate that fact by their censorship activities, their political donations, and the social and political positions they advance. Corporate values flow down from the top for these tech behemoths. The CEOs of the three Big Tech monopolies that influenced our last election — Sundar Pichai at Google (which also owns YouTube), Jack Dorsey at Twitter, and Mark Zuckerberg at Facebook — were leading companies with political values tilted almost exclusively toward one side of the political aisle, and certainly tilted against the American principle of free speech. This extreme level of bias matters a great deal when politically-motivated employees have total control over the on/off switch for America’s digital speech.

In the case of Zuckerberg, we saw a billionaire’s election influence extend beyond the “content moderation” decisions at his near-trillion dollar company. In Arizona, one of

the three key states pivotal to the presidential election that we study here, Zuckerberg poured millions of dollars into a middle-man organization for election-related “relief” to the state. That get-out-the-vote effort likely had an “influence on election outcomes in Arizona,” according to an analysis from the Foundation for Government Accountability.¹⁰ Notably, in the counties that Zuckerberg funded in 2020, Democrat turnout for Joe Biden increased between 36 and 48 percent over the Democrat turnout in those same counties during the 2016 election.

This suggests the possibility that the collective, one-sided election news suppression by this small group of tech monopolies, coupled with the one-directional political influence and funding effort by one of their owners, was part of a larger strategic campaign to target key battleground states. After all, it was well known during the 2020 campaign that the same six states that ultimately determined the outcome of the 2016 election would likely again determine the 2020 outcome — Donald J. Trump won in 2016 by just under a combined 80,000 votes in three of those six states.¹¹

YES, THESE ARE MONOPOLIES

If there were 20 Facebooks, 20 Twitters, and 20 Googles, it would be significantly less concerning if one of each decided to censor political content aggressively and attempt to use their platform to help the Democrats win an election. Perhaps it would be worth an FEC investigation, but it probably wouldn't merit an act of Congress.

But today we have just one Facebook, one Twitter, and one Google. And as we will demonstrate in this paper, each of these companies are dominant in their respective market. The fact that these are effectively monopolies with such a stranglehold over the digital public square is what makes Big Tech's election interference so dangerous.

In terms of actual ownership, as Supreme Court Justice Clarence Thomas has observed,¹² one man owns and controls Facebook and its several subsidiary platforms, and only two people control all of Google, Inc. (including its YouTube property). At Twitter, co-founder Jack Dorsey, who is worth approximately \$8.5 billion according to the Bloomberg Billionaires Index, was CEO until recently.¹³ Despite a change in leadership after Dorsey's retirement, Twitter actually seems to be *increasing* its appetite for censorship, initiating a new rule just after Dorsey's exit that now empowers it to delete any image at will any time it receives a complaint about the photo, a move that poses a serious threat to the future of a free press. Again, this would be less concerning

¹⁰ Carlsen, Trevor and Dublois, Hayden, “How ‘Zuckerbucks’ Infiltrated and Influenced the 2020 Arizona Election,” *Foundation for Government Accountability*, March 12, 2021, <https://thefga.org/wp-content/uploads/2021/03/Arizona-Zuckerbucks-brief-3-12-21.pdf> (accessed March 18, 2022).

¹¹ Jin and Swasey, “Narrow Wins In These Key States Powered Biden To The Presidency.”

¹² *Biden v. Knight First Amendment Institute of Columbia University, et al.*, 593 U. S. ____ (2021), cert. den., Thomas, J., concurring.

¹³ Bloomberg Billionaires Index, “# 283 Jack Dorsey,” Bloomberg Reporting, April 7th, 2022, <https://www.bloomberg.com/billionaires/profiles/jack-p-dorsey/#:~:text=Dorsey%20is%20co%2Dfounder%20of,of%20%2417.7%20billion%20in%202021>. (Accessed March 21st, 2022)

if Twitter were just one of many microblogging websites that had an outsized influence on our political system, but that's not the case.

The facts that we evaluate here may be uncomfortable to some, and will likely be strenuously, even tortuously misstated by some big media outlets and by partisan advocacy groups. But the facts cannot be ignored. Big Tech is powerful. Big Tech is biased.

Big Tech interfered. And Big Tech stole the 2020 election.

Yet, this paper goes beyond just a factual analysis. We will show exactly how and why Big Tech's massive election manipulation occurred in the 2020 campaign. We will also explain what should be done about it going forward. It is not an overstatement to conclude that the fate of our democracy hangs in the balance.



BIG TECH IS POWERFUL

It's hard to understand what happened during the 2020 campaign without fully grasping the sheer dominance exerted by Facebook (and Instagram), Twitter, and Google (and YouTube) over online news and information. As these companies continue to abuse their information monopoly power to shut down conservative political dialogue, it raises this harrowing question: is an “informed electorate” on its way to becoming extinct in America?

Justice Clarence Thomas has astutely addressed the market power of Big Tech companies and the threat they pose to free expression. When the Supreme Court denied certiorari in *Biden v. Knight First Amendment Institute of Columbia University, et al.*, Justice Thomas took the opportunity to analyze that issue in his concurrence.¹⁴ He noted the “enormous control over speech” exerted by Big Tech, and how this control over America’s online expression is a function of the market power of just a few tech companies. Additionally, Justice Thomas pointed out how that dilemma parallels those giant “common carriers” through history that have required regulatory and legislative oversight:

The analogy to common carriers is even clearer for digital platforms that have dominant market share. Similar to utilities, today’s dominant digital platforms derive much of their value from network size. The Internet, of course, is a network. But these digital platforms are networks within that network. The Facebook suite of apps is valuable largely because 3 billion people use it. Google search—at 90% of the market share—is

valuable relative to other search engines because more people use it, creating data that Google’s algorithm uses to refine and improve search results. These network effects entrench these companies. Ordinarily, the astronomical profit margins of these platforms—last year, Google brought in \$182.5 billion total, \$40.3 billion in net income—would induce new entrants into the market. That these companies have no comparable competitors highlights that the industries may have substantial barriers to entry.

As Justice Thomas also noted, unlike the Internet’s entire universe of sites and platforms writ large, the Facebook and Google platforms in particular are different: they have not only risen to a remarkable market dominance unique to the web, but they are also ruled over by just three people:

To be sure, much activity on the Internet derives value from network effects. But dominant digital platforms are different. Unlike decentralized digital spheres, such as the e-mail protocol, control of these networks is highly concentrated. Although both companies are public, one person controls Facebook (Mark Zuckerberg), and just two control Google (Larry Page and Sergey Brin).¹⁵

Such a stunning concentration of power over America’s digital data, information and opinion in the hands of so few should ring warning bells for all of us. But there are other kinds of harm as

¹⁴ *Biden v. Knight First Amendment Institute of Columbia University, et al.*, 593 U. S. ____ (2021), cert. den., Thomas, J., concurring.

¹⁵ *Biden v. Knight First Amendment Institute of Columbia University, et al.*

well, impairing the ability of our nation's electorate to be adequately informed.

Among the most potent civic injuries resulting from monopoly power of Big Tech companies like Facebook, Google and Twitter is the damage done to the news gathering and reporting business and traditional broadcast journalism. Silicon Valley's digital domination has imperiled the ability of traditional news groups to report the news and to sustain an audience. Traditional reporting, rather than providing an alternative and competing means of disseminating political information, is likewise being subsumed by the overwhelming influence of Big Tech.

The National Association of Broadcasters (NAB), America's largest media trade group that represents radio and television stations and networks, including the largest like ABC, CBS, and NBC, pulls no punches about Silicon Valley's negative impact on over-the-air and satellite coverage of news:

The overwhelming size and power of Big Tech giants, such as Google and Facebook, dwarf local TV and radio stations and threaten Americans' access to quality local journalism. Not only do they pose major threats to advertising revenue, but they are gatekeepers of online content, exerting power over what internet users access and how advertisers reach them. When Big Tech wins, local communities lose.¹⁶

The rise of massive online information platforms like the three we emphasize here — Facebook, Google, and Twitter — has propelled newspapers and magazines to rely on online

“Such a stunning concentration of power over America's digital data, information, and opinion in the hands of so few should ring warning bells for all of us.”

venues to distribute their content. But what happens when those tech platforms decide to shut down access to a newspaper that is trying to break salient news that might impact the race for U.S. President? Later in this paper we will explore the decision by Facebook and Twitter to shut down the New York Post in the waning weeks of the 2020 election, and how that impacted voting behavior.

This is, of course, just the tip of the iceberg. Every day a handful of online monopolies are making billions in ad dollars pursuing the business of trafficking in our third-party postings, tweets, videos and content, all the while deciding, with almost no accountability, what news will be distributed, and what news will be doomed to extinction through censorship. This presents a clear and present danger to a free and fully functioning press and an informed American public.

With this as a backdrop, we will next break down the market dominance of these companies. We will also illustrate how that dominance gives these three tech giants unparalleled leverage over the American political process.

¹⁶ “Preserving Local Journalism in the Age of Big Tech,” *National Association of Broadcasters*, March, 2021, <https://www.nab.org/advocacy/issue.asp?id=6016&issueid=1087> (accessed March 21, 2022).

FACEBOOK IS THE PRIMARY MARKETPLACE FOR NEWS

The dominance of Facebook, Twitter, and Google in the flow of information online is so obvious that it has become self-evident. But in case there is any doubt, here are some facts to bolster our claim.

In 2020, 72 percent of U.S. voting-age citizens were regularly using some form of social media, with 69 percent of Americans in that same group resorting to Facebook.¹⁷

In its January 12, 2021 report, Pew Research noted that about half of U.S. adults say they get news from social media “often” or “sometimes.”¹⁸

In a June 1, 2021 report, Pew Research noted that, among the tech giants, Facebook stands out as a leading provider of news. That platform serves as a news source for 36 percent of all Americans, while 11 percent reported regularly getting news from Facebook-owned Instagram. Regarding general usage of the Facebook platform, 77 percent of women use it regularly, as do 61 percent of all men.¹⁹

In the ultra-important mobile phone market, “Facebook utterly dominates in this area [of social media apps] holding the top four slots of monthly active users ... Amazon is fifth followed by Twitter ... Almost all Americans (97

percent) own a mobile phone and 96.3 percent own a smartphone. Only 4.1 percent own a non-smartphone mobile phone.”²⁰ The necessary corollary is that Facebook’s content censorship can influence (by omission) the vast majority of mobile phone users by restricting access to conservative political reporting on those mobile phones.

TWITTER’S OUTSIZED INFLUENCE ON NEWS REPORTING

Though smaller in sheer size than Google or Facebook, Twitter has developed a singular dominance among professional journalists and reporters, with 77 percent of them naming it as the absolute go-to platform to highlight their breaking news stories or to search for news subjects²¹, and with a 2021 study observing “a growing interdependence between journalists and Twitter” that actually shows a growing power to “shape journalism.”²²

This means that the media professionals who write America’s news headlines are almost exclusively communicating within the Twittersphere. Thus, when Twitter decides to block a story or ban a publication, the news from that banished source will likely die of oxygen deprivation before it ever reaches a broad audience.

¹⁷ Suci, Peter, “Social Media Could Determine The Outcome Of The 2020 Election,” *Forbes*, October 26, 2020, <https://www.forbes.com/sites/petersuci/2020/10/26/social-media-could-determine-the-outcome-of-the-2020-election/> (accessed March 21, 2022).

¹⁸ Mitchell, Amy and Shearer, Elisa, “News User Across Social Media Platforms in 2020,” *Pew Research*, January 12, 2021, <https://www.pewresearch.org/journalism/2021/01/12/news-use-across-social-media-platforms-in-2020/> (accessed March 21, 2022).

¹⁹ Gramlich, John, “10 facts about Americans and Facebook,” *Pew Research*, June 1, 2021, <https://www.pewresearch.org/fact-tank/2021/06/01/facts-about-americans-and-facebook/> (accessed March 21, 2022).

²⁰ Brown, Eileen, “We will spend 420 million years on social media in 2021,” *ZDNet*, February 18, 2021, <https://www.zdnet.com/article/we-will-spend-420-million-years-on-social-media-in-2021/> (accessed March 21, 2022).

²¹ Schneider, Mike, “The State of Journalism 2021,” *Muck Rack*, March 15, 2021, <https://muckrack.com/blog/2021/03/15/state-of-journalism-2021> (accessed March 21, 2022)

²² McGregor, Shannon C. and Molyneux, Logan, “Legitimizing a Platform: Evidence of Journalists’ Role in Transferring Authority to Twitter,” *Information, Communication & Society*, January 31, 2021, <https://www.tandfonline.com/doi/full/10.1080/1369118X.2021.1874037> (accessed March 21, 2022)

Although reluctant in the past to deal with Big Tech censorship, even the ACLU has named Twitter as one of the “big three” digital giants of concern in terms of its power of political content suppression, along with Facebook and Google.²³

GOOGLE’S MONOPOLY OVER THE PURSUIT OF INFORMATION

Depending on which source you use, Google possesses a market share of somewhere between 88 and 92 percent of all Internet searches,²⁴ and the Google homepage is one of the most visited pages on the entire Internet, second only to TikTok in 2021.²⁵ Yet how it determines its ultra-influential search result rankings is “completely opaque to users.”²⁶ When voters seek the news of the day about political candidates, they almost never make it past the first page of Google’s search rankings, relying almost exclusively on what Google has privately determined to be the most newsworthy and credible sources. According to

one recent study, just nine percent of Google searches result in a user scrolling to the bottom of the first page of search rankings, and less than one percent include a click to the second page.²⁷ Older studies found less dramatic but still daunting results – both Chitika Insights (2013)²⁸ and Moz (2014)²⁹ found that less than 9 percent of searches result in a click through to the second page.

Absent legislation from Congress that might allow private lawsuits against these tech giants that can force discovery, the public will never have conclusive information about the real scale of bias with which Google ranks, downranks, or blocks the news of the day on its mammoth platform. While politicians often focus on “content moderation” decisions from Facebook, Twitter, and Google’s property YouTube, scant attention is given to the power of Google’s search engine, which likely has an even greater net effect on shaping opinion and thus the results of our elections.

²³ The liberal civil liberties group refers this way to the political expression obligations of the tech trio of Facebook, Google and Twitter: “[f]or the *big three*, though, our view is that ... they should preserve as much political speech as possible, including content posted by candidates for political office.” (emphasis added) Eidelman, Vera and Ruane, Kate, “The Problem With Censoring Political Speech Online – Including Trump’s,” *ACLU*, June 15, 2021, <https://www.aclu.org/news/free-speech/the-problem-with-censoring-political-speech-online-including-trumps/> (accessed March 21, 2022).

²⁴ “Stat Counter,” *Global Stats*, March 2021–March 2022, <https://gs.statcounter.com/search-engine-market-share> (accessed March 21, 2022)

²⁵ Cardita, Sofia and Tomé, João, “In 2021, the Internet Went for TikTok, Space and Beyond,” *Cloudflare Blog*, December 20th, 2021, <https://blog.cloudflare.com/popular-domains-year-in-review-2021/> (accessed March 21st, 2022)

²⁶ Daley, Beth, “Upheaval at Google signals pushback against biased algorithms and unaccountable AI,” *The Conversation*, December 10, 2020, <https://theconversation.com/upheaval-at-google-signals-push-back-against-biased-algorithms-and-unaccountable-ai-151768> (accessed March 21, 2022)

²⁷ “Google User Behaviour Study,” *FrontPage Data and Backlinko*, August 18th, 2020, <https://frontpagedata.com/projects/backlinko/user-research/final> (accessed March 21, 2022)

²⁸ Lee, Jessica, “No. 1 Position in Google Gets 33% of Search Traffic [Study].” *Search Engine Watch*, June 20th, 2013, <https://www.searchenginewatch.com/2013/06/20/no-1-position-in-google-gets-33-of-search-traffic-study/> (accessed March 21st, 2022)

²⁹ Petrescu, Philip, “Google Organic Click-Through Rates in 2014.” *Moz*, October 1st, 2014, <https://moz.com/blog/google-organic-click-through-rates-in-2014>, (accessed March 21st, 2022)

FACEBOOK AND GOOGLE'S DUOPOLY OVER ONLINE ADVERTISING

In a 2018 statement, Rep. David Cicilline (D-R.I.) asserted:

"Nearly 3 out of every 4 Americans get news from platforms controlled by these two corporations ... capturing 83 percent of all digital ad revenue growth and 73 percent of total U.S. digital advertising."³⁰

Facebook and Google form a *duopoly* that exerts dominion over the digital advertising market. As a result, state attorney generals have now launched an antitrust lawsuit against the two tech titans alleging that they struck a "secret deal" among themselves to slice up their online advertising empire.³¹

To appreciate the impact this dual digital ad monopoly can have on election outcomes, we must understand both the size of their market dominance and their powerful tools that are likely to keep them in monopoly positions. These two digital platforms currently control more than 60 percent of all U.S. digital advertising (only slightly down from 2018), while also controlling 33 percent of all total U.S. advertising, which includes online as well as all non-digital traditional types. And these two companies are likely to maintain that domi-

nance in the near future. The key is their virtual 100 percent accuracy in user identification. That is the prize that every advertiser wants in order to target customers. Average advertisers are often willing to pay an extra 261 percent in ad fees in order to achieve "verified identity" of recipients compared to the use of cookies which creates an additional 90 percent ad cost premium for an advertising platform. Further, cookie-based ads tend to suffer from inaccuracy in their targeting error rate, unlike the lucrative identity-based system used by Facebook and Google.³²

By controlling the digital advertising market, Facebook and Google possess the power to swing elections, but only if, of course, two things are true: (1) if their market dominance and unsurpassed ad targeting accuracy is a highly desirable if not critical feature of political campaigns, and (2) if those two companies are biased in the way they pick which candidate and political party ads will be run, and which will be blocked.

On the first point, the importance of digital ads to political campaigns is beyond debate. An OpenSecrets Online Political Ad Spending portal shows roughly \$2 billion dollars spent on political ads on Facebook or Google over the 2020 and part of the 2018 cycle.³³ In the 2020 elections, Facebook and Google's YouTube occupied two of the top three direct sales digi-

³⁰ David Cicilline Press Release, "Cicilline Introduces Journalism Competition and Preservation Act," March 7, 2018, <https://cicilline.house.gov/press-release/cicilline-introduces-journalism-competition-and-preservation-act> (accessed March 21, 2022).

