

FANNING THE FLAMES: DISINFORMATION AND EXTREMISM IN THE MEDIA

VIRTUAL HEARING BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTEENTH CONGRESS FIRST SESSION

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C O N T E N T S

	Page
Hon. Mike Doyle, a Representative in Congress from the Commonwealth of Pennsylvania, opening statement	2
Prepared statement	3
Hon. Anna G. Eshoo, a Representative in Congress from the State of California, prepared statement	4
Hon. Robert E. Latta, a Representative in Congress from the State of Ohio, opening statement	5
Prepared statement	6
Hon. Frank Pallone, Jr., a Representative in Congress from the State of New Jersey, opening statement	8
Prepared statement	9
Hon. Cathy McMorris Rodgers, a Representative in Congress from the State of Washington, opening statement	10
Prepared statement	12

WITNESSES

Soledad O'Brien, Anchor, "Matter of Fact," Chief Executive Officer, Soledad O'Brien Productions	14
Prepared statement	17
Answers to submitted questions	156
Jonathan Turley, Shapiro Professor of Public Interest Law, The George Washington University Law School	24
Prepared statement	26
Answers to submitted questions	158
Kristin Danielle Urquiza, Cofounder, Marked By COVID	48
Prepared statement	50
Answers to submitted questions	162
Emily Bell, Leonard Tow Professor of Journalism and Director, Tow Center for Digital Journalism, Columbia University	56
Prepared statement	58
Answers to submitted questions	164

SUBMITTED MATERIAL

Letters of February 22, 2001, from Ms. Eshoo and Mr. McNerney to John T. Stanley, Chief Executive Officer, AT&T, Inc., et al., submitted by Mr. Latta ¹	115
Letter of February 23, 2021, from Brenda Victoria Castillo, President and Chief Executive Officer, National Hispanic Media Coalition, to Mr. Doyle and Mr. Latta, submitted by Mr. Cárdenas	118
Blog post of October 21, 2020, "The FCC's Authority to Interpret Section 230 of the Communications Act," by Thomas M. Johnson, Jr., FCC.gov, submitted by Ms. Eshoo	124
Article of February 23, 2021, "Broadcasters combat misinformation with a focus on the facts," by Gordon H. Smith, The Hill, submitted by Mr. Doyle ..	126
Letter of February 24, 2021, from Mrs. Rodgers, et al., to Jessica Rosenworcel, Acting Chairwoman, Federal Communications Commission, submitted by Mr. Doyle	126

¹ The letters have been retained in committee files and are available at <https://docs.house.gov/meetings/IF/IF16/20210224/111229/HHRG-117-IF16-20210224-SD002.pdf>.

VI

	Page
Letter of February 24, 2021, from Patrick Morrissey, West Virginia Attorney General, to John T. Stanley, Chief Executive Officer, AT&T, Inc., submitted by Mr. Latta	129
Article of February 24, 2021, "The political effort to limit free speech attacks our own values," by Jonathan Turley, The Hill, submitted by Mr. Latta	131
Letter of October 16, 2017, from Ms. Eshoo to Ajit Pai, Chairman, Federal Communications Commission, et al., submitted by Mrs. Rodgers	134
Letter of April 2, 2020, from Mr. Pallone and Mr. Doyle to Ajit Pai, Chairman, Federal Communications Commission, submitted by Mrs. Rodgers	136
Article of June 14, 2017, "Hodgkinson letters: 'I have never said life sucks, only the policies of the Republicans,'" Belleville News-Democrat, submitted by Mr. Scalise	138
Letter of February 24, 2021, from Christopher Ruddy, Chief Executive Officer, Newsmax Media, Inc., to Mr. Pallone, et al., submitted by Mr. Latta	154

FANNING THE FLAMES: DISINFORMATION AND EXTREMISM IN THE MEDIA

WEDNESDAY, FEBRUARY 24, 2021

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:33 p.m., via Cisco Webex online video conferencing, Hon. Mike Doyle (chairman of the subcommittee) presiding.

Members present: Representatives Doyle, McNerney, Clarke, Veasey, McEachin, Soto, Rice, Eshoo, Butterfield, Welch, Schrader, Cárdenas, Kelly, Craig, Fletcher, Pallone (ex officio), Latta (subcommittee ranking member), Scalise, Guthrie, Kinzinger, Bilirakis, Johnson, Long, Mullin, Walberg, Carter, Duncan, Curtis, and Rodgers (ex officio).

Also present: Representatives Schakowsky, Dingell, Trahan, and Burgess.

Staff present: Jeffrey C. Carroll, Staff Director; Parul Desai, FCC Detailee; Jennifer Epperson, Counsel; Waverly Gordon, General Counsel; Tiffany Guarascio, Deputy Staff Director; Perry Hamilton, Clerk; Alex Hoehn-Saric, Chief Counsel, Communications and Consumer Protection; Jerry Leverich, Senior Counsel; Dan Miller, Professional Staff Member; Phil Murphy, Policy Coordinator; Joe Orlando, Policy Analyst; Tim Robinson, Chief Counsel; Chloe Rodriguez, Clerk; Sarah Burke, Minority Deputy Staff Director; William Clutterbuck, Minority Staff Assistant; Theresa Gambo, Minority Financial and Office Administrator; Nate Hodson, Minority Staff Director; Sean Kelly, Minority Press Secretary; Peter Kielty, Minority General Counsel; Emily King, Minority Member Services Director; Bijan Koohmaraie, Minority Chief Counsel; Kate O'Connor, Minority Chief Counsel, Communications and Technology; Clare Paoletta, Minority Policy Analyst, Health; Brannon Rains, Minority Policy Analyst, Consumer Protection and Commerce, Energy, and Environment; Olivia Shields, Minority Communications Director; Michael Taggart, Minority Policy Director; and Everett Winnick, Minority Director of Information Technology.

Mr. DOYLE. The subcommittee will now come to order. Today the Subcommittee on Communications and Technology is holding a hearing entitled "Fanning the Flames: Disinformation and Extremism in the Media."

This hearing is a continuation of work that this subcommittee did last Congress, examining the spread of disinformation on social

media and the deadly and dangerous effect it is having on our Nation and on our democracy.

We expect to hold another hearing on March 25th with the CEOs of Facebook, Google, and Twitter to further discuss these issues.

Due to the COVID-19 public health emergency, today's hearing is being held remotely. All Members and witnesses will be participating via video conferencing.

As part of our hearing, microphones will be set on mute for the purpose of eliminating inadvertent background noise. Members and witnesses, you will need to unmute your microphone each time you wish to speak.

Documents for the record can be sent to Joe Orlando at the email address we have provided the staff. All documents will be entered into the record at the conclusion of the hearing.

The Chair will now recognize himself for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. MIKE DOYLE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

First, I would like to thank all of our witnesses for appearing before us today.

Today we are talking about media outlets, such as cable news, broadcast news, and radio, and the role they play in disseminating disinformation and fomenting extremism. My hope is that our witnesses can help this subcommittee understand the current media ecosystem, how we got here, and potential solutions.

I doubt that any Members here are naive about the media. This is the industry that coined the term "If it bleeds, it leads." But to the degree to which Americans have become awash in disinformation and the profound events that our country has recently gone through require examination and evaluation of this industry.

This week marks a grim milestone for our Nation, as a half a million Americans have died from COVID-19. That matches the American death toll in Vietnam, Korea, and World War II combined. This pandemic has touched almost every aspect of American life and taken so many friends and loved ones from us, including from one of the witnesses here today, who tragically lost her father.

The real tragedy is that it didn't have to be this way. It didn't have to be this bad. But some of the media sought to downplay this virus from the beginning. They refused to acknowledge how deadly it was, they criticized stay-at-home orders, they mocked social distancing they told audiences that they didn't need to wear masks. All of these were scientifically validated steps that could have saved lives and prevented so much anguish and grief.

In the midst of this pandemic we also saw the rise of the Stop the Steal movement, fomented by former President Trump and propagated by members of the media, that sought to dispute the outcome of our elections and overturn our democratic process. As we all know, this led directly to the horrific events of January 6th, the attack on our Capitol and our democracy by insurrectionists motivated by former President Trump. Five lives were lost that day, and more have been lost since. A Capitol Police Officer was

murdered. Others were savagely attacked, beaten, and called vile racial epithets. All of our lives were put at risk, as was the Vice President's.

The First Amendment protects the freedom of the press and the freedom of speech, and the freedom of speech encourages us to ask tough questions about what is going on in the media, what is motivating the tidal wave of disinformation that is putting the lives of so many Americans and, ultimately, our democracy at risk.

Partisanship and polarization in the media has been building for years. But these more recent events reflect a—quite a frightening escalation. As Ms. O'Brien points out in her testimony, media companies have increasingly set aside journalistic standards to chase audience share and higher profits. Ms. Bell's testimony discusses the decline of local media and local newspapers, once the lifeblood of our democracy and now rapidly accelerated by the financial hardships of COVID.

These changes have given rise to national media entities that are more focused on the kind of tactics we see from social media companies. They engage their viewers by enraging them and further dividing us and our Nation.