³¹ Zilber, Ariel, "Facebook and Google Accused of 'Secret Deal' to Carve Up Ad Empire," *New York Post*, January 14, 2022, <https://nypost.com/2022/01/14/facebook-and-google-accused-of-secret-deal-to-carve-up-ad-empire/> (accessed March 21, 2022).

³² Moore, David, J., "Identity crisis: Why Google and Facebook dominate digital advertising," *Digital Content Next*, May 19, 2020, <https://digitalcontentnext.org/blog/2020/05/19/identity-crisis-why-google-and-facebook-dominate-digital-advertising/> (March 21, 2022).

³³ "Online Political Ad Spending," *OpenSecrets*, <https://www.opensecrets.org/online-ads>, (accessed March 21, 2022). Note that Facebook's data starts January 1, 2020 while Google's starts in May of 2018. Data goes through January 2021.



“By controlling the digital advertising market, Facebook and Google possess the power to swing elections...”

tal advertising positions during the campaign despite their political content restrictions.³⁴ It is easy to see why technologically sophisticated ad placement and matching systems like Facebook Ads Manager and Google Adwords keep them in a dominant position as political advertising platforms.

As to the second point, we will provide ample proof later in this paper of Facebook and Google's bias, both intra-organizationally and in the manner in which they execute their content moderation practices.

Before the 2020 race, there was already smoke on the horizon regarding the powerful dominance of these three tech companies and their willingness to abuse their monopoly positions to lean America toward one political direction. The 2020 elections now show us the wildfire.

BIG TECH'S OLIGOPOLY OVER ONLINE SPEECH AND EXPRESSION

One of the most troubling developments with the rise of Facebook, Google and Twitter as major platforms for political news is the way in which they have coalesced together in a combined effort to suppress certain categories of information.

For instance, in 2020 they banded together under the guise of fighting “misinformation” and agreed to block any information about COVID-19, or COVID-19 treatment options, that deviated from the official government-endorsed narrative.³⁵ The result was a totalitarian suppression of certain medical data and analysis offered by licensed physicians, epidemiologists, and other scientists. In July 2020, Facebook, Twitter, and Google-owned YouTube contemporaneously instituted a lockstep ban

³⁴ Briscoe, Grace, “U.S. Elections Digital Advertising Trends: 2020 Dominated by Programmatic, CTV and Last-Minute Spending,” *Basis*, April 14, 2021, <https://basis.net/blog/2020-us-elections-digital-advertising-trends> (accessed March 21, 2022)

³⁵ Keown, Callum, “Facebook, Twitter, Google and other tech giants join forces to fight coronavirus fake news,” *MarketWatch*, March 17, 2020, <https://www.marketwatch.com/story/facebook-twitter-google-and-other-tech-giants-join-forces-to-fight-coronavirus-fake-news-2020-03-17> (accessed March 21, 2022)

of a medical press conference conducted by physicians who criticized the public information on COVID-19 coming out from the CDC and from various governors.³⁶

Then, in 2021, the joint censorship effort was expanded far beyond just COVID-19 content to include all content on their platforms. Those same three tech companies joined an even larger Big Tech conglomerate of Silicon Valley giants for the purpose of engineering a “best practices” agreement regarding content moderation in order to “identify, evaluate, and adjust for content ... risks.”³⁷ Their so-called “Digital Trust & Safety Partnership” seeks to create a “safer and more trustworthy internet” in order to prevent “harms associated with online content ...” Of course, if what they mean by eliminating “harms” refers to obscene content that should be removed from the web, or making sure digital platforms aren’t used as instruments for human trafficking, or the need to stop terrorist groups from using those platforms for recruiting or triggering attacks, who could argue with that?

Unfortunately, we think what they really mean is that their past pattern — i.e. blocking viewpoints and information that causes no real harm except to the sensibilities of tech leaders and the politicians they support — is about to become enlarged and institutionalized across all large Internet platforms.

No longer will this just be about Facebook, Google, and Twitter blocking comments about election irregularities or voter manipulation, or banning doctors who dissent from COVID orthodoxy. Rather, it likely represents a totalitarian code of conduct among the most influential digital companies on earth, collectively deciding (and in private) what they mean by “harm” and then banning that offending content from all meaningful presence on the Internet, with no accountability to the public.

This coalition of tech forces is not just limited to the handful of the largest market monopolies. It includes a much broader who’s who of digital companies as well. We are told that its purpose is to eradicate societal “harms” on the web. But the possibility that a digital oligarchy could wield control over all political speech seems too obvious to ignore.

To make matters worse, the lack of Big Tech transparency will almost certainly keep the inner workings of this coalition invisible to the American public. As Axios noted regarding this effort, “only third-party audits will be able to determine whether the companies are really successful in navigating content moderation issues” that will inevitably arise from such a collaboration.³⁸

But that isn’t likely to happen, and certainly not in a meaningful way. Other than Facebook’s credibility-eroded Oversight Board³⁹ that hears

³⁶ Grimes, Katy, “Facebook, Google/Youtube, Twitter Remove Doctors’ Coronavirus Press Conference,” *California Globe*, July 28, 2020, <https://californiaglobe.com/section-2/facebook-google-youtube-twitter-remove-doctors-coronavirus-press-conference/> (accessed March 21, 2022)

³⁷ “Best Practices,” *Digital Trust & Safety Partnership*, <https://dtspartnership.org/> (accessed March 21, 2022).


³⁸ McGill, Margaret Harding, “Tech giants list principles for handling harmful content,” *Axios*, February 18, 2021, <https://www.axios.com/tech-giants-list-principles-for-handling-harmful-content-5c9cfba9-05bc-49ad-846a-baf01abf5976.html> (accessed March 21, 2022).

³⁹ The failure of this “Oversight Board” approach is clear from the Board’s most notorious and skewed decision, ruling that Facebook lacked any authority to indefinitely ban Donald J. Trump, a sitting American President, yet refusing to order that he be reinstated, all under the dubious reasoning of — not American legal principles of free speech, which it refused to apply — but rather, obscure international law. Parshall, Craig, “Failed Expectations for Facebook’s Oversight Board,” *Newsweek*, May 10, 2021, <https://www.newsweek.com/failed-expectations-facebooks-oversight-board-opinion-1589631> (accessed March 21, 2022)

only a small fraction of that platform's controversial content take-down decisions, the other Big Tech companies have resisted outside audits of their practices. Google and its subsidiary, YouTube, have avoided transparency and refused any outside analysis of its content moderation practices.⁴⁰ Twitter appeared to reject the idea of convening a panel of outside experts to review the fairness of its content moderation practices.⁴¹

The negative effect resulting from each of the individual tech platforms censoring this content is amplified by the fact that they are all doing it in concert. The whole impact here is much greater than the sum of its parts. Because of the sizable overlap of the same users utilizing some or all of these three dominant online platforms, there is an even greater cumulative effect of users whose views are being influenced by the same opinions and sources across all three sites, or re-informed by the absence of the same opinions that are being blocked by all three platforms.

It is indisputable that there is a major overlap of users of Facebook, Twitter and Google. The 2021 State of Social Media Benchmark Report illustrates this. 87 percent of Twitter users also use Facebook, while 93 percent of them also use Google's YouTube.⁴² Because these companies share similar political values and engage in common content-suppressive

 **The negative effect resulting from each of the individual tech platforms censoring... is amplified by the fact that they are doing it in concert."**

practices, this overlap effect is significant in creating an echo chamber of similar information among the vast majority of those users and a uniform suppression of disfavored political information, occurring on all three tech platforms at the same time.

This is particularly dangerous to the free flow of online political opinion given the highly similar set of amorphous and poorly defined censorship criteria that is shared among these three tech companies — categories like election "misinformation," or "deceptive" content, or "hate speech." As a result, the "true diversity of political discourse" lauded in the text of Section 230 of the Communications Decency Act is being radically diminished, both in its online presence as well as in its distribution.

⁴⁰ Jones, Susan, "'So Sad.' Google Exec Refuses to Commit to Independent Audit of Its Moderation Practices," *CNSNews.com*, July 17, 2019, <https://www.cnsnews.com/news/article/susan-jones/so-sad-google-exec-refuses-commit-independent-audit-its-moderation> (accessed March 21, 2022).

⁴¹ Leetaru, Kalev, "Is Twitter Really Censoring Free Speech?," *Forbes*, January 12, 2018, <https://www.forbes.com/sites/kalevleetaru/2018/01/12/is-twitter-really-censoring-free-speech/> (accessed March 21, 2022).

⁴² Geyser, Werner, "The State of Social Media — Benchmark Report 2021," *Influencer MarketingHub*, November 25, 2021, <https://influencermarketinghub.com/social-media-benchmark-report-2021/> (accessed March 21, 2022).



BIG TECH IS BIASED

The evidence is undeniable that Silicon Valley giants are politically left-leaning and that they support woke progressives.

For starters, there is a disproportionate funding of Democrat campaigns by Big Tech companies in general, compared to the rather meager funding of Republican candidates. Staff from Silicon Valley tech companies overwhelmingly gave to Democrat campaigns in 2020, even more so than in 2016.⁴³ This gives additional credence to the admission by Facebook founder and CEO Mark Zuckerberg during his congressional testimony that Silicon Valley is “extremely left-leaning.”⁴⁴

According to a 2017 Stanford University study, this social and political world-view impacts a number of political issues, where its analysis shows “that technology entrepreneurs support liberal redistributive, social, and globalistic policies. However, they generally oppose regulation...”⁴⁵

One opinion piece published in the New York Times provides a comprehensive summary of the Stanford study:

“On matters of globalization, trade and immigration, this Silicon Valley constituency is firmly pro-globalization. Eighty seven percent support free trade agreements and 56 percent are “in favor of increasing levels of immigration,”

which is “15 points higher than Democratic” rank and file, the paper says.

On social issues, the authors found that “technology entrepreneurs are again very liberal,” including near universal (96 percent) support of same-sex marriage, 82 percent support of gun control and 67 percent opposition to the death penalty.

Perhaps most significant and most surprising, surveys of high tech executives conducted by Broockman and colleagues show that tech entrepreneurs “strongly support redistribution and taxation.” For example, Broockman et al. continue, “nearly all technology entrepreneurs support increasing taxes on those making over \$250,000 or \$1,000,000 per year” (with 76 and 83 percent expressing some support for each, respectively). ... Some 82 percent indicated “support for universal health care even if it means raising taxes.”⁴⁶

Next, we turn to the evidence of an entrenched woke progressive political bias within the structures of Facebook, Twitter and Google.

There is a sizable ideological gulf between Facebook’s citizen users and the internal political world-view of Facebook’s staff. Facebook’s leader has admitted it. In an internal meet-

⁴³ Fearnow, Benjamin, “Big Tech Employees Donate Overwhelmingly to 2020 Democrats,” *Newsweek*, July 4, 2020, <https://www.newsweek.com/big-tech-employees-donate-overwhelmingly-2020-democrats-1515430> (accessed March 21, 2022).

⁴⁴ Boylan, Dan, “Zuckerberg Admits Silicon Valley an ‘Extremely Left-Leaning Place,’” *Washington Times*, April 10, 2018, <https://www.washingtontimes.com/news/2018/apr/10/zuckerberg-admits-silicon-valley-extremely-left-le/> (accessed March 21, 2022)

⁴⁵ Broockman, David, Ferenstein, Greg F., and Malhotra, Neil, “Predispositions and the Political Behavior of American Economic Elites: Evidence from Technology Entrepreneurs,” *Stanford Graduate School of Business*, December 9, 2017, <https://www.gsb.stanford.edu/faculty-research/working-papers/predispositions-political-behavior-american-economic-elites-evidence> (accessed March 21, 2022)

⁴⁶ Edsall, Thomas B., “The Changing Shape of the Parties Is Changing Where They Get Their Money,” *The New York Times*, September 18, 2019, <https://www.nytimes.com/2019/09/18/opinion/trump-fundraising-donors.html> (accessed March 21, 2022).



“**There is a sizable ideological gulf between Facebook’s citizen users and the internal political world-view of Facebook’s staff. Facebook’s leader has admitted it.”**

ing, Mark Zuckerberg told his employees that Facebook’s user base “tends to be, on average, ideologically a little bit more conservative than our employee base.” Then in a flush of honesty, the founder and CEO had to add, “Maybe ‘a little’ is an understatement.”⁴⁷

The predictable outcome of that is an overly suppressive response from left-leaning Facebook content moderators when confronted with conservative user content it is their job to review. This is nothing new. As far back as 2016, ex-Facebook staffers were coming clean about anti-conservative bias. At the time, Gizmodo reported that “Facebook workers routinely suppressed news stories of interest to conservative readers from the social network’s influential ‘trending’ news section....”⁴⁸

Another indication of Facebook’s pandemic of woke progressive bias is the level of excitement inside Facebook, coming down from the top, regarding the opportunity to advance Biden administration agenda items. Though admitting on the one hand that Facebook already has “too much power,” Facebook’s CEO appears happy to use that power to advance the agenda of the Biden administration on several issues.⁴⁹

In virtual calls on January 21, 2021 that were leaked to the press, Zuckerberg said, “In his first day, President Biden has already issued a

⁴⁷ Newton, Casey, “Mark In The Middle,” *The Verge*, September 23, 2020, <https://www.theverge.com/c/21444203/facebook-leaked-audio-zuckerberg-trump-pandemic-blm> (accessed March 21, 2022).

⁴⁸ Nunez, Michael, “Former Facebook Workers: We Routinely Suppressed Conservative News,” *Gizmodo*, May 9, 2016, <https://gizmodo.com/former-facebook-workers-we-routinely-suppressed-conser-1775461006> (accessed March 21, 2022).

⁴⁹ The recent faux kerfuffle between President Biden who, in an utterance of magnificent misstatement, blamed Facebook for “killing” people by allowing Covid “misinformation” on that platform, with Zuckerberg tossing it right back at the Administration, does not disprove this. Cooperation can come from both sticks *and* carrots. The *stick* is, among other things, the Administration’s FTC suit against Facebook on antitrust grounds that is still pending, and the *carrot* may well be the kindred spirit desire of *both of those parties* to suppress even more non-PC speech that they both equally reject. Sullum, Jacob, “Biden’s Attempt to Rope Big Tech into More Censorship is Downright Sinister,” *New York Post*, July 20, 2021, <https://nypost.com/2021/07/20/bidens-attempt-to-rope-big-tech-into-censorship-is-downright-sinister/> (accessed March 21, 2022).

number of executive orders on areas that we as a company really care quite deeply about ... I think that these were all important and positive steps, and I am looking forward to opportunities where Facebook is going to be able to work together with this new administration on some of their top priorities ..."⁵⁰

The top staff picks at Facebook further reveal the company's political leanings. Facebook's "election integrity" official previously worked in Biden's V.P. office:

Atlantic Council senior fellow Anna Makanju's bio lists her as both a public policy and legal expert at Facebook "where she leads efforts to ensure election integrity on the platform" and a former special policy adviser for Europe and Eurasia to Biden. Facebook partnered with the Atlantic Council ahead of the 2018 election to "boost its election security efforts," the Washington Examiner reported.⁵¹

Political contributions mirror this. According to a report from the Internet Accountability Proj-

ect, the employees of Facebook and Twitter, along with the company's PACs, contributed more than \$5.5 million to Democrats in 2020, while contributing less than \$435,000 to Republicans.⁵² Notably, Facebook COO Sheryl Sandberg donated \$150,000 to a PAC supporting pro-choice female Democrat candidates,⁵³ while employees in the tech industry in general gave about 98 percent to Democrat candidates in 2020.⁵⁴

All of this should predictably result in favoritism to woke progressive politicians and platform users and unfair treatment of conservatives. And it does. During questioning in an October 2020 Senate hearing, the CEOs of both Facebook and Twitter were asked to name a single "high profile" progressive who had been censored on their platforms. Neither CEO could provide a name.⁵⁵

During his time as CEO, Jack Dorsey was surprisingly open about the anti-conservative culture within Twitter.

In an interview with NYU journalism professor Jay Rosen, Dorsey was asked why he had gone "public" with the fact that "people in Twitter are liberal or lean left." He confessed that

⁵⁰ Wulfsohn, Joseph A., "Zuckerberg, Top Facebook Execs Admit They Have 'Too Much Power,' Want to Help Biden Agenda, Leaked Video Shows," *Fox News*, February 1, 2021, <https://www.foxnews.com/media/facebook-zuckerberg-execs-admit-they-have-too-much-power-want-to-help-biden-agenda-leaked-video-shows> (accessed March 21, 2022).

⁵¹ Fordham, Evie, "Zuckerberg 'Not Aware' That Facebook Election Integrity Official Worked for Biden," *Fox News*, October 28, 2020, <https://www.foxbusiness.com/technology/facebook-election-integrity-biden-zuckerberg-anna-makanju> (accessed March 21, 2022).