We have also seen the rise of news as entertainment, where the claims of anchors and commentators are likened to performance art. When they are challenged in court, the lawyers from their own networks even claim that no reasonable person could believe these people are speaking the truth or reporting facts.

When truth becomes a commodity to be traded upon for profit, and facts and consequences don't matter to those who report them, our democracy is undermined. It is the responsibility of this subcommittee to hold these institutions to a higher standard.

[The prepared statement of Mr. Doyle follows:]

PREPARED STATEMENT OF HON. MIKE DOYLE

I'd like to thank our witnesses for appearing before us today.

Today, we are talking about media outlets such as cable news, broadcast news, and radio—and the role they play in disseminating disinformation and fomenting extremism.

My hope is that our witnesses can help this subcommittee better understand the current media ecosystem, how we got here, and potential solutions.

I doubt any of the Members here are naive about the media—this is the industry that coined the term “if it bleeds it leads.”

But the degree to which Americans have become awash in disinformation—and the profound events that our country has recently gone through—require examination and evaluation of this industry.

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All of these were scientifically validated steps that could have saved lives and prevented so much anguish and grief.

In the midst of this pandemic, we also saw the rise of the “stop the steal” movement—fomented by former President Trump and propagated by members of the

media that sought to dispute the outcome of our elections and overturn our democratic process.

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When truth becomes a commodity—to be traded upon for profit—and facts and consequences don't matter to those who report them, our democracy is undermined. It is the responsibility of this subcommittee to hold these institutions to a higher standard.

Thank you, and I look forward to the testimony of our witnesses.

Mr. DOYLE. Thank you, and I look forward to the testimony of our witnesses, and I yield the remainder of my time to my friend and colleague, Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman, for holding this very important hearing today.

Let me put it bluntly: Misinformation is killing Americans and damaging our democracy. We have to examine how conspiracies and lies convince people to dismiss public health measures and refuse lifesaving vaccines. This is not about left versus right; this is about life and death.

Similarly, the January 6th insurrection was built on a foundation of lies about mail-in ballots, voting machines, and election results. The First Amendment prohibits Congress from enacting laws abridging the freedom of speech, and I am an ardent supporter of it. It does not, however, stop us from examining the public health and democratic implications of misinformation.

[The prepared statement of Ms. Eshoo follows:]

PREPARED STATEMENT OF HON. ANNA G. ESHOO

Thank you, Mr. Chairman, for holding this very important hearing today.

Let me put it bluntly: misinformation is killing Americans and damaging our democracy. We must examine how conspiracies and lies convince people to dismiss public health measures and refuse life-saving vaccines. This is not about left versus right. This is about life and death.

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The First Amendment prohibits Congress from enacting laws abridging the freedom of speech, and I'm an ardent supporter of it. It does not, however, stop us from examining the public health and democratic implications of misinformation.

So I thank you Mr. Chairman for holding this very this very important hearing today, and I yield back. I also thank the witnesses who are with us today and am anxious to hear from them.

Ms. ESHOO. So I thank you, Mr. Chairman, for holding this very important hearing today, and I yield back.

I also thank the witnesses who are with us today. I am anxious to hear from them.

Mr. DOYLE. The gentlelady yields back, the Chair yields back. The Chair recognizes my good friend and colleague, Mr. Latta, the ranking member of the Subcommittee on Communications and Technology, for 5 minutes for his opening statement.

[Pause.]

Bob, you need to unmute.

**OPENING STATEMENT OF HON. ROBERT E. LATTA, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. LATTA. There we go. Thanks very much, Mr. Chairman, for today's hearing. I appreciate you yielding me the time.

And I also want to thank our witnesses who are appearing before us today on this hearing focused on disinformation and extremism in the media.

While disinformation, misinformation, and extremism in the media are all serious issues that this subcommittee should be examining in a bipartisan way, unfortunately today's hearing is not about that. Earlier this week several of my colleagues sent a disturbing letter to private companies asking them questions that imply that these companies should stop carrying certain news content.

Mr. Chairman, I would like to ask unanimous consent to enter that letter into the record.

Mr. DOYLE. Without objection, so ordered.¹

Mr. LATTA. I thank my friend.

As the title of the hearing indicates, the majority's intent behind today's hearing is to fan the flames of silencing certain viewpoints in America by trying to suppress and censor speech, a concept that has the potential to destroy our democracy. This is deeply troubling. It should be deeply troubling to everybody here today.

With this goal at hand, we are embarking upon a dangerous path of using this committee to attack the foundation of fact, and further diminish trust in journalism.

The antidote to bad speech is more speech. Rather than suppressing speech and viewpoints that we don't agree with, we should be encouraging more speech and conversations between one another. Sadly, it appears we are doubling down on encouraging the cancel culture of the left, instead of identifying bipartisan solutions to encourage and support factual local or national news.

We are all facing unprecedented challenges in this country, which includes work to combat a once-in-a-century pandemic. There has never been a more important time for journalism to be more accurate and reliable, having reliable news sources that report factual content that can even be a matter of life and death.

¹ The letters have been retained in committee files and are available at <https://docs.house.gov/meetings/IF/IF16/20210224/111229/HHRG-117-IF16-20210224-SD002.pdf>.

The damage done to our democracy by further dividing our Nation and ignoring the patently false and inaccurate information from many media outlets cannot be understated.

Before I close, I would like to bring to light just one of the most recent examples we have seen in the press concerning the attacks on the Capitol and Capitol grounds on January the 6th. Republicans and Democrats, including myself, have condemned the events of January the 6th. It is disturbing, to say the least, to insinuate responsibility for the mob violence that took place that day lies only with the media and not with the individuals who carried out these actions and committed crimes. That is flat-out wrong.

[The prepared statement of Mr. Latta follows:]

PREPARED STATEMENT OF HON. ROBERT E. LATTA

Good afternoon, and welcome to all of our witnesses here today for a hearing focused on disinformation and extremism in the media.

While disinformation, misinformation, and extremism in the media are all serious issues this committee should be examining in a bipartisan way, unfortunately, today's hearing is not about that.

Earlier this week, several of my colleagues sent a disturbing letter to private companies asking them questions that imply that these companies should stop carrying certain news content.

[Mr. Chairman, I ask for unanimous consent to enter this letter into the record sent by Representatives Eshoo and McNerney.]

As the title of the hearing indicates, the Majority's intent behind today's hearing is to fan the flames of silencing certain viewpoints in America by trying to suppress and censor speech, a concept that has the potential to destroy our democracy. This is deeply troubling and should be deeply troubling to everyone here today. With this goal at hand, we are embarking upon a dangerous path of using this committee to attack the foundation of fact and further diminish trust in journalism.

The antidote to bad speech is more speech. Rather than suppressing speech and viewpoints we don't agree with, we should be encouraging more speech and conversations between one another. Sadly, it appears we are doubling down on encouraging the cancel culture of the left instead of identifying bipartisan solutions to encourage and support factual local and national news.

We are all facing unprecedented challenges in this country, which includes work to combat a once in a century pandemic. There has never been a more important time for journalism to be accurate and reliable. Having reliable news sources that report factual content can even be a matter of life and death.

The damage done to our democracy by further dividing our Nation and ignoring the patently false and inaccurate information coming from media outlets cannot be understated.

Before I close, I'd like to bring to light just one of the most recent examples we have seen in the press concerning the attacks on the Capitol and Capitol grounds on January 6th: Republicans and Democrats, including myself, have condemned the events of January 6th. It is disturbing, to say the least, to insinuate responsibility for the mob violence that took place that day lies only with media, but not with the individuals who carried out those actions and committed crimes. That is flat out wrong.

We should be here today to discuss ways to combat disinformation, and the responsibility media outlets have when real-world violence occurs as a result of rhetoric.

We should also recognize that local journalism—which is trusted by the American people more than every other type of media—is the only real antidote to disinformation and extremism. If the majority were interested in having a thoughtful conversation about policies that would support local broadcasters and their ability to report real, honest news, perhaps that would be a better use of time.

But despite making bipartisan progress last Congress for breaking down these barriers, my colleagues have made the following very clear: Instead of continuing those bipartisan efforts to improve media diversity and restore trust in journalism, they would rather use their official positions to silence opposing views and settle political scores, all because they disdain President Trump.

I find it hard to believe, Chairman Doyle, that you would consider legislating in this space. While the letters sent and hearings held on this topic flirt with the First

Amendment, certainly I cannot imagine any legislative remedy that would not implicate the First Amendment. I would urge caution before going further down this dangerous path and return to the principles we have long shared on ensuring a free press.

Mr. LATTA. And at this time, Mr. Chairman, I would like to yield the balance of my time to our—Mr. Scalise from Louisiana.

Mr. SCALISE. Well, I thank my friend from Ohio for yielding. Thank you, Mr. Chairman, for hosting this hearing, and our witnesses, as well.

And clearly, we have all been very vocal in denouncing the events that happened on January 6th. It is a clear example of not only mob violence but also how political discourse can get out of control. But for anybody to just try to suggest that discourse started getting out of control on January 6th would be disingenuous when you look at where we have gotten and how far this has come.