⁵² Husebø, Wendell, "Exclusive — Report: Big Tech Employees Donated 12 Times More to Democrats than Republicans," *Breitbart*, April 1, 2021, <https://www.breitbart.com/politics/2021/04/01/exclusive-report-big-tech-employees-donated-12-times-more-to-democrats-than-republicans/> (accessed March 21st, 2022)

⁵³ Levy, Ari, "The Most Liberal and Conservative Tech Companies, Ranked by Employees' Political Donations," *CNBC*, July 2, 2020, <https://www.cnbc.com/2020/07/02/most-liberal-tech-companies-ranked-by-employee-donations.html> (accessed March 21, 2022)

⁵⁴ Levy, Ari, "Here's The Final Tally of Where Tech Billionaires Donated for The 2020 Election," *CNBC*, November 2nd, 2020, <https://www.cnbc.com/2020/11/02/tech-billionaire-2020-election-donations-final-tally.html> (accessed March 21, 2022)

⁵⁵ Flood, Brian, "Facebook, Twitter CEOs Struggle to Name a Single Liberal Who Has Been Censored on Their Platforms," *Fox News*, October 28, 2020, <https://www.foxnews.com/media/facebook-twitter-ceos-struggle-to-name-a-single-liberal-who-has-been-censored-on-their-platforms> (accessed March 21, 2022).

he wanted to “clarify what our own bias leans towards,” even going so far as to admit that conservatives inside Twitter “don’t feel safe to express their opinions at the company ... [T]hey do feel silenced ...”⁵⁶

The progressive bent of Dorsey’s own social world-view is also well-documented. Dorsey has donated \$3 million to Colin Kaepernick’s legal defense organization,⁵⁷ \$10 million to Ibram X. Kendi’s center (that proclaims the critical race theory line that America’s “racist policies” are “ubiquitous”),⁵⁸ and \$18 million to a California pilot program advocating a 2021 “social contract” for universal guaranteed income, something Dorsey tweeted that he hoped would “inform federal policy in the future.”⁵⁹

Remarkably, despite this openness about bias, Dorsey likes to avoid any admission that Twitter might influence the results of elections. As Axios reported, during his congressional testimony Dorsey argued that Twitter “does not influence elections because people have the choice of using other communications channels.”⁶⁰ This is a specious defense, of course, because among professional journalists who

write the headlines users actually read, Twitter controls (as of 2019) more than 80 percent of that discrete market, making it a breaking news distribution monopoly.⁶¹

But beyond that, Twitter itself has touted its own influence over previous elections. After the U.S. midterm elections in 2018, which flipped both houses of Congress to the Democrat side, Twitter boasted about its massive presence during the campaign:

The 2018 U.S. midterm elections were the most Tweeted-about midterm elections in history... [M]ore than 99 million Tweets occurred from the first primaries in March through Election Day.⁶²

If we recognize Twitter’s inherent political bias displayed in its content moderation, coupled with nearly 100 million election-related messages it distributed (i.e., the ones that it decided not to censor off its platform), this conclusion is irresistible: Twitter exercises an incredible amount of biased power over our democratic process.

⁵⁶ Kafka, Peter, “Twitter CEO Jack Dorsey Talked to NYU’s Jay Rosen for an Hour, on the Record. Read and Listen to the Full Interview Here,” *Vox*, September 14, 2018, <https://www.vox.com/2018/9/14/17857486/twitter-jack-dorsey-nyu-jay-rosen-bias-neutrality-presence-politics-recode-media-podcast> (accessed March 21, 2022).

⁵⁷ Schleifer, Theodore, “Jack Dorsey is Giving Millions to Colin Kaepernick’s Criminal Justice Group,” *Vox*, June 3, 2020, <https://www.vox.com/recode/2020/6/3/21279839/jack-dorsey-colin-kaeperick-police-george-floyd-tech-billionaires-philanthropy> (accessed March 21, 2022)

⁵⁸ Ward, Marguerite, “Twitter CEO Jack Dorsey Donates \$10 Million to Ibram X. Kendi’s Center on Antiracism at Boston University,” *Business Insider*, August 20, 2020, <https://www.businessinsider.com/jack-dorsey-donates-ibram-kendi-center-on-antiracism-boston-university-2020-8> (accessed March 21, 2022).

⁵⁹ Kim, Allen, “Twitter CEO Jack Dorsey Donated \$15 Million to Help Fund Program for Guaranteed Income to Residents in Need,” *CNN*, December 9, 2020, <https://www.cnn.com/2020/12/09/us/jack-dorsey-guaranteed-income-trnd/index.html> (accessed March 21, 2022).

⁶⁰ Gold, Ashley, “Jack Dorsey: Twitter Has No Influence Over Elections,” *Axios*, October 28, 2020, <https://www.axios.com/jack-dorsey-twitter-has-no-influence-over-elections-351bd1b6-3326-451b-9b19-4d2cf5c3deec.html> (accessed March 21, 2022).

⁶¹ Parikh, Tej, “By the Numbers: How Twitter Distorts the News,” *Unherd*, June 16, 2020, <https://unherd.com/the-post/by-the-numbers-how-twitter-distorts-the-news/> (accessed March 21, 2022).

⁶² Retrospective Review: Twitter, Inc. and the 2018 Midterm Elections in the United States,” *Twitter*, updated February 4, 2019, https://cdn.cms-twdigitalassets.com/content/dam/blog-twitter/official/en_us/company/2019/2018-retrospective-review.pdf (accessed March 21, 2022).

During the lead up to the 2020 election, we see the evidence of that biased power of Twitter in the way in which it responded to the demands from Joe Biden's campaign.

Biden's first demand was that Twitter and Facebook block Trump ads mentioning his Ukraine dealings during his stint as V.P. in the Obama administration. That demand from the Biden campaign came on October 9, 2019.⁶³ That was a full year before the New York Post would eventually piece together the Hunter Biden/Joe Biden/Ukraine connection from emails on Hunter Biden's laptop, a disclosure potentially devastating to the Biden campaign. Initially, Twitter resisted the demands from Biden's people, but that was short-lived. Three weeks later, Twitter banned all political ads.⁶⁴

Facebook, for its part, resisted aggressively. In a letter, Katie Harbath, Facebook's public policy director for global elections, defiantly wrote:

Our approach is grounded in Facebook's fundamental belief in free expression, respect for the democratic process, and the belief that, in mature democracies with a free press, political speech is already arguably the most scrutinized speech there is. Thus, when a politician

“After the U.S. midterm elections in 2018, which flipped both houses of Congress to the Democrat side, Twitter boasted about its massive presence during the campaign.”

speaks or makes an ad, we do not send it to third party fact checkers.⁶⁵

By June⁶⁶ and July⁶⁷ of 2020, the Biden camp was at it again. They demanded that Twitter and Facebook block Trump posts and tweets, and paid for a Facebook ad containing a petition-drive to try and pressure the platform into doing it. This time, the platforms acquiesced to the Biden camp's demands. In August, with the Republican National Convention just weeks away, both Twitter and Facebook jointly started blocking Trump posts and tweets about COVID-19 policies.⁶⁸

⁶³ Kelly, Makena, "Biden Campaign Wants Facebook and Twitter to Remove Misleading Trump Ads, Both Refuse," *The Verge*, October 10, 2019, <https://www.theverge.com/2019/10/10/20908923/facebook-twitter-joe-biden-campaign-misleading-donald-trump-ukraine-ad> (accessed March 21, 2022).

⁶⁴ Conger, Kate, "Twitter Will Ban All Political Ads CEO Jack Dorsey Says" *N.Y. Times*, October 20, 2020, <https://www.nytimes.com/2019/10/30/technology/twitter-political-ads-ban.html> (accessed March 21, 2022)

⁶⁵ Conger, Kate, "Twitter Will Ban All Political Ads CEO Jack Dorsey Says".

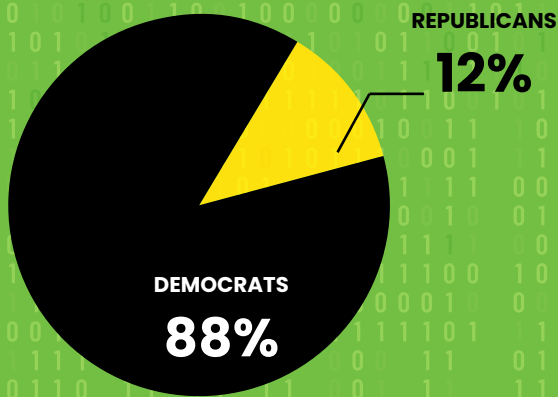
⁶⁶ Mucha, Sarah and O'Sullivan, Donie, "Biden Campaign Continues to Pressure Facebook and Twitter Over Trump's False Voter Fraud Claims," *CNN*, updated June 24, 2020, <https://www.cnn.com/2020/06/24/politics/biden-facebook-twitter/index.html> (accessed March 21, 2022)

⁶⁷ Amanda Seitz and Barbara Ortutay, "Twitter and Facebook become targets in Trump and Biden ads," *AP News*, July 26, 2020, <https://apnews.com/article/election-2020-ap-top-news-presidential-elections-technology-media-1bb971f88772b58490fd534c894b9680> (accessed March 21, 2022)

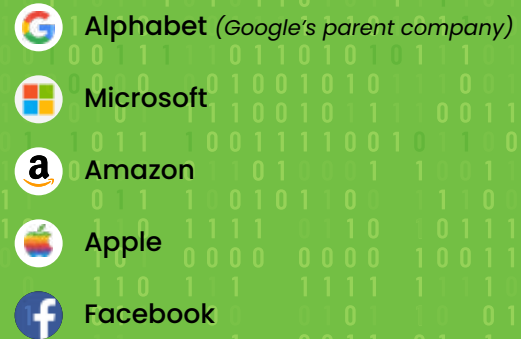
⁶⁸ Bond, Shannon, "Twitter, Facebook Remove Trump Post Over False Claim About Children and COVID-19," *NPR*, August 5, 2020, <https://www.npr.org/2020/08/05/899558311/facebook-removes-trump-post-over-false-claim-about-children-and-covid-19> (accessed March 21, 2022).

2020 ELECTION FINANCING

Alphabet employee campaign contributions by political party



Joe Biden's top campaign contributors among corporate employers



Then, a little more than two months later, the New York Post's October 14, 2020 blockbuster article came out in the early morning hours. It showed Joe Biden's son had arranged a meeting between a Ukrainian businessman and the then-Vice President, something that contradicted Biden's public statements minimizing his knowledge of his son's business, which naturally cast a new light on Biden's prior calls for Twitter to block the Trump tweets about Biden and Ukraine.

Hours later that same day, Twitter and Facebook did much more than honor the Biden demand to simply muzzle the Trump tweets and posts about Ukraine. The giant tech platforms in tandem scurried to deep-six the most politically damaging source of all dealing with the subject of Biden/Ukraine: they blocked the New York Post newspaper it-

self.⁶⁹ As we will explore later, this single act of censorship alone may have been enough to swing the election.

What do we know about the personal attitudes and opinions of Google's staff? A former Google engineer has provided an insight on Google's entrenched, but often hidden, opposition to Donald Trump. Kevin Cernekee has stated that Google leaders "really want Trump to lose in 2020. That's their agenda. They have very biased people running every level of the company. They have quite a bit of control over the political process. That's something we should really worry about."⁷⁰ Cernekee's argument is bolstered by a leaked video from a post-2016 election company-wide struggle session that showed Google co-founder Sergey Brin suggesting that the company consider promoting "better quality of governance

⁶⁹ For a detailed accounting of this stunning Twitter/Facebook censorship of the New York Post, see *infra* pages 38–43.

⁷⁰ Garcia, Victor, "Google wants Trump to lose in 2020, former engineer for tech giant says: 'That's their agenda,'" *Fox News*, August 3, 2019, <https://www.foxnews.com/media/fired-google-engineer-fears-company-will-try-and-influence-2020-election-they-really-want-trump-to-lose> (accessed March 21, 2022).

and decision-making” in the United States to help avoid a repeat of Trump’s victory.⁷¹

More evidence of anti-conservative bias comes from the systemic campaign contribution favoritism its staff shows toward Democratic political candidates. As of July 2020, employees at Alphabet, the parent company of Google (which also owns YouTube) had contributed 88 percent to Democrat candidates and only 12 percent to Republicans. Notably, the Democrat opponent to former Senate majority leader Mitch McConnell received more from Google donors than any other Senate candidate.⁷² By the end of the campaign, Alphabet employees were one of the top five sources of funds for the Biden campaign and joint fundraising committees among donors identifying corporate employers. The other four? Microsoft, Amazon, Apple, and Facebook.⁷³

These anti-conservative attitudes manifest themselves in Google’s methods of ranking, or down-ranking, articles on its search engine. Mathematician Leo Goldstein determined back in 2017 with a whopping 95 percent confidence rate that Google search rankings function “against conservative domains” and “in favor of left/liberal domains.”⁷⁴

The anecdotal evidence seems to back up Goldstein’s analysis. Conservatives began noticing in the weeks before the 2020 election that Breitbart, a highly-trafficked conservative news website, seemed to be suppressed in Google search results, even when searching for the exact headline.⁷⁵ And according to a report from RealClearPolitics, other conservative news websites like the Daily Caller and The Federalist experienced similar search suppression.⁷⁶

⁷¹ Bokhari, Allum, “Leaked Video: Google Leadership’s Dismayed Reaction to Trump Election,” *Breitbart*, September 12, 2018, <https://www.breitbart.com/tech/2018/09/12/leaked-video-google-leaderships-dismayed-reaction-to-trump-election/> (accessed March 21, 2022).

⁷² Levy, Ari, “The Most Liberal and Conservative Tech Companies, Ranked by Employees’ Political Donations,” *CNBC*, July 2, 2020, <https://www.cnbc.com/2020/07/02/most-liberal-tech-companies-ranked-by-employee-donations.html> (accessed March 21, 2022).

⁷³ Glazer, Emily and Mullins, Brody, “Big Tech Employees Opened Wallets for Biden Campaign,” *Fox Business*, February 20, 2021, <https://www.foxbusiness.com/money/big-tech-employees-opened-wallets-for-biden-campaign> (accessed March 21, 2022).

⁷⁴ Goldstein, Leo, “Google’s Search Bias Against Conservative News Sites Has Been Quantified,” *Watts Up With That?*, September 8, 2017, <https://wattsupwiththat.com/2017/09/08/a-method-of-google-search-bias-quantification-and-its-application-in-climate-debate-and-general-political-discourse/> (accessed March 21, 2022).

⁷⁵ Bokhari, Allum, “Election Interference: Google Suppresses Breitbart News in Search — Even With Exact Headline,” *Breitbart*, October 27, 2020, <https://www.breitbart.com/tech/2020/10/27/election-interference-google-suppresses-breitbart-news-in-search-even-with-exact-headline/> (accessed March 21, 2022).

⁷⁶ Lott, Maxim, “Google Pushes Conservative News Sites Far Down Search Lists,” *RealClearPolitics*, September 20, 2020, https://www.realclearpolitics.com/articles/2020/09/20/google_pushes_conservative_news_sites_far_down_search_lists_144246.html (accessed March 21, 2022).



BIG TECH INTERFERED

Credible voices across the globe have recognized that Big Tech companies not only possess the power to influence elections, but that they have also actively used that power to influence election outcomes.⁷⁷ Several states, recognizing the threat, have instituted their own legislative remedies against tech platforms.⁷⁸ These state efforts to defend the integrity of elections within their state borders against Big Tech interference have thus far been blocked by lower courts.⁷⁹

Anecdotes of various instances of tech censorship on Twitter and Facebook abound, and suspicions about algorithmic search rankings are easily tested by comparing results for politically charged terms on Google versus its so-called “competitors” (such as they are). A quick look at the Media Research Center’s “CensorTrack” database reveals hundreds of high profile acts of censorship against conservative elected officials, thought leaders, and even reporters.⁸⁰ But we don’t rest our opinions on anecdotal studies. Two different scholarly reports have concluded that Big Tech companies have skewed national election results.

In a Princeton study, more than 460 million tweets mentioning presidential candidates were examined along with their potential elec-

tion impact, including effects that Twitter had on the 2020 election. The conclusion in the report, *The Effect of Social Media on Elections: Evidence from the United States*, was that the Twitter platform “lowered the Republican vote share in the 2016 and 2020 presidential elections,” and more specifically, “Twitter’s relatively liberal content may have persuaded voters with moderate views to vote against Donald Trump.” It concluded that “[o]verall, our results are consistent with Twitter and its relatively pro-Democratic content persuading voters with moderate views to not vote for Trump ...”⁸¹

Another widely-read report published by Robert Epstein, a behavioral scientist with a Ph.D. in psychology from Harvard, suggested that Google may have swung 2.6 million votes to Hillary Clinton in 2016 due solely to its biased search results. And while that wasn’t enough in 2016 to stop a Trump win, Epstein suggests that the search giant later amped up its efforts in the intervening years before the 2020 election.⁸²

Even if one doubts the conclusions of these two studies, a sober analysis of the hundreds of anecdotal incidents of censorship—including the censorship of Republican-supporting super PACs just weeks before the election—would suggest a non-trivial likelihood that Big Tech

⁷⁷ Vou, Andreas, “How Facebook and Google Influence Electoral Processes and Why Algorithm Transparency Is Essential,” *Voxeurop*, December 15, 2020, <https://voxeurop.eu/en/how-facebook-and-google-influence-electoral-processes-and-why-transparency-is-essential/> (accessed March 21, 2022).

⁷⁸ Boyd, Jordan, “These 5 States Are Cracking Down On Big Tech Censorship And Overreach,” *The Federalist*, March 8, 2021, <https://thefederalist.com/2021/03/08/these-5-states-are-cracking-down-on-big-tech-censorship-and-overreach/> (accessed March 21, 2022).

⁷⁹ Those adverse court decisions are primarily because of section 230 of the Communications Decency Act, a gift of immunity from civil lawsuits granted to tech platforms by Congress back in 1996 in the early days of the World Wide Web. Later in this paper we suggest avenues to correct that.

⁸⁰ “CensorTrack,” *Media Research Center*, <https://censortrack.org/> (accessed March 21, 2022).

⁸¹ Fujiwara, Thomas, Müller, Karsten, and Schwarz, Carlo, “The Effect of Social Media on Elections: Evidence from the United States,” March 11, 2022, <https://www.princeton.edu/~fujiwara/papers/SocialMediaAndElections.pdf> (accessed March 21, 2022).

⁸² Why Google Poses a Serious Threat to Democracy, and How to End that Threat: Hearings before the United States Senate Judiciary Subcommittee on the Constitution Testimony, 116th Cong. 1-14 (2019) (testimony of Dr. Robert Epstein). <https://www.judiciary.senate.gov/imo/media/doc/Epstein%20Testimony.pdf> (accessed March 21, 2022).

censorship was influential enough to deliver the 44,000 votes needed in three states for Joe Biden to become president.

FACEBOOK'S PARTISAN "FACT-CHECKING" TILTED THE ELECTION

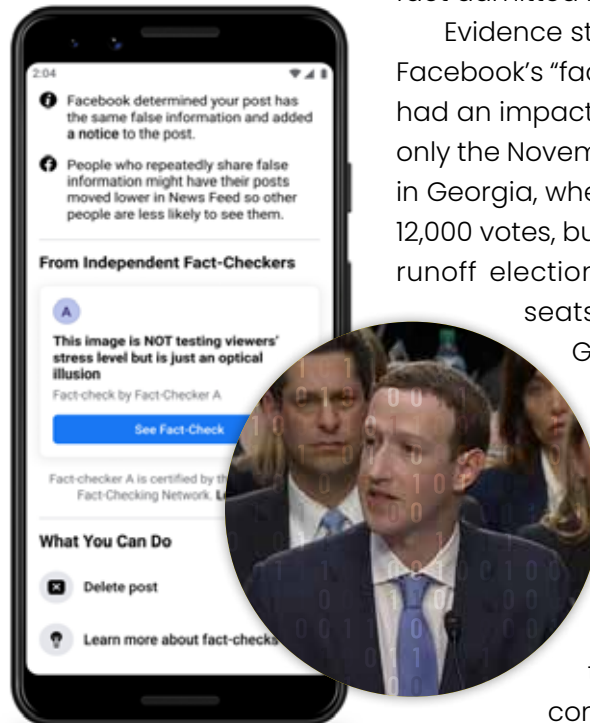
The so-called independent fact-checking system at Facebook⁸³, which places labels on posts deemed by those checkers to be false or misleading, and often results in the removal of those posts⁸⁴ and even the banning of the users who made them, is already known to be rampant with subjectivity, outrageous imprecision, and viewpoint suppression.⁸⁵

As an example, its reliance on a mainstream media fact-checker in Wisconsin to strike as "partly false" a headline that dared to suggest the self-evident fact that Planned Parenthood is in the "abortion business" — which resulted in

Facebook choking-off the reach of LifeNews⁸⁶, the offending pro-life website — is typical of this form of extreme and biased fact-checking abuse.⁸⁷ The suppressive effect of this social media fact-checking regime is heightened by the fact that when a post is deemed to be in violation of Facebook's vague rules, that post's reach is reduced online by up to 80 percent, a fact admitted by Facebook.⁸⁸

Evidence strongly suggests that Facebook's "fact-checking" process had an impact on the results of not only the November general election in Georgia, where Biden won by just 12,000 votes, but also the December runoff election where two Senate seats were up for grabs.

Given Georgia's outsized importance, it is likely that Facebook's one-sided suppression of political information likely helped to swing not only the presidency but control over the Senate.



⁸³ Tierney, John, "How Facebook Uses 'Fact-Checking' to Suppress Scientific Truth," *New York Post*, May 18, 2021, <https://nypost.com/2021/05/18/how-facebook-uses-fact-checking-to-suppress-scientific-truth/> (accessed March 21, 2022)

⁸⁴ Bokhari, Allum, "'Fact-Check Hoax': Facebook Relies on USA Today Intern to Falsely Fact-Check and Restrict Access to Breitbart Story," *Breitbart*, <https://www.breitbart.com/tech/2020/06/05/fact-check-hoax-facebook-relies-on-usa-today-intern-to-redefine-the-word-amnesty-for-breitbart/> (accessed March 21, 2022)

⁸⁵ Rutz, David, "Facebook Fact-Checking on Mask Article Was Flawed, Spread Misinformation: City Journal Writer," *Fox News*, May 19, 2021, <https://www.foxnews.com/media/facebook-fact-checking-procedures-are-flawed-spread-misinformation-manhattan-institute> (accessed March 21, 2022); ;

⁸⁶ Freiburger, Calvin, "Zuckerberg Admits There 'Clearly Was Bias' in Facebook 'Fact-Check' of Pro-Life Group," *Life Site News*, September 20, 2019, <https://www.lifesitenews.com/news/zuckerberg-admits-there-clearly-was-bias-in-facebook-fact-check-of-live-action/> (accessed March 21, 2022).

⁸⁷ DeSanctis, Alexandra, "Fact-Checker Denies That Planned Parenthood Is an Abortion Business," *National Review*, May 12, 2020, <https://www.nationalreview.com/corner/fact-checker-denies-that-planned-parent-hood-is-an-abortion-business/> (accessed March 21, 2022).

⁸⁸ Lu, Donna, "Facebook's Fact-Checking Process Is Too Opaque to Know If It's Working," *NewScientist*, July 29, 2019, <https://www.newscientist.com/article/2211634-facebook-fact-checking-process-is-too-opaque-to-know-if-its-working/> (accessed March 21, 2022).

This theory is bolstered by a review of Facebook's performance in the Georgia election conducted by activist "research" group Avaaz. Considering that group's left-ideological leanings, it is not surprising that it complained about Facebook not doing enough to suppress so-called political "misinformation" in the Georgia election, almost exclusively referring in that regard to Republican postings. Despite that, even Avaaz's campaigns director and social activist Fadi Quran admitted that Facebook's fact-checking process may have had an effect in Georgia's election, as his interview with Business Insider indicates:

Facebook could actually be making a difference here, Quran said, adding that the 82 posts Facebook did label [as "false" or "misleading"] saw their reach decrease by 80%.⁸⁹

According to Quran's Avaaz group, the 82 posts allegedly containing "false stories" that were choked-off from wide circulation by Facebook had originated from "President Donald Trump, Trump's campaign, [and] Tucker Carlson Tonight." The only non-conservative highlighted as being a purveyor of false online postings was former Star Trek actor George Takei.

The impact on voters of Facebook's substantial reduction of Republican-based political messaging in the Georgia race is corroborated by two other factors. One is the *implied truth effect* that is inherent in Facebook's flawed

fact-checking and labeling system that it applies to supposedly "false" or "misleading" posts.

Researchers at MIT have concluded that one of the downsides of social media fact-checking is the psychological effect it has on online readers. When they begin to see "false" or other negative labels placed by Facebook on some posts, readers are led to infer (though mistakenly) that all the other unlabeled posts that are not fact checked from other sources are therefore true and accurate.⁹⁰

In other words, when 82 posts, almost all of them from Republican sources, were labeled negatively, a percentage of readers would be inclined to believe that the unlabeled political postings, in this case posts from Democrat sources, were all accurate. As the MIT News Office explains:⁹¹

In the first place, stamping warnings on false stories does make people less likely to consider sharing them. For instance, with no labels being used at all, participants considered sharing 29.8 percent of false stories in the sample. That figure dropped to 16.1 percent of false stories that had a warning label attached.

However, the researchers also saw the implied truth effect take effect. Readers were willing to share 36.2 percent of the remaining false stories that did not have warning labels, up from 29.8 percent.

⁸⁹ Sonnemaker, Tyler, "Facebook Failed to Put Fact-Check Labels on 60% of the Most Viral Posts Containing Georgia Election Misinformation That Its Own Fact-Checkers Had Debunked, a New Report Says," *Business Insider*, December 4, 2020, <https://www.businessinsider.com/facebook-mislabeled-60-of-georgia-election-misinfo-posts-report-2020-12>

⁹⁰ Dizikes, Peter, "The Catch to Putting Warning Labels on Fake News," *MIT News*, March 2, 2020, <https://news.mit.edu/2020/warning-labels-fake-news-trustworthy-0303> (accessed March 21, 2022).

⁹¹ Dizikes, "The Catch to Putting Warning Labels on Fake News," (accessed March 21, 2022).

"We robustly observe this implied-truth effect, where if false content doesn't have a warning, people believe it more and say they would be more likely to share it," [David Rand, the Erwin H. Schell Professor at the MIT Sloan School of Management, and the study's co-author] notes.

In an extremely close race like Georgia's, there's no question this "implied truth" effect had a significant impact.

The entire "fact-checking" enterprise of Facebook and Twitter is of course self-contradictory. Most of the time it involves a reporter in the mainstream media cartel ignoring the discrete facts that are alleged in a post and instead focusing on the opinions of people that are inferred from facts that are often not even disputed. And that makes a big difference.

Surprisingly, Facebook's lawyers have actually admitted that its "fact" checking isn't really about facts anyway. Instead, they admitted in a defamation lawsuit brought against them last year that these fact checks are just "opinion."⁹² Now, under libel law, a false statement of fact disseminated to the public can result in liability, while "opinion" is generally protected from liability. And while Facebook understandably wants to avoid liability in that lawsuit, it can't have it both ways: either its fact-checking process is truly about facts (unlikely as that is), or it is about "opinions," particularly ones Facebook doesn't like, and in that case its "fact-checking" system is nothing more than an elaborate sham — and deliberate viewpoint suppression.

TWITTER'S "FACT CHECK" LABELS AND BIASED TRENDING TOPICS PAGES

Unfortunately, Twitter's fact-checking process is no better. There we see the tech giant slapping fact check labels on the tweets of hundreds of conservative elected officials and influencers. Twitter notoriously added a fact check label to President Trump's tweets on numerous occasions, while allowing Democrat politicians to avoid similar treatment. In addition to effectively serving as political advertising against Trump and other Republicans, these fact checks likely benefited Democrats with an implied truth effect, as the MIT study suggests.

In our research, we were not able to find a single documented incident of a Democrat elected official having received a fact-check label on one of their tweets. There is a reason for that. The Media Research Center has determined that Republicans in Congress are more than 50 times more likely to be suppressed by Big Tech than Democrats, with proven incidents of censorship against well-known Republican Members of Congress like Senator Rand Paul, Senator Ron Johnson, Representatives Jim Jordan, Jim Banks, and Marjorie Taylor Greene, and dozens of Republican candidates for various elected offices. As of September 2021, only one Democrat Member of Congress had been censored by Facebook — a decision which the company immediately apologized for and reversed within hours.⁹³

Even Twitter's former CEO Jack Dorsey had to confess that the permanent ban against President Trump was "destructive," admitting

⁹² Stossel, John, "Here's Where the 'Facts About Me Lie — Facebook Bizarrely Claims Its 'Fact-Checks' Are 'Opinion,'" *New York Post*, December 13, 2021, <https://nypost.com/2021/12/13/facebook-bizarrely-claims-its-misquote-is-opinion/> (accessed March 21, 2022).

⁹³ Schemmel, Alec, "53-to-1: Big Tech Censors GOP Members of Congress Tons More than Democrats," *Free Speech America*, September 21, 2021, <https://www.newsbusters.org/blogs/free-speech/alec-schemmel/2021/09/21/53-1-big-tech-censors-gop-members-congress-tons-more> (accessed March 21, 2022).

that it was “a precedent I feel is dangerous: the power an individual or corporation has over a part of the global public conversation.”⁹⁴

Many conservatives have expressed concerns that the “trending topic” feature of Twitter also reinforces these biased content censorship practices. President Trump complained in a July 2020 tweet that Twitter used this feature in a biased way to help his opponent:⁹⁵

“So disgusting to watch Twitter’s so-called ‘Trending’, where sooo many trends are about me, and never a good one. They look for anything they can find, make it as bad as possible, and blow it up, trying to make it trend. Really ridiculous, illegal, and, of course, very unfair!”

A biased trending topic section would likely have an impact on the views of Twitter users. According to Pew Research, the majority of Twitter users report “regularly” getting their news there, a higher proportion of users than for any other social media site polled.⁹⁶ Around seventy percent of Twitter users report using the platform to follow live news events.⁹⁷ If users rely on Twitter’s trending topics for news, and trending topics are biased, these users would get not an objective, unbiased top list of the

“ Even Twitter’s former CEO Jack Dorsey had to confess that the permanent ban against President Trump was ‘destructive,’ admitting that it was a ‘precedent I feel is dangerous...’ ”

trending news stories of the day, but a skewed, hyper-partisan selection. More research is needed to confirm the numerous anecdotal stories of bias in Twitter’s trending topics.

But we don’t need more research to understand that Twitter employs a vicious system of selective news amplification as well as news censorship. This is even more dangerous during a political cycle, when Twitter becomes the news trough from which many voters are drinking without even knowing that the water is tainted.

Big Tech can make a powerful difference in elections when these platforms silo voters away from valuable information on where the candidates stand on the issues. The following case study is a stunning example of that.

⁹⁴ Van Dyke, Tyler, “Twitter CEO Jack Dorsey Warns of ‘Destructive’ Consequences from Trump Social Media Bans,” *Washington Examiner*, January 14, 2021, <https://www.washingtonexaminer.com/news/twitter-jack-dorsey-warns-destructive-consequences-social-media-bans> (accessed March 21, 2022).

⁹⁵ Sonnemaker, Tyler, “President Trump Suggested that Twitter’s Trending Topics Are ‘Illegal’ Because They Make Him Look Bad,” *Insider*, July 27, 2020, <https://www.businessinsider.com/trump-twitter-trending-topics-are-illegal-and-unfair-2020-7> (accessed March 21, 2022)

⁹⁶ Matsa, Katerina Eva and Walker, Mason, “News Consumption Across Social Media in 2021,” *Pew Research Center*, September 20, 2021, <https://www.pewresearch.org/journalism/2021/09/20/news-consumption-across-social-media-in-2021/>

⁹⁷ Mitchell, Amy, Shearer, Elisa, and Stocking, Galen, “News on Twitter: Consumed by Most Users and Trusted by Many,” *Pew Research Center*, November 15, 2021, <https://www.pewresearch.org/journalism/2021/11/15/news-on-twitter-consumed-by-most-users-and-trusted-by-many/> (accessed March 21, 2022).

FACEBOOK BLOCKS A CONSERVATIVE PAC IN MICHIGAN: A CASE STUDY

There are plenty of examples of Facebook blocking conservative organizations from messaging during the 2020 election. Censor-Track.org has documented a number of them, including incidents against the Susan B. Anthony List, LiveAction, Heritage Action, and even against the Trump campaign itself.

But one of the more dramatic and audacious episodes of suppression of an election issue by Big Tech took place in the battleground state of Michigan. There, both the presidential race and the critical U.S. Senate race between Democrat Gary Peters and Republican John James were very close. One issue could have changed the trajectory of the race and very well have made the difference in the outcome—but Facebook made sure that didn't happen.

In the weeks before Election Day, Facebook killed an ad from the affiliated PAC of the American Principles Project (APP) that was specifically focused on Michigan voters. The suppressed ad had criticized a specific position supported by the U.S. Senate incumbent, Democrat Gary Peters, as well as presidential candidate Joe Biden—that men, or “transgender women,” should be allowed to compete in women's sports.

After presumably being tipped off by left-wing activists, Facebook weaponized its notorious and widely criticized fact-checking system

in an attempt to stop the reach of the APP PAC ad. Facebook has publicly stated that it delegates to its fact-checking “partners” full authority to levy strikes against posts on the Facebook platform determined to be misleading or false by fact-checkers, which then results in Facebook automatically restricting the reach of such content up to 80 percent.⁹⁸ In reality, Facebook has arbitrarily used its own judgment to selectively override the determinations of its agent fact-checkers whenever it desires to do so.^{99 100}

The stunning censorship incident that impacted Michigan voters occurred in early September 2020 when APP PAC published an ad, which it targeted to Michigan voters, with an embedded video. The heading was, “Sen. Gary Peters and Joe Biden support legislation that would destroy women's sports. They call it Equality.” Facebook decided to block the ad based on a dubious fact-check levied by its fact-checking agent, PolitiFact.¹⁰¹

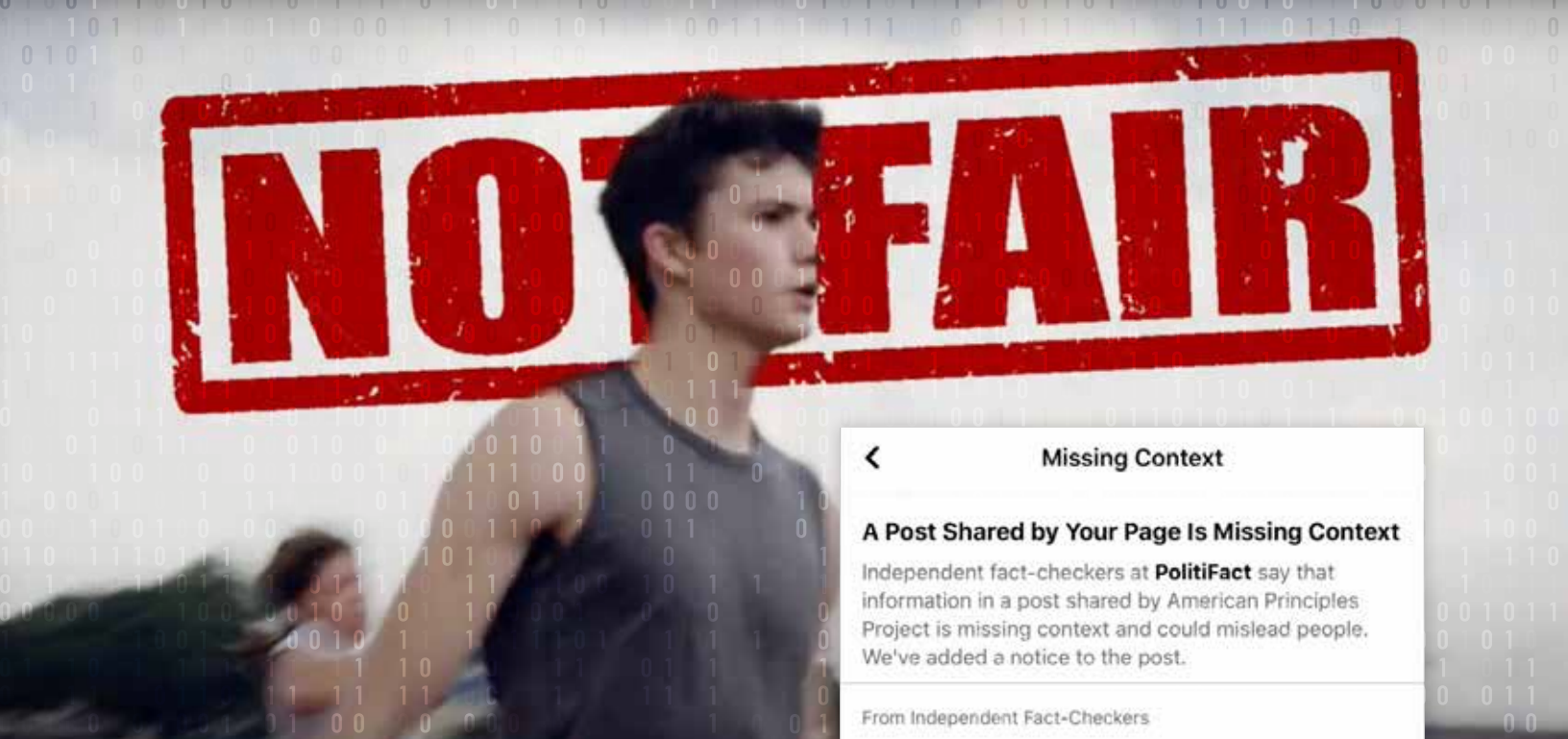
The video in the ad portrayed a girls' track competition. During the race, the words “Equality Act” overlaid on the video. The voice-over in the background attacked the inherent unfairness of mandating that males who identify as transgender females should be entitled to participate against authentic females in competitive sports. The PAC argued that it would have a damaging effect on women's sports. Democrats Peters and Biden were described as supporting Equality Act legislation that would cre-

⁹⁸ “Lu, Donna, “Facebook's Fact-Checking Process Is Too Opaque to Know if It's Working,” *New Scientist*, July 29, 2019, <https://www.newscientist.com/article/2211634-facebook-fact-checking-process-is-too-opaque-to-know-if-its-working/> (accessed March 21, 2022).