I want to take you back to June 14th, 2017, a day that a gunman walked onto a baseball field and shot at over a dozen Members of Congress, including myself. There has been a lot of investigation into it. The FBI did a report. The gunman was motivated by hypercharged rhetoric that he was hearing from the left, from prominent elected officials, as well as media personalities.

In fact, Mr. Chairman, there is a report that the FBI did where they included some of the writings of the gunman, where he talks specifically about the people who motivated him and inspired him to commit this shooting, which would have been very deadly, if he was successful, without the bravery and heroism of Capitol Police.

I would like to ask unanimous consent that this be entered into the record, which is the FBI—some of the excerpts from his writings.

Now with that, Mr. Chairman, I enter that not to say that I blame those people that he mentions for his motivation. I say this to let you know that I don't blame those other people, I blame the shooter. The shooter is the one who should be held accountable. And I am very, very clear about that. But it is an example that we all need to be aware of our rhetoric and can all be doing a better job of toning down the rhetoric.

But we also need to call it out where we see it, not just on the other side of the aisle but on both sides. Just as I called out January 6th activities, I called out the violence I saw over the summer, when, through hypercharged rhetoric, people were burning down cities, were killing cops, killing other people. Let's be consistent in calling it out, not trying to suggest disingenuously that it only comes from one side of the political spectrum. Let's be fair and recognize we can all do a better job of encouraging the rhetoric to be toned down, and we all need to call out political violence wherever we see it, because it is not acceptable in America from the left or the right.

With that I yield back.

Mr. LATTA. Well, thank you very much. And Mr. Chairman, I yield back the balance of my time.

Mr. DOYLE. I thank the gentleman.

Just to inform Members, a vote has been called. We are not going to recess at all during votes. So, as Members that are—have some

time before they ask questions, they want to go down and take their votes, and we will just proceed.

The Chair now recognizes Mr. Pallone, chairman of the full committee, for 5 minutes for his opening statement.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman. Let me speak for myself and hope—and also for all Democrats—and say that we are all staunch defenders of the First Amendment and its mandate that Congress make no law abridging the freedom of speech or of the press. The First Amendment prohibits us from passing laws that inappropriately limit speech, even when it is controversial or even partisan.

But that doesn't mean that we should ignore the spread of misinformation that causes public harm. Putting a spotlight on the issue and having an open dialogue is exactly what the Founding Fathers envisioned, because it may help us solve a very dangerous problem. And we owe it to our constituents and to our democracy to examine how and why disinformation is being aired on traditional media and social media.

And that means we must ask uncomfortable questions, like whether these media outlets, for example, have an incentive to air extreme conspiratorial programming or content and how journalists can help each other find ways to cover controversial topics in a way that doesn't undermine our democratic structure and health. And there are no easy answers, but we have to, obviously, try to find them.

In my opinion, there are too many traditional media outlets that have yet to seriously wrestle with these questions. Very few have acknowledged their role in spreading deadly misinformation, and some have tried to self-correct, but only after the damage has been done or only after faced with public backlash or legal action.

So this debate, in my view, that you are having, Mr. Chairman, today is our best hope for addressing one of the challenges confronting our country. And I hope that we can have a smart and sensible discussion today, because there just is so much at stake.

Now, going back to the assault on the Capitol on January 6, it was an abhorrent attempt to overturn a free and fair election. And there was months of disinformation about the presidential election results that helped flame that attack.

I understand when our whip and Mr. Latta say that, you know, that they have all condemned what happened on January 6, and I respect that, and of course I, you know, still think about you, Steve, and what happened to you at that game, and your injury, and your remarkable recovery. But my point is that we still have to look at these incidents and see what brought them about, and what role the media played in causing these kinds of incidents. It doesn't mean that, just because they occurred and we say that they are terrible and that they shouldn't have happened, that we don't look into this.

And the problem is that we have this daily—and, in some cases, deadly—dose of disinformation and extremist content that is being

amplified by some of our most longstanding media sources. It can be broadcast, it can be cable, it could be radio. And I just think that this disinformation and extremism is a threat to the country, both collectively and individually. And it is not partisan.

[Audio malfunction.] Vice President Pence, individually—they had the gallows set up out there for him, our Republican Vice President.

So disinformation has undoubtedly contributed to the rapid spread of COVID-19, as well. And 500,000 Americans have died without regard to whether they are Republicans or Democrats.

Last summer we examined the role of social media in spreading extreme content and dangerous disinformation. However, our media ecosystem involves both social media and traditional media outlets that are part of this vicious cycle of reinforcing conspiracy theories. So, despite the rise of social media, we know that the majority of Americans get their news primarily from TV or radio. And over the past year we have seen some of these outlets air programming that downplayed the seriousness of the COVID-19 pandemic, peddled ineffective treatments, mocked effective precautionary measures. Chairman Doyle mentioned this.

And there are consequences to the constant airing of misinformation or false news. Some have tragically lost their lives because they relied on disinformation about COVID-19, including the father of one of the witnesses today. And for months some of these outlets aired programming that falsely claimed the presidential election was stolen. We lost five lives that day as a result of the attack on the Capitol. Hundreds of people injured as a result of the Stop the Steal propaganda campaign that some of these media outlets encouraged, and which ultimately led to the Capitol assault. So—and only after this violence did one broadcaster recognize the role that his program played and asked its on-air personalities to stop calling the election stolen.

So I just think there is a lot here that we have to look into. Let's try to do this in a smart and sensible way.

And I do appreciate, Chairman Doyle, the fact that you are having this today. I think it is very important.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

Let me start by saying we're all staunch defenders of the First Amendment and its mandate that "Congress make no law abridging the freedom of speech, or of the press." The First Amendment prohibits us from passing laws that inappropriately limit speech—even when it is controversial or overly partisan. But that does not mean that we should ignore the spread of misinformation that causes public harm.

Putting a spotlight on the issue and having an open dialogue is exactly what the Founding Fathers envisioned because it may help us solve a very dangerous problem. We owe it to our constituents and our democracy to examine how and why disinformation is being aired on traditional media and social media.

That means we must ask uncomfortable questions. Like whether these media outlets, for example, have an incentive to air extreme conspiratorial programming or content. And, how journalists can help each other find ways to cover controversial topics in a way that doesn't undermine our democratic structure and health. There are no easy answers, but we must try to find them.

In my opinion, too many traditional media outlets have yet to seriously wrestle with these questions. Very few have acknowledged their role in spreading deadly disinformation. Some have tried to self-correct, but only after the damage has been done, or only after faced with public backlash or legal action.

This debate—in my view—is our best hope for addressing one of the challenges confronting our country. I hope that we can have a smart and sensible discussion today because there is so much at stake.

Months of disinformation about the Presidential election results helped fan the flames for the attack on the Capitol on January 6—an abhorrent attempt to overturn a free and fair election.

For the past year, the COVID-19 pandemic has threatened the American people's physical, emotional, and economic health, and these threats have been exacerbated by ongoing disinformation about the pandemic.

The daily, and in some cases deadly, dose of disinformation and extremist content is often amplified by some of our most longstanding media sources: broadcast and cable television and broadcast radio.

Disinformation and extremism is a threat to our Nation—both collectively and individually—but it is not partisan. The insurrectionists at the Capitol targeted Vice President Pence individually and our democracy collectively. Disinformation has undoubtedly contributed to the rapid spread of COVID-19 and 500,000 Americans have died without regard to whether they are Republicans or Democrats.

Last summer, we examined the role of social media in spreading extreme content and dangerous disinformation. However, our media ecosystem involves both social media and traditional media outlets, that are often part of a vicious cycle of reinforcing conspiracy theories and disinformation.

Despite the rise of social media, surveys indicate that a majority of Americans get their news primarily from television or radio programming.

Over the past year we have seen some of these outlets air programming that downplayed the seriousness of the COVID-19 pandemic, peddled ineffective treatments, and mocked effective precautionary measures. There are consequences to the constant airing of misinformation and false news. Some have tragically lost their lives because they relied on disinformation about COVID-19, including the father of one of our witnesses here today.

For months, some of these outlets aired programming that falsely claimed the Presidential election had been stolen. Five lives were lost, and over a hundred injured, as a result of the “Stop The Steal” propaganda campaign that some media outlets encouraged, and which ultimately led to the Capitol Insurrection. Only after this violence, did one broadcaster recognize the role that its programming had played, and asked its on-air personalities to stop claiming the election was stolen.

Mr. PALLONE. I just realized that I was supposed to yield to Jerry, and now I didn't.

Jerry, I am sorry. I will have to make it up to you somehow. I am sorry. I didn't realize—

Mr. MCNERNEY. Mr. Chairman, I will hold you to that promise.

Mr. PALLONE. All right.

Mr. DOYLE. OK, the gentleman yields back. The Chair now recognizes Mrs. Rodgers, the ranking member of the full committee, for 5 minutes for her opening statement.

**OPENING STATEMENT OF HON. CATHY McMORRIS RODGERS,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF
WASHINGTON**

Mrs. RODGERS. Thank you very much, Chairman Pallone and Chairman Doyle. In all my time on this committee, there has never been a more obvious direct attack on the First Amendment, despite what has been said.