⁹⁹ Pasternack, Alex, “How Facebook Pressures Its Fact-Checkers,” *Fast Company*, August 20, 2020, <https://www.fastcompany.com/90538655/facebook-is-quietly-pressuring-its-independent-fact-checkers-to-change-their-rulings> (accessed March 21, 2022)

¹⁰⁰ Cox, Kate, “Facebook Overrides Fact-Checks When Climate Science Is ‘Opinion,’” *Ars Technica*, July 20, 2020, <https://arstechnica.com/tech-policy/2020/07/facebook-overrides-fact-checks-when-climate-science-is-opinion/> (accessed March 21, 2022).

¹⁰¹ Hendrickson, Clara, “Ad Watch: Conservative PAC Claims Gary Peters Would ‘Destroy Girls’ Sports,” *PolitiFact*, September 15, 2020, <https://www.politifact.com/article/2020/sep/15/ad-watch-peters-supports-ending-discrimination-bas/> (accessed March 21, 2022).



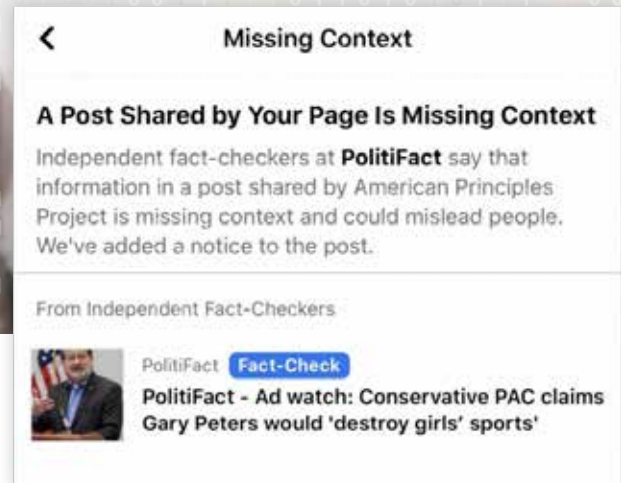
▲ APP's censored Equality Act ad

ate that result.¹⁰² At the bottom of the Facebook post, the PAC wrote: “Biden and Peters would destroy girls’ sports.”

PolitiFact admitted in its fact-check that the Equality Act cited in the Facebook ad was “a sweeping LGBTQ civil rights bill” and that it would, if passed, mandate that men identifying as women could compete against authentic women. The Facebook fact-checker further substantiated Democrat support for it, noting in its article that Senator Gary Peters was a co-sponsor of the bill and that “Joe Biden also supports the bill.”

Okay, so fact check: true? Not so fast. Although the PolitFact piece quoted Senator Peters’ campaign manager who accused the APP ad of attempting to “mislead” voters, *PolitiFact never explicitly accused the ad of that, nor of peddling any false information.*

The sticking point to PolitFact, apparently affirmed by its paymaster Facebook, was that the ad supposedly mischaracterized the pre-



cise degree of damage that would result to women’s sports, a hair-splitting approach absurd in its sophistry. Even more bizarre, the question of whether the Peters/Biden-supported Equality Act would, as the APP PAC Facebook ad said, literally “end” women’s sports, was, according to Facebook’s fact-checker, “a prediction we can’t fact-check.” Conclusion: a reasonable reader will find no actual charge by PolitFact of “misinformation” or false statement regarding the ad. Facebook’s excuse for its blatant censorship were the mere *opinions* of a fact-checker who, ironically, wrote that the main premise of the ad was incapable of actually being fact-checked.

Bottom line: Facebook’s fact-checking agent PolitiFact argued a one-sided Silicon Valley party line about an LGBTQ issue, one that Facebook was more than happy to use as it

¹⁰² “Biden and Peters Would Destroy Girls’ Sports,” Facebook video, posted by the American Principles Project PAC, September 3, 2020, <https://www.facebook.com/AmericanPrinciplesProject/videos/761179321327845/?refsrc=deprecated>

“...[M]ore than 300,000 Michigan voters on Facebook were unable to view the ad.”

halted the spread of the APP PAC ad in a close Michigan election..

The facts supported the validity of the APP ad at the time, and they certainly support it today. The key issue in the ad — the detrimental impact to women’s sports by mandating men who *identify* as women be allowed to compete against authentic women — is well-established. Most recently, University of Pennsylvania swimmer Lia Thomas, a male who identifies as a transgender woman, has set a number of records and even won a Division I national title in women’s swimming.

After suppression of the ad, APP filed a complaint with the Federal Election Commission (FEC) submitting that Facebook’s outrageous censorship constituted an illegal in-kind donation to the Democratic Party and to candidates Peters and Biden.¹⁰³ The complaint recited the evidence supporting the damaging effect to women’s sports under the Equality Act position supported by Peters and Biden. For instance,

... a report released by Duke Law School, co-authored by law professor Doriane Lambelet Coleman on the immutable differences in overall performance be-

tween biological males and biological females. In fact, Coleman is an expert on the policy aspects of the subject issue, and also co-authored a 2020 law review article in the *Duke Journal of Gender Law & Policy* along with Michael Joyner, professor at Mayo Clinic of Medicine and Donna Lopiano, adjunct professor of Sports Management at South Connecticut State University — a work easily accessible on a Google search of Coleman’s name and expertise — that concludes that the debate about the unchangeable performance gap between biological males and biological females “has long since been resolved;” that the sizable sports performance advantage that biological males have over females has been proven “across the board, at both elite and non-elite levels of almost all standard sports and events,” and that:

... for both biological and legal reasons, unless society is prepared to forego the benefits that flow from girls’ and women’s sport, the classification [between male and female athletes] must continue to be based on sex, or at least on reproductive sex-linked traits.¹⁰⁴

APP PAC’s social media consultant in the Michigan Facebook ad campaign calculated that, after Facebook’s fact-check restriction was imposed, more than 300,000 Michigan voters on Facebook were unable to view the ad.¹⁰⁵

¹⁰³ American Principles Project/American Principles Project PAC to the Federal Election Commission, November 17, 2020, (Complaint), <https://americanprinciplesproject.org/wp-content/uploads/2020/11/APP-FEC-Complaint-111720.pdf> (accessed March 21, 2022).

¹⁰⁴ Coleman, Doriane Lambelet, Joyner, Michael J., and Lopiano, Donna, “Re-Affirming the Value of the Sports Exception to Title IX’s General Non-Discrimination Rule,” *Duke Journal of Gender Law & Policy* Vol. 27:69, 2020, P. 82, 100, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1348&context=djglp>.

¹⁰⁵ American Principles Project/American Principles Project PAC to the Federal Election Commission, par. 9.

In that state, preserving competitiveness of women's sports was a key issue among voters, with news media in Michigan covering the general controversy over men competing against women from 2016 until the 2020 election, though largely ignoring any focus on the impact to Democrats for supporting the idea.

Facebook's censorship of the APP PAC ad undoubtedly had an impact on the election outcome in Michigan. APP PAC commissioned a survey of likely voters in Michigan that was performed by SPRY Strategies from July 11—July 16, 2020.¹⁰⁶ The survey showed Michigan voters to be overwhelmingly opposed to the idea of transgender rights in athletics. Over 77 percent responded that "boys and men who say they identify as transgender [should not] be allowed to compete in girls and women's athletics"; only 22 percent responded that they should be allowed. Thus, more than three quarters of Michigan voters rejected a major social and legislative position advocated by both Democrat Senator Peters and candidate Joe Biden.

As a letter to the editor in a Michigan newspaper explained, there was a bipartisan rejection for the idea that males who identify as females should be allowed to compete in women's sports:

These numbers do break the responses down by party, and we learn that 95% of Republicans, 78% of independents,

and even 62% of Democrats said they opposed letting male transgender athletes unfairly compete against girls and potentially rob them of a chance to win medals and scholarships.¹⁰⁷

Nationwide, a majority of Americans have opposed mandates that would allow male athletes to compete against authentic females. A recent Gallup poll indicates that 62 percent of Americans align with the APP position in the ad that was censored by Facebook.¹⁰⁸

Unfortunately, because of Facebook's suppressive conduct, 300,000 Michigan voters were deprived of APP's clear election ad statement that the Democrat incumbent for Senate and the Democrat candidate for president both supported a position that most Michigan voters strongly opposed.

This issue continues to be a popular club for Big Tech to use against Republican candidates. In February of this year, Twitter blocked the personal account of Rep. Vicky Hartzler, who is running for U.S. Senate in Missouri, because she criticized the idea of men competing in women's sports.¹⁰⁹

EMAIL DISPROPORTIONATELY FILTERS OUT REPUBLICAN EMAILS

In April of 2022, researchers from North Carolina State University reported that during the 2020 election season, Google Gmail's spam filters

¹⁰⁶ The APP PAC/SPRY Strategies survey was conducted among a random sampling of 700 likely voters with a margin of error of +/- 3.7%. "APP.Michigan.GeneralElection RND1.7.8.20," *Spry Strategies*, July 11, 2020–July 16, 2020, <https://americanprinciplesproject.org/wp-content/uploads/2020/07/APP.PAC.Michigan.GeneralElection.pdf>

¹⁰⁷ Jennings, Carolyn, "Reader Questions Where Schulz Stands Regarding Transgender Athletes," *Midland Daily News*, October 28, 2020, <https://www.ourmidland.com/opinion/letters/article/Reader-questions-where-Schulz-stands-regarding-15666808.php> (accessed March 21, 2022).

¹⁰⁸ McCarthy, Justin, "Mixed Views Among Americans on Transgender Issues," *Gallup*, May 26, 2021, <https://news.gallup.com/poll/350174/mixed-views-among-americans-transgender-issues.aspx>. (accessed March 21, 2022)

¹⁰⁹ Associated Press, "Twitter Suspends US Senate Candidate for Hateful Conduct," *AP News*, March 1, 2022, <https://apnews.com/article/2022-midterm-elections-roy-blunt-missouri-vicky-hartzler-6ec63bc2a710e1c6baf2d32fa102b6a7> (accessed March 21, 2022).

had been significantly more likely to filter out emails from Republican candidates than from Democratic ones.

The disparity was significant. While competitors Yahoo and Microsoft's Outlook had been moderately more likely to flag Democratic emails (14 percent and 20 percent more likely, respectively), Gmail was more than 50 percent more likely to filter Republican emails. As Axios noted, "[e]mail forms a huge and growing part of both parties' fundraising operations. Any disparity in the messages making it into recipients' inboxes can have huge effects on message dissemination and fundraising during the crucial months leading up to an election." Gmail, the story adds, is "the nation's most popular email service."¹¹⁰

FACEBOOK DISABLED GOP FUNDRAISING SITE RIGHT BEFORE THE ELECTION

The use of social media is a must for the political survival of any candidate, whether it is for candidate advocacy or for candidate fundraising.

In the crucial days leading up to the Georgia run-off election, Facebook shut down the fundraising Facebook site for the two Republican candidates for U.S. Senate, a crushing blow considering the significant effect social media has on campaign fundraising.¹¹¹ The explanation from Facebook on this Georgia incident was that the page was taken down "for policy violation," in other words, promotion involving "deceptive or misleading practices," including

alleged attempts "to mislead or scam people out of money."¹¹²

That was four days before the run-off election. Then, later, came the apology. A Facebook spokesperson admitted that it was a mistake, describing it as an "automated error" that caused the Republican site to be totally disabled. Our research found that no similar actions and no similar "mistakes" were made by Facebook against any Georgia Democrat's fundraising site.

BIG TECH'S UNPRECEDENTED MASS CENSORSHIP OF THE NEW YORK POST STORY

Joe Biden captured the electoral votes for the presidency by winning Wisconsin, Georgia and Arizona, but in each case by only razor-thin margins. One incident illustrates how that result could well have been different had it not been for an unprecedented act of duopoly news suppression committed by both Facebook and Twitter on an extremely damaging news item to the Biden campaign.

On October 14, the New York Post published two in its series of articles about the business ventures of Joe Biden's son, Hunter. These stories contained the most telling evidence to date suggesting that during Joe Biden's vice presidency, access to his office and his influence as second in command to President Obama may have been financially leveraged by his son through his international business connections.

¹¹⁰ Markay, Lachlan, "Gmail filters more likely to weed out GOP emails," *Axios*, April 10, 2022, <https://www.axios.com/gmail-filters-more-likely-to-weed-out-gop-emails-458febcl-7a8e-4394-8965-c7b277b1ab36.html> (accessed April 12, 2022).

¹¹¹ Knowledge at Wharton Staff, "How Social Media Is Shaping Political Campaigns," *Knowledge at Wharton*, August 17, 2020, <https://knowledge.wharton.upenn.edu/article/how-social-media-is-shaping-political-campaigns/> (accessed March 21, 2022)

¹¹² Lancaster, Jordan, "Facebook Shuts Down Ad Account For Republican Fundraising Committee 4 Days Before Georgia Runoffs," *Daily Caller*, January 1, 2021, <https://dailycaller.com/2021/01/01/facebook-shuts-down-ad-account-republican-fundraising-committee-days-before-georgia-runoffs/> (accessed March 21, 2022)

Even more importantly to voters making a decision about the 2020 election, the New York Post piece raised serious questions about the truthfulness of candidate Joe Biden. After all, candidate Biden insisted that he knew very little about his son's business dealings.¹¹³ Michael Goodwin, a columnist at the New York Post and a Fox News contributor, independently reviewed the reported evidence of meetings being set up with V.P. Biden and his son's foreign contacts, and went so far as to call Biden's disavowal of knowledge an outright "lie."¹¹⁴

By all accounts, the revelations in the New York Post articles were having a negative impact on the Biden campaign. During the ongoing New York Post series on the Hunter Biden/ Joe Biden story, election tracking polls covering October 12–October 15 showed that Joe Biden's polling numbers in a head-to-head matchup had declined by nearly 3 points.¹¹⁵

Then came a pair of blockbuster New York Post stories on October 14. They were published around sunrise at 5 a.m. on that day. The headlines were devastating: "Hunter Biden emails show leveraging connections with his father to boost Burisma pay," and "Smoking gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad."^{116 117}

The articles documented how uncovered emails, contrary to every impression given

 **Akin to the old Soviet-style radio-jamming era, both Silicon Valley platforms blocked off of their platforms the series on Hunter and Joe Biden."**

publicly by Joe Biden, showed that Hunter Biden had set up a meeting between a Ukrainian business contact of Hunter's and then Vice President Biden.

Incredibly, just hours later that same day, both Facebook and Twitter launched a one-two counterpunch. Akin to the old Soviet-style radio-jamming era, both Silicon Valley platforms blocked off of their platforms the series on Hunter and Joe Biden. The New York Post, a publication founded by Alexander Hamilton, the fourth largest newspaper in the country, and a leading digital publisher that had 1.8 million followers on Twitter, discovered suddenly on that day that its online readers could no longer access its groundbreaking reporting about one of the most important men in the country.

¹¹³ Joe Biden, "I Don't Know' What Hunter Was Doing for Burisma," YouTube video, 0:42 posted by "Axios," December 8, 2019, <https://youtu.be/dXvmLeIXoBA>.

¹¹⁴ Goodwin, Michael, "Hey, Joe Biden, What Did You Know About Hunter's Dirty Deals?: Goodwin," New York Post, October 17, 2020, <https://nypost.com/2020/10/17/what-did-joe-biden-know-about-hunters-crook-emails-goodwin/> (accessed March 21, 2022).

¹¹⁵ Graham, Jed, "2020 Election Poll: Joe Biden Has Two Big Advantages Over Donald Trump, IBD/TIPP Poll Shows," *Investor's Business Daily*, October 17, 2020, <https://www.investors.com/news/2020-election-poll-joe-biden-vs-trump-two-key-groups-ibd-tipp-presidential-poll/> (accessed March 21, 2022).

¹¹⁶ Fonrouge, Gabrielle and Morris, Emma-Jo, "Hunter Biden Emails Show Leveraging Connections with His Father to Boost Burisma Pay," *New York Post*, October 14, 2020, <https://nypost.com/2020/10/14/hunter-biden-emails-show-leveraging-connections-with-dad-to-boost-burisma-pay/> (accessed March 21, 2022).

¹¹⁷ Fonrouge, Gabrielle and Morris, Emma-Jo, "Smoking-Gun Email Reveals How Hunter Biden Introduced Ukrainian Businessman to VP Dad," *New York Post*, October 14, 2020, <https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/> (accessed March 21, 2022).

WHERE'S HUNTER?

How Big Tech Blocked a Critical News Story

October 14th, 2020

The New York Post publishes two stories written by Emma-Jo Morris and Gabrielle Fonrouge: "Hunter Biden emails show leveraging connections with his father to boost Burisma pay," and "Smoking gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad."



October 14th, 2020

Facebook's fact-checker announces a probe on the Hunter Biden story published in the New York Post. This resulted in suppression of the story.



October 14th, 2020

Twitter suspends the New York Post's account until the New York Post deletes the original story. The Post refuses.



October 14th, 2020

Twitter censors Michael Coudrey for posting the Post's Hunter Biden story.



October 14th, 2020

Twitter blocks users from sending the NY Post story to each other via direct message.



October 14th, 2020

Media Research Center's Curtis Houck has his Twitter account restricted after trying to share the Post's story.



October 15th, 2020

Conservative commentator Jack Posobiec was locked out of his Twitter account for sharing a meme based on the New York Post Report by JoMorris and Fonrouge



October 15th, 2020

Bryan Passifiume, a Toronto Sun reporter, has his Twitter account censored after trying to share the Post's story.



October 16, 2020

Facebook and Twitter finally allow the sharing of the New York Post story.

- A Twitter spokesman confirmed that the company would now allow the link to the New York Post article to be shared because the information had spread across the internet and could no longer be considered private.
- Despite publicly saying this, the New York Post's Twitter account remained locked, and sharing the article was still made difficult through other methods.



October 15th, 2020

Twitter censors Sebastian Gorka for posting about the New York Post story.



October 27th, 2020

The House Judiciary GOP Twitter account was censored when trying to share an article detailing Congressman Jim Jordan's confirmation of the New York Post's story.



October 28th, 2020

Jack Dorsey falsely tells Senator Ted Cruz that anyone could share the New York Post's story.



October 30th, 2020

Twitter lifts suspension on the New York Post's account.



November 30th, 2020

Facebook removes post linking to story on Pamela Geller's website about Hunter Biden's ties to China.



2021

March 25th, 2021

Jack Dorsey says blocking Post's Hunter Biden story was 'total mistake.'



June 16, 2021

The National Pulse had its article about Hunter Biden taken down by Facebook.



August 17th, 2021

Facebook deletes ForAmerica's post about newly leaked Hunter Biden photos.



September 15th, 2021

FEC says Twitter acted "lawfully" in restricting the New York Post's article.



"This blatant act of political censorship by Twitter and Facebook was a scandal that shocked and outraged even their friendliest media supporters."

The reaction by these two Big Tech companies had been so hurried that, by 11 a.m. that day, Facebook had already announced its preemptive clamp-down on the distribution of the story, even before it made any attempt to "fact-check" its accuracy.¹¹⁸ This blatant act of political censorship by Twitter and Facebook was a scandal that shocked and outraged even their friendliest media supporters.

Cristina Tardáguila, Associate Director of the International Fact-Checking Network (IFCN), wrote a scathing indictment against the actions of Facebook and Twitter.¹¹⁹ That is especially significant, considering the fact that Facebook relies exclusively on the IFCN for the selection of its "fact-checkers" and subscribes to its journalism and fact-checking charter. Tardáguila wrote that the incident raised serious questions about whether Facebook's content moderation officials were "really nonpartisan." Even more indicting were the conclusions

of Baybars Orsek, IFCN's director, who said, referring to Twitter and Facebook:

It's apparently more appealing to be 'arbitrators of truth' when the elections are around the corner and everyone has a stronger confidence level for the outcomes.¹²⁰

What were those "outcomes" in which Facebook and Twitter had "confidence"? We see only one conclusion: it was the fact that Biden enjoyed a seemingly significant lead over Donald Trump in the polls. The New York Post story threatened to reverse that trend. While Facebook founder and CEO Mark Zuckerberg stayed quiet during all of this, Jack Dorsey, CEO of Twitter, would later pseudo-apologize in a tweet: "Straight blocking of URLs was wrong, and we updated our policy and enforcement to fix. Our goal is to attempt to add context, and now we have capabilities to do that."¹²¹ But by then, the damage had already been done.

Halting the online distribution of the story clearly had an impact on the election. A poll sponsored by the Media Research Center (MRC) of 1,750 voters in seven swing states, six of which were won by Biden, including Wisconsin, Arizona, and Georgia, showed that, among Biden voters, 45.1 percent were unaware of the Hunter and Joe Biden story exposed by the New York Post, and even more importantly, 9.4 percent of them said they *would have not voted for Biden* had

¹¹⁸ Tardáguila, Cristina, "Without Methodology or Transparency, Facebook and Twitter Become the 'Arbiters of the Truth,'" *Poynter*, October 15, 2020, <https://www.poynter.org/fact-checking/2020/without-methodology-or-transparency-facebook-and-twitter-become-the-arbiters-of-the-truth/> (accessed March 21, 2022).

¹¹⁹ Tardáguila, "Without Methodology or Transparency, Facebook and Twitter Become the 'Arbiters of the Truth,'"

¹²⁰ Tardáguila, "Without Methodology or Transparency, Facebook and Twitter Become the 'Arbiters of the Truth,'"

¹²¹ Bursztynsky, Jessica, "Twitter CEO Jack Dorsey Says Blocking New York Post Story Was 'Wrong,'" *CNBC*, October 16, 2020, <https://www.cnbc.com/2020/10/16/twitter-ceo-jack-dorsey-says-blocking-post-story-was-wrong.html> (accessed March 21, 2022)

they known about it.¹²² Even if we concede the idea that this number could be exaggerated for some reason, or a mathematical outlier, a small impact in these three states alone would likely have been enough to swing the election. Keep in mind that Biden's margin in Wisconsin was 20,682 votes, in Georgia was 11,779, and in Arizona was just 10,457 votes.

There is also nationwide evidence that, as the news about the censoring of the New York Post article was filtering out to the public, early-voting Biden supporters were having serious misgivings. By October 26, twelve days after the New York Post news blockbuster and the Facebook/Twitter news blockade, more than 58 million voters had already cast their early ballots, but many were regretting it. Google trends data revealed that "change my vote" was spiking on Google's giant search engine and that it was "linked to searches for 'Hunter Biden.'"¹²³

BIG TECH CENSORSHIP CAN ABSOLUTELY CHANGE VOTES

When social media platforms bury pro-conservative candidate stories, or promote only liberal narratives, they have real-world impact on potential voters, even on those with fixed ideas. A study by Statista indicated that at least 14 percent of those polled reported to have changed their opinion on a political or so-

cial issue because of something they read on social media.¹²⁴ Even in political races that are not won by razor-thin majorities, or won as Joe Biden did by barely taking Georgia, Wisconsin and Arizona, a 14 percent pocket of voters who can be steered by editorial manipulation is a lucrative target group for political messaging that can potentially turn an election.

VOTERS UNDERSTAND THE DANGERS OF BIG TECH ELECTION INTERFERENCE

Big Tech companies and mainstream media outlets may be studiously avoiding addressing the problem of tech platforms suppressing election-related information from voters, but the American people are catching on.

When voters in key battleground states were asked to respond to the banning of President Trump from Facebook and Twitter, 74 percent of them agreed that if they can take away a President's free speech, "they can take away the right to free speech for any American."¹²⁵ In a separate poll, more than half of Americans concluded that the Facebook/Twitter shutdown of the New York Post series on the Hunter Biden/ Joe Biden scandal shortly before the national election constituted "election interference."¹²⁶

In light of public opinion, the elite power-brokers in media and government may soon regret turning a blind eye from — or even worse,

¹²² Noyes, Rich, "SPECIAL REPORT: The Stealing of the Presidency, 2020," *NewsBusters*, November 24, 2020, <https://www.newsbusters.org/blogs/nb/rich-noyes/2020/11/24/special-report-stealing-presidency-2020> (accessed March 21, 2022).

¹²³ Brown, Lee, "Some Early Voters Want to Change Their Vote After Hunter Biden Exposés," *New York Post*, October 26, 2020, <https://nypost.com/2020/10/26/early-voters-want-to-change-vote-after-hunter-biden-exposes/> (accessed March 21, 2022).

¹²⁴ Statista, "Social Media: Influence on Political Opinions of U.S. Social Media Users 2018," January 28, 2022, <https://www.statista.com/statistics/244921/social-medias-influence-on-political-opinions-of-us-internet-users/> (accessed March 21, 2022).

¹²⁵ Paul Bedard, "Exclusive: 60% Call Impeachment a 'Waste of Time,' Big Tech Backlash for Censoring Trump," *Washington Examiner*, January 12, 2021, <https://www.washingtonexaminer.com/washington-secrets/exclusive-60-call-impeachment-a-waste-of-time-big-tech-backlash-for-censoring-trump> (accessed March 21, 2022).

¹²⁶ Eric Mack, "MRC Poll: Big Tech Censoring Hunter Laptop Story is 'Election Interference,'" *Newsmax*, October 28, 2021, <https://www.newsmax.com/us/media-research-center-hunter-biden-laptop-big-tech/2021/10/28/id/1042388/> (accessed March 21, 2022).

collaborating with — Big Tech’s position as king-maker in the American political process.

MARK ZUCKERBERG’S PERSONAL IMPACT ON THE ELECTION

Election interference was not just limited to the tech giants as corporations. One of their CEOs personally sought to influence the results.

Mark Zuckerberg’s foundation paid \$350 million dollars during the 2020 election cycle to the Center for Tech and Civic Life (CTCL) and millions more to CTCL-affiliated groups. The CTCL group “pushes for left-of-center voting policies and election administration,” with a primary goal of using data to “increase turnout in American elections,” and has supplied election data to Facebook and Google. Its founders have previously helped operate an election advocacy group described in the Washington Post as “the Democrat Party’s Hogwarts for digital wizardry.”¹²⁷ CTCL pass-through grants from the Zuckerberg foundation benefitted swing states like Georgia (43 recipient counties), Michigan (474 localities), and Wisconsin (217 localities).

We are not alone in raising alarm bells over the effect of *Zuckerbucks* on voting results in those battleground states. A raft of com-

plaints has surfaced about undue influence on the 2020 election through this funding. Take a look at some of the headlines: “Zuckerbucks Shouldn’t Pay for Elections,”¹²⁸ “The Wisconsin Purchase,”¹²⁹ “How Zuck’s Bucks helped Flip Wisconsin for Joe Biden after Hillary’s 2016 Defeat,”¹³⁰ “How Mark Zuckerberg Almost Handed Texas to the Democrats,”¹³¹ and “How Zuckerberg Spent Millions to Get Leftist Hands on the 2020 Elections.”¹³²

Investigative think-tank Capital Research Center (CRC) analyzed the effect of the Zuckerberg-CTCL funding partnership on the 2020 election, and its conclusions are stunning:

Our conclusion is that, across the board, CTCL’s grants favored the biggest, most vote-rich Democratic counties, which helped turn out the most left-leaning voters in U.S. history—and secure Joe Biden as the country’s 46th president. Far from “nonpartisan,” CTCL’s oceans of money made it easier for fraudsters to cheat and the Democrats to win in 2020.¹³³

CTCL’s election funding was disproportionately targeted toward swing states, and particularly

¹²⁷ Influence Watch Staff, “Center for Tech and Civic Life,” *Influence Watch*, <https://www.influencewatch.org/non-profit/center-for-tech-and-civic-life/> (accessed March 21, 2022)

¹²⁸ WSJ Editorial Board, “Zuckerbucks Shouldn’t Pay for Elections,” *Wall Street Journal*, January 3, 2022, <https://www.wsj.com/articles/zuckerbucks-shouldnt-pay-for-elections-mark-zuckerberg-center-for-technology-and-civic-life-trump-biden-2020-11640912907> (accessed March 21, 2022)

¹²⁹ Doyle, William, “The Wisconsin Purchase,” *The American Conservative*, December 24, 2021, <https://www.theamericanconservative.com/articles/the-wisconsin-purchase/> (accessed March 21, 2022)

¹³⁰ Hemingway, Mollie, “How Zuck’s Bucks Helped Flip Wisconsin for Joe Biden After Hillary’s 2016 Defeat,” *New York Post*, October 13, 2021, <https://nypost.com/2021/10/13/how-zuck-bucks-helped-flip-wisconsin-for-joe-biden-after-hillarys-2016-defeat/> (accessed March 21, 2022)

¹³¹ Ludwig, Hayden, “How Mark Zuckerberg Almost Handed Texas To The Democrats,” *The American Conservative*, April 5, 2021, <https://www.theamericanconservative.com/articles/how-mark-zuckerberg-almost-handed-texas-to-the-democrats/> (accessed March 21, 2022)

¹³² Miller, Steve, “How Zuckerberg Spent Millions To Get Leftist Hands On The 2020 Elections,” *The Federalist*, May 27, 2021, <https://thefederalist.com/2021/05/27/how-zuckerberg-spent-millions-to-get-leftist-hands-on-the-2020-elections/> (accessed March 21, 2022)

¹³³ Ludwig, Hayden, “How Mark Zuckerberg Almost Handed Texas to the Democrats—UPDATED,” May 7, 2021, *Capital Research Center*, <https://capitalresearch.org/article/how-mark-zuckerberg-almost-handed-texas-to-the-democrats-2/> (accessed March 21, 2022)

to Democratic strongholds within those states. Biden-leaning counties routinely received, per capita, significantly more funding than Trump-leaning counties. As a Capital Research Center report outlines, Biden-won counties in Pennsylvania received \$2.85 per capita, compared to \$0.60 per capita in Trump-won counties. In Georgia, Biden counties received \$5.33 per capita, versus \$1.41 in Trump counties. In Arizona, it was \$3.47 to \$2.16. In Texas, \$2.03 to \$0.66. And in Wisconsin, the disparity was \$3.75 per capita in Biden areas, as opposed to \$0.55 in Trump's.¹³⁴

In Wisconsin, as Dr. William Doyle has pointed out, despite the claims that these grants were meant to supplement underfunded election offices dealing with new COVID-19 strictures, the grants often targeted large cities that were already disproportionately well-funded. "Average per capita election budgets among the six largest CTCL grant recipients [in Wisconsin] was \$5.61. Among the next 5 largest Wisconsin cities it was \$2.64 per capita. [...] After accounting for CTCL grant recipients, average per capita funds available for election spending rose to \$15.48 among the Wisconsin 5 while among the next 5 most populous Wisconsin cities, after accounting for their much smaller CTCL grants, average per capita election funding was only about \$3.63."¹³⁵

Nor were these dollars intended to be spent evenly over these districts to merely assist with COVID safety measures. In the CTCL's Wisconsin Safe Voting Plan, the group outlines

a number of other goals, including a plan to "dramatically expand strategic voter education & outreach efforts, particularly to historically disenfranchised residents." Several of the recipients expressed a desire to use their funding for targeted advertising to promote turnout among specific racial groups. Milwaukee in particular wanted to fund specific appeals to "communities such as LatinX and African Americans," including "an edgy but nonpartisan and tasteful communications campaign to harness the current [Black Lives Matter] protests' emphasis on inequity and ties that message to voting."¹³⁶

These funds bought CTCL and other aligned left-wing groups unprecedented access to election administration. In jurisdictions throughout the country, CTCL money was used for privately-funded absentee ballot drop-off boxes, workers to cure ballots and provide witness signatures, and more.¹³⁷ In Green Bay, as Mollie Hemingway has reported, one Democratic activist "would eventually take over much of Green Bay's election planning from the official charged with running the election,"¹³⁸ and was even ultimately given four of the five keys to the room where absentee ballots were stored before the election.¹³⁹ The investments paid off. Dr. William Doyle of the Caesar Rodney Election Research Institute estimates that the partisan funding disparity between Democratic and Republican localities in Wisconsin resulted in more than 65,000 additional Biden votes, far more than the margin of victory of 20,682.¹⁴⁰

¹³⁴ <https://capitalresearch.org/article/shining-a-light-on-zuck-bucks-in-key-states/>.

¹³⁵ Doyle, "The Wisconsin Purchase."

¹³⁶ Ibid.

¹³⁷ Miller, "How Zuckerberg Spent Millions To Get Leftist Hands On The 2020 Elections."

¹³⁸ Hemingway, "How Zuck's Bucks Helped Flip Wisconsin for Joe Biden After Hillary's 2016 Defeat."

¹³⁹ Kittle, M.D., "Special Investigation: Infiltrating the Election," *Wisconsin Spotlight*, March 9, 2021, <https://wisconsinspotlight.com/special-investigation-infiltrating-the-election/> (accessed March 21, 2022).

¹⁴⁰ Doyle, "The Wisconsin Purchase."



AND Recommendations for Action

So, we ask again: *Do the largest Big Tech companies actually pose an existential threat to representative democracy?*

It's amusing that those in Washington, D.C. who carry water for the Big Tech companies rarely grapple with this question. Private companies, they argue, can do what they want — no matter what. But are we really comfortable with the idea that “global citizen” oligarchs can simply flip a content moderation switch and change the results of an election? Forget free speech and free expression — certainly important liberties to secure — but at what point do we start worrying about the right to self-government?

As we stated in the introduction, we believe the evidence offered in this report strongly suggests that these companies do indeed pose an existential threat to representative democracy. There's no question that — with just 44,000 votes in three states making the difference — the actions of these three Big Tech companies influenced the outcome of the 2020 election. We come to this conclusion despite the fact that we are only considering the actions we know about and can document. What else did Facebook, Google, and Twitter do in 2020 to boost the Democrats and hurt the Republicans? Are we talking about changing 44,000 votes, or 444,000 votes, or 4.4 million votes? Can we possibly know?