I want to be very clear: Condemning the January 6th attack and upholding truth and facts, it is a shared, bipartisan goal. Unfortunately, that is not what this hearing is about. If the majority was really interested in a meaningful dialogue, you wouldn't schedule a hyperpartisan hearing to shame and blame. You wouldn't be sending letters pressuring private companies to block conservative media outlets.

I am not only disappointed in this hearing, I am deeply troubled by it. Every journalist, from MSNBC and CNN to The New York Times, should be concerned by the majority's actions. And anyone who values free speech and a free press should be worried.

Elected officials using their platform to pressure private companies to censor media outlets they disagree with? That sounds like actions from the Chinese Communist Party, not duly-elected representatives of the United States Congress. Here we cherish free speech and a free, independent press. We believe in dialogue and in the battle of ideas. Rather than censure and silence constitutionally protected speech, the answer is more speech. That is the American way.

And surely, Chairman Pallone, Chairman Doyle, you agree with me. You have once believed that—you stated that you believed threats against broadcasters for airing legally protected speech to be illegal. Less than a year ago you sent a letter to the FCC decrying attempts to censor or interfere with broadcasters' discretion to air legally protected content.

I would ask you to take a look at this letter. And I ask unanimous consent to enter this letter into the record.

Mr. DOYLE. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mrs. RODGERS. That letter, it says—and I quote—"At a time when autocratic governments around the world are using the coronavirus pandemic as an excuse to suppress press freedoms, we must reaffirm—not undermine—America's commitment to a free press."

So what has changed? As you once put it, "To stay silent could undermine the First Amendment." So let's come together, and let's make sure that we do not have a censorship campaign based upon political ideology or someone saying something you disagree with. That is not the standard we want to set. Under your new approach, a lot of media would cease to exist.

Should CNN still be carried after hosting Governor Cuomo? For months media lauded him and legitimized his lethal response to COVID-19—he even won an Emmy—for his use of TV to spread misinformation. How do we know it was misinformation? Because of a balance of networks that pursued investigative journalism.

Should MSNBC be carried after years of pushing the false Russia collusion narrative? Thanks to independent journalists and a robust free press, we have learned their reporting was false.

Does your new standard stop with cable news, or should it be applied to social media?

It is un-American when you are setting control—for you to redefine for yourselves what is true.

Do you think Republican Members of Congress agree with all the content on media? No.

Have we sent TV companies threatening letters to stop carrying certain channels? No.

Now, more than ever, we must uphold the First Amendment. It states, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press." It is unique to Americans. It

has been fought for. It has been defended. It is foundational to our personal rights and liberties.

So we should all be troubled by what appears to be an attack on the First Amendment. This is an abuse of power. Ours is a country for we the people, not a few in a position of authority dictating to the rest.

You know, so today the media is the target, but where does it end? We have already seen liberal ideology pushed in our schools where we work, the books we read, who we communicate with, how we practice our faith. It is frightening.

And you know what the worst part is? People are afraid of a woke and authoritarian system that is getting them fired, canceled, and shamed. So they are being silent. They have no voice. They can't trust the broken institutions to protect them. This culture of fear is unjust, and this committee should not be using fear to force everyone to be the same or be destroyed. It is abuse of power, and it is a force of a State religion of liberal ideology.

I embrace all of us to embrace our fundamental rights that lie at the foundation of a free government by free men.

And with that I yield back.

[The prepared statement of Mrs. Rodgers follows:]

PREPARED STATEMENT OF HON. CATHY MCMORRIS RODGERS

Chairman Pallone and Chairman Doyle, in all my time on this committee, there has never been a more obvious direct attack on the First Amendment.

I want to be very clear. Condemning the January 6th attack and upholding truth and facts is a shared, bipartisan goal.

But that is not what this hearing is about.

If the Majority was interested in meaningful change, you would not schedule a hyper-partisan hearing to shame and blame.

You certainly would not send letters pressuring companies to block conservative media outlets.

I am not only disappointed in this hearing, I am deeply troubled by it.

Every journalist—from MSNBC and CNN to The New York Times—should be concerned by the Majority's actions.

And anyone who values free speech and a free press should be worried.

Public officials using their platform to pressure private companies to censor media outlets they disagree with?...

That sounds like actions from the Chinese Communist Party, not duly elected representatives of the United States Congress.

Here, we cherish free speech and a free independent press.

We believe in dialogue and in the battle of ideas.

Rather than censor and silence constitutionally protected speech, the answer is MORE speech.

That's the American way.