Even if we felt secure in the results of the 2020 election, we would have to worry about the entrenched antagonism of Big Tech platforms toward basic free speech values, and how that disdain for fair treatment of political expression is now seeping into other private institutions and even our government institutions. Congressio-

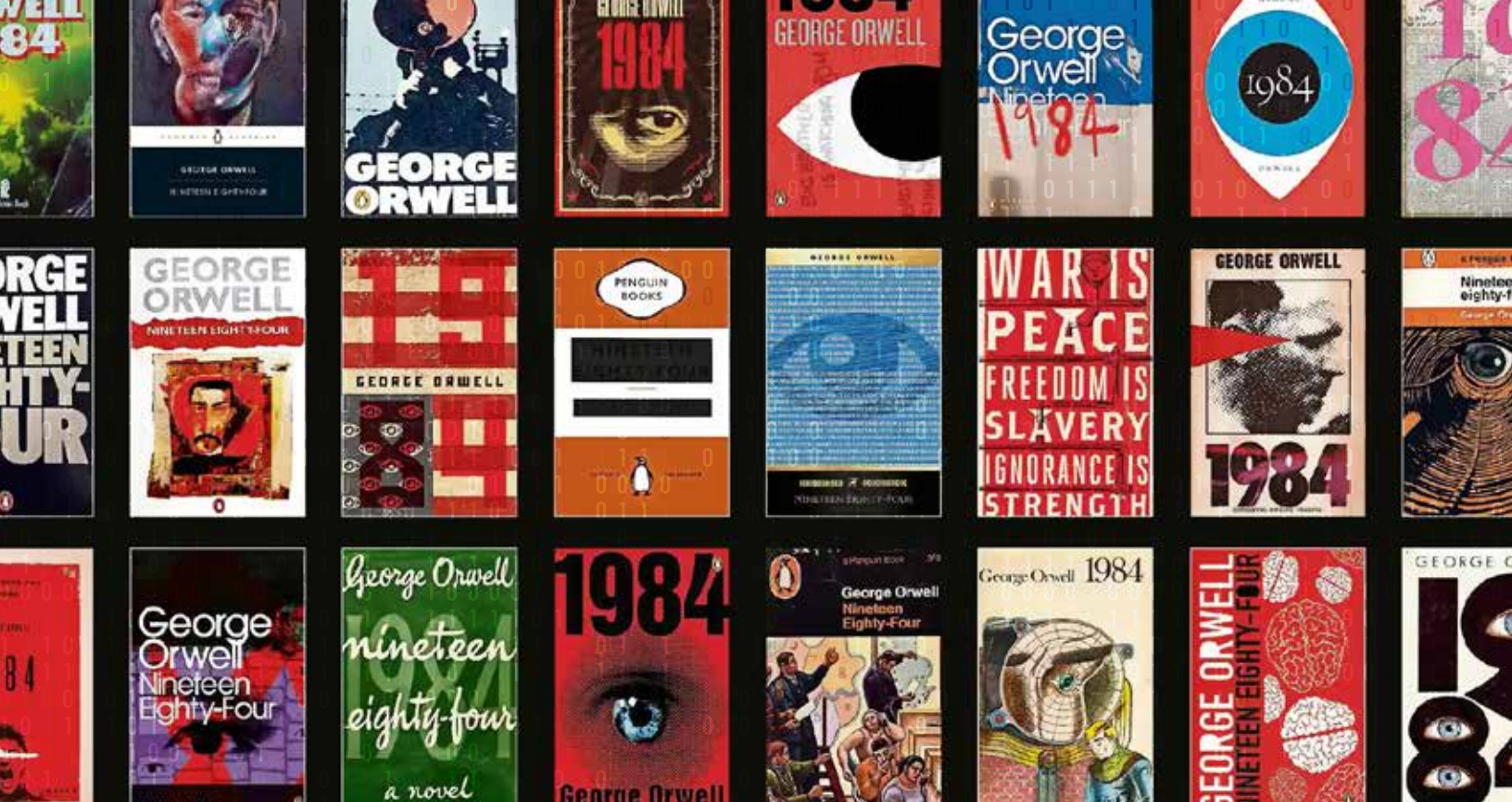
nal investigations are being launched against supposed dangerous ideas emanating from traditional media, including broadcast and cable TV as well. This is becoming the new political witch hunt of the 21st Century, and it's yielding significant results for the Democrats.

In February 2021, the House Subcommittee on Communications and Technology scheduled a hearing with a First Amendment-threatening title so audacious that it staggers the imagination. It was titled: “Fanning the Flames: Disinformation and Extremism in the Media.”¹⁴¹ The public notice promised to “examine the role of traditional media platforms — broadcasters and cable networks — in disseminating disinformation and extremist content to the American public.”

The hearing notice actually suggested that “free speech scholars” agree that America must be restrained by, and limited to, “a shared set of facts.” Only then can the free marketplace work. But that begs the question: who decides? Those in power, of course! The same critics who attack conservatism for its lack of diversity are now calling for the forging of an officially chartered collection of “facts” to which we will be bound during our “informed debates” — obviously missing the irony of a “marketplace of ideas” that seeks to suppress dissenting ideas so they can be killed in the cradle long before they ever become a threat to the ideological hegemony of the rich and powerful.

This hearing was not just an anomaly. The pro-censorship approach has grown legs — it's become a key pillar of the Democratic Party platform. Rarely will you hear a Democrat talking about Big Tech without talking about the need to tackle “misinformation.”

¹⁴¹ Fanning the Flames: Disinformation and Extremism in the Media: Hearings before the Subcommittee on Communications and Technology, 117th Congress, 1-3, (2021). https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Briefing%20Memo_CAT%20Hearing_2021.02.24fv_0.pdf (accessed March 21, 2022)



In a letter sent in early 2021, Representatives Anna Eshoo and Jerry McNerney demanded that telecommunications carrier AT&T explain, to the satisfaction of those lawmakers, whether it plans to continue carrying broadcasts from non-liberal networks like Fox News, One America News Network, and Newsmax. In a burst of hubris, they also insisted that the carrier defend to them exactly why they would carry such programming in the first place, hinting that carrying such content could never be morally justified, despite the fact that it appeals to and lines up ideologically with tens of millions of Americans across the country.¹⁴²

This concerted attack from public officials on free speech and the free press appears to have worked to influence private behavior: AT&T's DirecTV announced that it had dropped

One America News from its lineup in January.¹⁴³ Indeed, while free speech protections from government censorship may technically still exist in the U.S. Constitution, our private institutions are now rejecting free speech values en masse. There is an increasingly large list of things you are not allowed to say if you want to enjoy economic prosperity, cultural influence, or even civic peace. Say something as anodyne as “Let’s Go, Brandon” and you risk being fired from your job and harassed by dozens of mostly peaceful protestors, to the joy of the crybullies in the mainstream media.

And this anti-American epidemic of censorship simply wouldn’t be happening if not for Silicon Valley monopolies leading the way by exercising a stranglehold on political news and opinions and normalizing the blatant suppression of ideas.

¹⁴² Anna G. Eshoo and Jerry McNerney to AT&T CEO John Stankey, letter, “Concerning AT&T’s Role In Disseminating Misinformation,” February 22, 2021, Congresswoman Anna Eshoo Official Website, <https://eshoo.house.gov/sites/eshoo.house.gov/files/Eshoo-McNerney-TV-Misinfo%20Letters-2.22.21.pdf> (accessed March 21, 2022)

¹⁴³ Matthew S. Schwartz, “DirecTV to Drop One America News Network,” *NPR*, January 15, 2022, <https://www.npr.org/2022/01/15/1073407803/directv-to-drop-one-america-news-network> (accessed March 21, 2022).

In this report, we have illustrated that Big Tech companies are dominant in their respective markets and maintain that dominance by engaging in anti-competitive practices. They possess unprecedented power over the free flow of information and have exerted that power to achieve political ends, very plausibly determining the outcome of the 2020 election. Thus, immediate and substantive action is necessary to promote free speech in the digital

public square and preserve the integrity of our free and fair elections.

What should that action look like? What is the role of Congress in this? American Principles Project has embraced an all-of-the-above approach to taking on Big Tech. Here are our recommendations for next steps that should be taken as soon as possible to save our democracy:

CONGRESS SHOULD FULLY INVESTIGATE BIG TECH'S 2020 ELECTION INTERFERENCE

President Donald Trump seems to concur. In a speech to CPAC on February 24th, 2022, Trump said, "A Republican Congress should launch a select committee... to get to the bottom of Big Tech's 2020 election interference. Let's find out who made the decision to conc."¹⁴⁴

We agree with Trump. As soon as Republicans take back the House, GOP leadership should announce this select committee to conduct a series of hearings to investigate Big Tech's influence on the 2020 election results. (We highly recommend including some of the Members who experienced censorship firsthand!) Congress must mount a responsible investigation of domestic election interference perpetrated by all companies but specifically the major Big Tech companies, such as Facebook, Google, and Twitter. While this paper cov-

ers much of that interference in detail, we suspect it is but the tip of the iceberg.

In launching this proposed select committee, we urge Republicans to follow some of the suggestions outlined by Rachel Bovard of the Conservative Partnership Institute in a March essay in *The Federalist*:¹⁴⁵

- Ask censorship questions to the mid-level content managers, not the CEOs or team leads.
- Require scheduled, regular CEO appearances before Congress, and make each CEO personally responsible for document discovery.
- Subpoena emails and documents related to "fact-checking" organizations.
- Get detailed answers (and documents) on tech's relationship with China.

¹⁴⁴ Look, you're just going to have to trust us on this one. Trump said it. We watched the video and wrote his quote down verbatim. Unfortunately, after we did that, YouTube decided to ban every video featuring Trump's speech at CPAC. This guy was literally the President of the United States. He's probably going to run for president again. He gave a major speech at a major political conference. And our Silicon Valley oligarchs won't let us see it. Who's in charge? Do the people have any rights? Is America still a functioning democracy? Bueller?

¹⁴⁵ Bovard, Rachel, "Here's What Republicans Need To Do To Truly Take On Big Tech," *The Federalist*, March 15, 2022, <https://thefederalist.com/2022/03/15/heres-what-republicans-need-to-do-to-truly-take-on-big-tech/> (accessed March 21, 2022).

- Obtain internal research on user behavior, including what companies know about harm to users and the addictive qualities of their product.
- Uncover and map Big Tech’s funding to nonprofits, the use of those nonprofits for pro-tech lobbying, and funding to universities.
- Examine Big Tech’s strategy to acquire competitors.
- Map exactly what the tech companies do with user data.
- Uncover how often Big Tech companies assist the U.S. and foreign governments with surveillance and intelligence-gathering requests.

As Bovard said in her essay, “We want to rule the emergent technology, rather than having it rule us.” A democracy can’t function without free and fair elections. But fair elections can only come when giant tech platforms treat all legal political content fairly. Judging by their past conduct and arrogance, the monopolistic platforms will go neither willingly nor gently into a new era of respect for user free expression and political parity. Given that, they should be made to do involuntarily what they have been urged to do voluntarily for years, but have steadfastly refused.

We urge Congress to place this investigation high on its agenda.

CONGRESS SHOULD AMEND SECTION 230 TO PROMOTE FREE SPEECH

Passed by Congress in 1996 as part of a larger anti-pornography bill called the Communications Decency Act (CDA), Section 230 granted “interactive computer services” (i.e. tech platforms distributing user content) immunity from civil liability for content whether permitted or blocked on their platforms. Ultimately, the Supreme Court struck down most of the CDA, but

Section 230 was left untouched. The law’s original intent was to grant *platforms*, as we now refer to them, the ability to remove pornographic content while still offering “a forum for a true diversity of political discourse ... and myriad avenues for intellectual activity.” In other words, Section 230 was part of a trade-off. Platforms would be protected from users suing them over content, and in return, the platforms would provide a digital version of the public square, one that advances First Amendment values such as free speech and free expression.

That’s not how the law played out, however. Today, Section 230 is largely interpreted by lower courts as a *carte blanche* justification for platforms to remove any content at any time for any reason. As Justice Clarence Thomas stated after the Supreme Court denied writ in *MalwareBytes v. Enigma Software* last year, “Courts have long emphasized non-textual arguments when interpreting §230, leaving questionable precedent in their wake... [while imposing] no limits on an Internet company’s discretion to take down material.” This is the legal foundation upon which much of Big Tech is built.

Now, as a result, a few multinational companies with a monopolistic stranglehold on our discourse appear to be using their position to impose an Orwellian choke-hold on the free flow of information. So, why continue to subsidize these companies with this legal immunity, especially when, as this report demonstrates, they are actively subverting our freedoms and our democracy?

It is important to note that some Section 230 reform bills are objectively better than others. At American Principles Project, we have endorsed one in particular: H.R. 285, the CASE-IT Act, introduced by Rep. Greg Steube of Florida. We have also worked with countless offices on their own Section 230 bills. If we intend to invest the political capital necessary to pass such a

reform into law, we should be absolutely certain that the legislation will protect free speech online for our candidates, activists, and voters. We propose a series of litmus tests to determine whether a particular amendment to Section 230 is adequate:

- Would Facebook and Twitter be prohibited from taking down the posts or tweets of a sitting president in the way they did against President Trump?
- Would Big Tech companies be prevented from engaging in election interference as they did in the 2020 elections?
- Would conservative candidates, activists, and voters be allowed to advocate online for political positions that depart from politically correct orthodoxy?

If the answer to any of these questions is no, then the bill should not be considered — we should be able to do better.

Below is a more detailed look at some of the most important provisions to include in any Section 230 reform proposal.

A First Amendment Standard

Big Tech platforms increasingly function as an ideological cartel, barring any user-generated wrongthink deemed to be “misinformation” or “dangerous” by an out-of-touch technocratic elite. As it currently stands via existing statute, Congress grants these companies a multi-billion-dollar subsidy in the form of immunity from civil liability for their decisions about any content posted by users on their platforms. We believe this immunity should be conditioned on these platforms adhering to a First Amendment standard for content moderation. Because the largest and most powerful tech companies pose the biggest censorship threat and therefore the greatest risk of creating an uninformed



“So, why continue to subsidize these companies with this legal immunity, especially when, as this report demonstrates, they are actively subverting our freedoms and our democracy?”

electorate, it is imperative that this free speech approach be applied to them.

Under this standard, market dominant Big Tech platforms should lose their Section 230 protections if their policies and practices are not reasonably consistent with the public forum requirements of the First Amendment. Granted, the First Amendment only applies to state actors, but Congress has the authority to apply those same principles to market dominant tech giants regardless of whether they technically qualify as “state actors” or not. Additionally, these platforms should face a private right of action — lawsuits — by users whose content was wrongfully censored. No longer should these platforms be free to engage in blatant

censorship while enjoying a special benefit from the United States government, a republic that prides itself on promoting free speech and free expression.

Focus Obligations on the Market Dominant Giants

The key to correcting the most damaging effects of Big Tech's monopolistic control of election information is to target the biggest companies with the most outsized influence on information, not the small start-ups or middle level tech companies struggling to compete with them. Read this perspective from Nick Solheim who runs a small tech company with staff of eleven, speaking about just one of those monopolies, Facebook, and the unsurpassable size of its scale:

The problem is, Facebook is a monopoly that has surpassed the might of government to protect free speech. There has never been a single company in world history that had the trove of information that Facebook currently possesses. Even the world's largest newspaper, The New York Times, has two million subscribers, 2% of Facebook's one billion users. This isn't even counting the fact that Facebook owns four out of the five tech companies that have over one billion users.¹⁴⁶

Facebook, Twitter and Google/YouTube have become so large and virtually impregnable to

customary market forces because of the unintended consequences of Section 230's civil immunity provisions, an unprecedented gift from Congress in 1996 when web technology markets were wide open and still in their childhood. As students of the Internet will tell you, back then "Google, Facebook, Twitter, Skype and YouTube didn't exist. The Safari and Firefox browsers were years away, as were the Mac, iPhone and iPad," and websites were counted in the millions, while now they are in the billions.¹⁴⁷

The radical changes in the Internet since then require a substantial revamping of Section 230's protections. Traditional antitrust enforcement by itself, geared usually toward a view of "consumer welfare" in terms of price and product availability, is likely not capable of vindicating the interests of free and open election information. A robust free expression standard needs to be applied.

Legislation and/or regulation can be constitutionally imposed on media companies, regardless of whatever their own First Amendment interests may be, when they wield a level of market dominance that chokes off the free flow of news to the public,¹⁴⁸ exercising a bottle-neck monopoly that can close off public access to information they wish to suppress with a mere flick of a switch.¹⁴⁹

Requiring market dominant tech giants to be guided by First Amendment principles is not only legal, it is fundamentally democratic, reflecting the very structure of our constitutional Republic. Those liberties in the first of the Bill of

¹⁴⁶ Solheim, Nick, "This Is Why A Digital Startup Believes Facebook Should Be Regulated," *Daily Caller*, September 28, 2020, <https://dailycaller.com/2020/09/28/digital-startup-facebook-regulated-nick-solheim/> (accessed March 21, 2022).

¹⁴⁷ Bonazzo, John, "This Wall Street Journal Story From 1996 Predicted Many of Today's Big Tech Issues," *Observer*, May 16, 2018, <https://observer.com/2018/05/wall-street-journal-internet-1996-predictions/> (accessed March 21, 2022).

¹⁴⁸ *Associated Press v. United States*, 326 U.S. 1 (1945).

¹⁴⁹ *Turner Broadcasting System, Inc. v. F.C.C.* 512 U.S. 622 (1994).

Rights were forged by our Founders and are interpreted by Supreme Court justices who in turn are nominated by the executive branch led by an elected President and confirmed by the popularly elected Senate. Such an approach would spring from the very fabric of our Constitution, instead of the current state of affairs where near absolute power over the public's access to information serves the subjective judgements of politically left-leaning computer engineers in Silicon Valley.

Use a Strong Enforcement Mechanism: the Private Right of Action

This is nothing new. Private lawsuits against abusive monopolies have for a long time been a part of our legal landscape. Antitrust laws have successfully granted to private citizens the ability, in traditional monopoly cases, to act as private attorney generals in bringing suits to rectify competitive harms done to their businesses by unfair and monopolistic conduct. The same type of private lawsuit power should now be granted in non-traditional cases where market dominance is wielded by tech companies that make their billions off the content that is posted, tweeted and uploaded by private citizens, businesses and advocacy organizations. Unlike typical antitrust situations where the public harm addressed is primarily related to tangible market competition or consumer prices, here, the public damage may be less tangible but it is even more critical: the public's access to political information and viewpoints necessary in order to vote in an informed fashion.

BIG TECH CONTENT MODERATIONS DECISIONS MUST BE TRANSPARENT AND PUBLICLY DISCLOSED

There have been two major obstacles to the American people getting the full story about the efforts of Facebook, Twitter and Google (including YouTube) to suppress political information and to interfere with our elections.

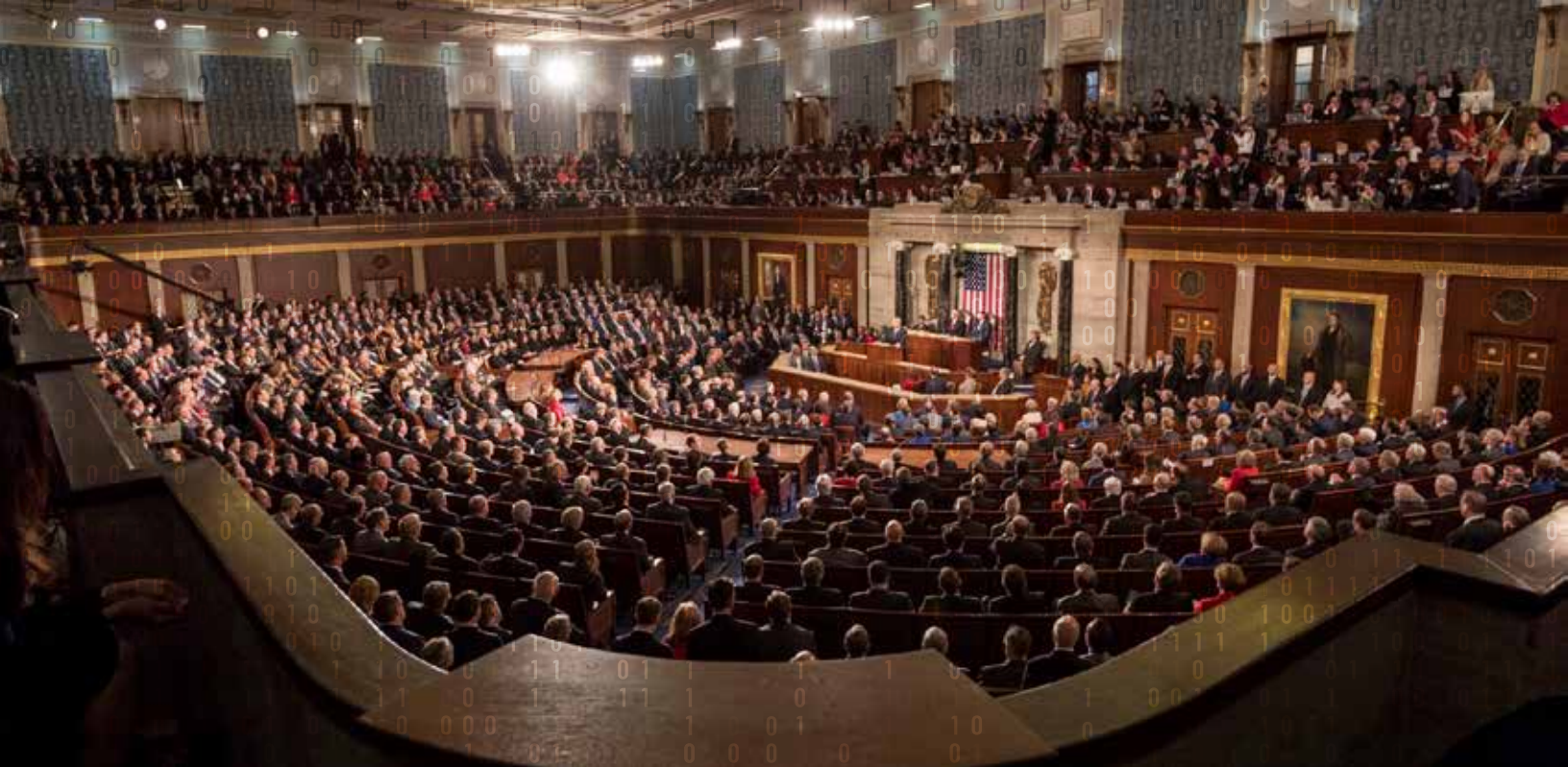
One is the slanted manner in which many media outlets and advocacy groups have framed the issue of Big Tech election suppression and have roundly demonized those that even dare to raise the subject. Polling places for the November 4th national election had barely closed when headlines began to pre-emptively counter any possible charges of Silicon Valley election manipulation, like this one from *Slate*: *Conservatives Are Gearing Up to Falsely Blame Big Tech Censorship for Trump's Loss*.¹⁵⁰

Even before that, during the lead-up to the election, a credible though reliably pro-Silicon Valley D.C. organization was already denouncing the very idea of congressional investigations into Twitter and Facebook for their admitted (and widely criticized) suppression of the New York Post's investigative report that was potentially damaging to candidate Biden. The critique warned that any such inquiry should send "chills down the spine of everyone who values the freedom of speech and the freedom of association."¹⁵¹ The pro-tech troops were pulling up the drawbridges, preparing to lob attacks against any who would argue that Big Tech had slanted the election outcome.

The second roadblock to a broader public discussion of how tech monopolies tilt election

¹⁵⁰ Tripodi, Francesca, "Conservatives Are Gearing Up to Falsely Blame Big Tech Censorship for Trump's Loss," *Slate*, November 9, 2020, <https://slate.com/technology/2020/11/big-tech-conservative-bias-trump-election-voter-suppression.html> (accessed March 21, 2022).

¹⁵¹ Matthew Feeney, "Accusations of Social Media 'Election Interference' Put Online Speech at Risk," *Cato at Liberty*, October 15, 2020, <https://www.cato.org/blog/accusations-social-media-election-interference-put-online-speech-risk> (accessed March 21, 2022).



outcomes is even more daunting, although less conspicuous. Recall first, Section 230's gift to tech companies—that extraordinary protection from lawsuits. As a consequence of that policy decision, digital information platforms have been spared the kind of rigorous discovery process that is standard in almost all other civil litigation. The content decisions of Big Tech Goliaths are not open to examination by opposing legal counsel; internal documents are hidden from public view, and employees of Google, YouTube, Facebook and Twitter don't have to answer pointed deposition questions under oath about viewpoint bias and manipulated algorithms, or about their hardened political slant, and that of their employers. Yes, congressional hearings have been conducted, but those alone are no substitute for the aggressive fact-finding that takes place in civil litigation.

As a result, Big Tech has no incentive to supply detailed or transparent answers about

their content moderation decisions during this, or any other election cycle. Several bills have been introduced in Congress calling for more transparency from tech giants. We applaud those efforts and propose that Congress make passing one of these bills a priority.

PASS STATE LAWS TO REIN IN BIG TECH AND CHALLENGE BAD COURT PRECEDENT

State officials, concerned over how online monopolies have strangled conservative political discussion and campaign advertisements on their platforms, have already passed legislation regulating the censorship activities of those companies.

In Florida, Governor Ron DeSantis signed into law Senate Bill 7072, bold legislation controlling the ability of Big Tech companies to stifle free and open political dialogue online.¹⁵² Under the law, the biggest social media companies must comply with antitrust law and state trade reg-

¹⁵² Florida Governor's Staff, "Governor Ron DeSantis Signs Bill to Stop the Censorship of Floridians by Big Tech" Press Release, May 24, 2021, <https://www.flgov.com/2021/05/24/governor-ron-desantis-signs-bill-to-stop-the-censorship-of-floridians-by-big-tech/>.

ulations.¹⁵³ If found in violation, they will face stiff fines and can be barred from public contracts in the state. More importantly, they are prohibited from banning or de-platforming candidates who are running for state or local office.

One of the most potent provisions of the Florida law is a private right of action granted to citizens to sue offending social media giants and to collect damages and injunctive relief.

Not surprisingly, tech defenders have been quick to argue that these laws raise constitutional questions about the First Amendment rights of the giant digital platforms, and they have attacked not only the Florida law, but a similar Texas law as well.¹⁵⁴

Until Section 230 is amended, opportunities for court action are still in play. For instance, American Principles Project has filed an *Amicus Curiae* brief in the U.S. Court of Appeals for the Fifth Circuit, challenging how the likes of Facebook and Twitter have abused the vagaries of Section 230 by initially positing defenses that they are mere conduits for the speech of their users; but now, in order to block states from regulating Big Tech, they have reversed 180 degrees and assert that they (and not their public users) are the real speakers entitled to First Amendment rights.¹⁵⁵

Further, as we explain below, even traditional media corporations possessing purported free speech rights of their own can be

regulated and restrained when their information monopoly power is being used to stifle the free flow of news, opinion, and public discourse. Surely then, the new digital platforms for disseminating information should fall under the same legal standard.

THE FEC SHOULD ENFORCE EXISTING ELECTION LAWS AND DECIDE PENDING ELECTION-RELATED COMPLAINTS

When Big Tech platforms ban a campaign ad intended to help one candidate, the material benefit this censorship provides the opposing candidate can easily run into the hundreds of thousands, if not millions of dollars. This is by definition an in-kind contribution, and an illegal one at that.¹⁵⁶ As we have outlined here, there are several complaints that have been filed with the FEC against Big Tech platforms that used their censorship power to squelch important political viewpoints and campaign information in the 2020 election. Existing regulations regarding in-kind contributions should be enforced, and pending complaints should be decided without delay.

If the FEC neglects to interpret or apply existing campaign finance law fairly, then Congress should step in to specifically state that in-kind contributions include the kind of one-way political censorship that has been outlined in complaints pending before that agency.

¹⁵³ The Florida law applies to social media companies with annual revenue in excess of \$100 million, or with at least 100 million average monthly users.

¹⁵⁴ Lemongello, Steven and Rohrer, Gray, "DeSantis signs Big Tech censorship bill, despite constitutional concerns," *Orlando Sentinel*, May 24, 2021, <https://www.orlandosentinel.com/politics/os-ne-desantis-signs-big-tech-bill-20210524-dvycnrscjjbfnnh7vbs3wimv5q-story.html> (accessed March 21, 2022). Currently, U.S. District judges have blocked the Florida and Texas laws. Both rulings have been appealed.

¹⁵⁵ See: Brief, *Amici Curiae* Heartland Institute & American Principles Project in Support of Defendant-Appellant, in *Netchoice, LLC v. Ken Paxton*, <https://americanprinciplesproject.org/wp-content/uploads/2022/04/PaxtonAmicusBrief.pdf> (accessed March 21, 2022).

¹⁵⁶ Schweppe, Jon, "Five Ways to Punish Big Tech for Election Interference," *Daily Caller*, October 21, 2020, <https://dailycaller.com/2020/10/21/opinion-punish-big-tech-for-election-interference/> (accessed March 21, 2022)

CRACK DOWN ON ANTICOMPETITIVE BEHAVIOR BY ENFORCING EXISTING ANTITRUST LAW

If there were 20 Googles, or 20 Facebooks, or 20 Amazons, the companies would be forced to compete with each other and provide users with a better experience and some respect for consumer rights. Then, if one company censored aggressively, another could compete by offering a First Amendment standard. Solving fair competition could be an aid toward restoration of free speech.

But unfortunately, there are not 20 Googles, 20 Facebooks, or 20 Amazons. These companies are entrenched and tremendously powerful. They've skirted US antitrust law and evaded regulators for decades. Action is needed to promote a truly free and fair market.

As part of an all-of-the-above approach to reining in Big Tech, we recommend support for some of the bipartisan antitrust bills championed by Rep. Ken Buck (R-Colorado) and others that are likely to receive a vote in the House in 2022. These bills, which American Principles Project has endorsed, include:

- The American Choice and Innovation Online Act
- The Platform Competition and Opportunity Act
- The Ending Platform Monopolies Act
- The Augmenting Compatibility and Competition by Enabling Service Switching (ACCESS) Act
- The Merger Filing Fee Modernization Act
- The State Antitrust Enforcement Venue Act

Additionally, APP has endorsed standalone anti-Big Tech antitrust bills, including:

- The Open Apps Market Act

- The Journalism Competition and Preservation Act
- The Competition and Transparency in Online Advertising Act

If Republicans want to fight Big Tech in a substantive way during the Biden Administration, they will have to consider supporting some or even all of these antitrust bills. Generally, these bills seek to thwart Big Tech's anti-competitive behavior, which has allowed these trillion-dollar companies to gain and maintain strangleholds on their respective markets, stifling innovation and distorting the larger economy in the process. Each of these bills focuses on different aspects of antitrust enforcement. Some are easier to understand than others. All deserve to be judged individually on their merits.

The bills are not perfect. But they represent the only authentic opportunity in the near term for Congress to rein in Big Tech. There's a reason that the Big Tech monopolists, and the allied groups they fund in Washington, D.C., are lobbying so aggressively against this specific legislation. They recognize that these bipartisan bills are viable and could pose a real threat to their concentrated power.

Many loud and well-funded voices on the Right — many of whom happen to show up in our datasets at American Principles Project's Big Tech Funding website¹⁵⁷ — argue that support for antitrust enforcement is not conservative. Yet, for more than a century, Republicans have recognized that antitrust enforcement is necessary to preserve the free market and prevent the consolidation of power around anti-competitive monopolies. Obviously antitrust enforcement becomes even more important when we're talking about Big Tech companies that exert control over the free flow of

¹⁵⁷ "Big Tech Funding Datasets" *Big Tech Funding*, <https://www.bigtechfunding.org> (accessed March 21, 2022) This site documents, in detail, organizations that receive Big Tech funding along with their political affiliation, organization type, website links, access to annual reports, and more.

information and directly interfere in our elections. Additionally, there appears to be popular support for some degree of antitrust enforcement. According to Pew Research, 68 percent of Americans believe that “social media companies have too much power and influence in today’s economy.”¹⁵⁸ That number jumps to 80 percent among Americans who identify as conservative.

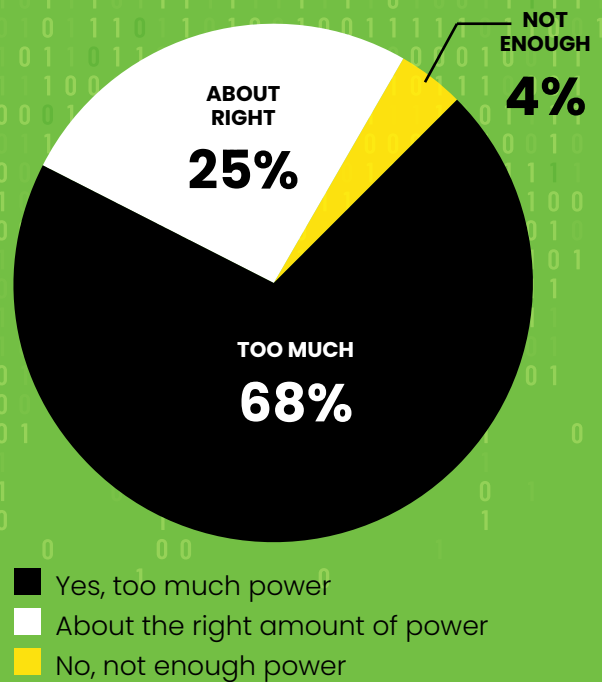
If Republicans find the Department of Justice/Federal Trade Commission-centric antitrust approach of the Democrats too bureaucratic and cumbersome, one option is to introduce and pass their own version of antitrust legislation that wields Congress’s Article I authority to break up the companies in a more direct manner. We anticipate that approach in a number of proposals being introduced in 2022.

BAN “ZUCKBUCKS”

We have already addressed in detail how the 2020 election in battleground states was tainted, if not undermined, by funding originating from Facebook CEO and founder Mark Zuckerberg and funneled through a Left-leaning middleman group into predominantly Democrat strongholds, resulting in a major pro-Biden turnout at the ballot box. All of this was under the guise of private funding for supposed election administration. While election reform proposals may often be cover for simple partisan political power grabs, the danger posed by the “ZuckBucks” is a serious non-partisan problem in search of a solution.

2021 PEW RESEARCH POLL

Do social media companies have too much power and influence in today’s economy?



We applaud the 18 states that have passed legislation into law prohibiting or restricting private persons, entities, or advocacy groups from supplying funding for the “administration” of public elections.¹⁵⁹ If these efforts do not succeed, or if they prove ineffective to stem the tide, Congress should step in, only of course to the extent that such intervention is consistent with the Constitution’s parameters regarding federal elections.

¹⁵⁸ Vogels, Emily A., “56% of Americans Support More Regulation of Major Technology Companies,” *Pew Research Center*, July 20, 2021, <https://www.pewresearch.org/fact-tank/2021/07/20/56-of-americans-support-more-regulation-of-major-technology-companies/> (accessed March 21, 2022).

¹⁵⁹ Lee, Sarah and Ludwig, Hayden, “States Banning or Restricting ‘Zuck Bucks,’” *Capital Research Center*, March 25, 2022, <https://capitalresearch.org/article/states-banning-zuck-bucks/> (accessed April 12, 2022).

ABOUT AMERICAN PRINCIPLES PROJECT



Nowadays, everyone has a political arm or lobbyist to protect their interests. But the American family does not. Given the increasingly hostile progressive attacks on parents and children, the American family cannot afford to be without a political cavalry to defend it.

The American Principles Project wants to make the family the most powerful, well-represented special interest group in Washington, D.C. Existing pro-family groups largely focus their efforts on education and tracking legislation. That's great. But we need more. APP is the only national pro-family organization engaging directly in campaigns and elections.

The family has two natural advantages when it comes to politics:

- When organized, families are numerous and more powerful than “any other special interest group.”
- Pro-family issues win elections.

But while hard-line progressive activists have grown comfortable attacking the family and making it difficult to raise children, pro-family political forces have largely been missing-in-action.

We want to impose a political cost on the Left's anti-family extremism.

If they want to attack parental rights, confuse young children about changing their gender, undermine the ability of parents to protect their children's innocence, or drive a wedge between parents and children in education, then they are going to be punished at the polls.

For more information about APP, including how to further support our work, visit our website at **www.AmericanPrinciplesProject.org**



Organizing
families in politics

————— to —————

defend the family
and save America



AMERICAN
PRINCIPLES PROJECT

2800 Shirlington Road, Suite 901
Arlington, VA 22206
202.503.2010

www.americanprinciplesproject.org