Chairman Pallone and Chairman Doyle, you once believed threats against broadcasters for airing legally protected speech to be illegal.

Less than a year ago, you sent a letter to the FCC decrying attempts to censor or interfere with broadcasters' discretion to air legally protected content.

Mr. Chairman I ask unanimous consent to enter this letter into the record.

You said, quote, "At a time when autocratic governments around the world are using the coronavirus pandemic as an excuse to suppress press freedoms, we must reaffirm—not undermine—America's commitment to a free press."

I ask you now—What's changed?

As you once put it, quote, "To stay silent could undermine the First Amendment."

I call on you both to publicly denounce your colleagues' censorship campaign over the news they disagree with.

Is this the standard you want to set? Under your new view, liberal media would cease to exist.

Should CNN still be carried after hosting Governor Cuomo?

For months, liberal media lauded him and legitimized his lethal response to COVID-19. He even won an Emmy for his use of TV to spread misinformation.

How do we know it was misinformation? Because of a balance of conservative networks that pursued investigative journalism.

Should MSNBC still be carried after years of pushing the false “Russia collusion” narrative?

Thanks to independent journalists and a robust free press, we learned their reporting was false.

Does your new standard stop with cable news or should it now be applied to social media?

This is a dangerous and un-American standard you are setting for more control to redefine for yourselves what is true.

Do you think Republican Members of Congress agree with all of the content on liberal media?

No.

Have we sent TV companies threatening letters to stop carrying certain channels?

No.

We support the spirit of the First Amendment.

It states “Congress shall make no law abridging the freedom of speech, or of the press.”

The Majority appears to be quasi-legislating its attack on the First Amendment by using their public positions of power to coerce private companies to censor political speech.

It’s an abuse of power.

Today, the media is their target.

Very soon it will be on Big Tech CEOs for more censorship.

Next, it is forcing an ideology in our schools... where we work... what books we read... who we communicate with... and how we practice our faith.

This is frightening. Do you know what the worst part is?

It’s already being mandated in our culture.

There are people in America today.... who are afraid to stand up and say this is wrong.

They are afraid of a woke system that is getting them fired, canceled, and shamed.

So they are silent. They have no voice.

They can’t trust broken institutions to protect them.

This culture of fear is unjust.... and it’s absurd this committee is now using fear to force everyone to be the same or be destroyed.

We should be leading a better example.

Rather than abuse its power and force a State religion of liberal ideology, I urge this committee to seek excellence.

Let’s come together around our most basic principles for freedom.

Let’s give people hope in the Promise of America again—so they have the courage to be unique, creative, and live their lives without fear.

I yield back.

Mr. DOYLE. The gentlelady yields back. The Chair would like to remind Members that, pursuant to committee rules, all Members’ written opening statements shall be made part of the record.

I would like now to introduce our witnesses for today’s hearing: Ms. Soledad O’Brien, anchor, “Matter of Fact,” CEO of Soledad O’Brien Productions, welcome; Mr. Jonathan Turley, professor at the George Washington University Law School—welcome, sir; Ms. Kristin Danielle Urquiza, cofounder, Marked By COVID; and last, but certainly not least, Ms. Emily Bell, director of the Tow Center for Digital Media, Columbia University.

We want to thank all of our witnesses for joining us today. We look forward to your testimony. At this time, the Chair will recognize each witness for 5 minutes to provide their opening statement, and we will start with Ms. O’Brien.

You are recognized for 5 minutes.

STATEMENT OF SOLEDAD O'BRIEN, ANCHOR, "MATTER OF FACT," AND CHIEF EXECUTIVE OFFICER, SOLEDAD O'BRIEN PRODUCTIONS; JONATHAN TURLEY, SHAPIRO PROFESSOR OF PUBLIC INTEREST LAW, THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL; KRISTIN DANIELLE URQUIZA, CO-FOUNDER, MARKED BY COVID; AND EMILY BELL, LEONARD TOW PROFESSOR OF JOURNALISM AND DIRECTOR, TOW CENTER FOR DIGITAL JOURNALISM, COLUMBIA UNIVERSITY

STATEMENT OF SOLEDAD O'BRIEN

Ms. O'BRIEN. Thank you to the chairman. Thank you to the members of the committee and, of course, those who join me in testifying.

Back in 2005 CNN aired a piece on "Lou Dobbs Tonight" reporting that the U.S. had 7,000 new cases of leprosy in the previous 3 years because of unscreened illegal immigrants. That figure was completely false. Back then, the official leprosy statistics showed about 7,000 cases of leprosy over the last 30 years, not 3.

The Dobbs lie advanced his agenda of demonizing undocumented immigrants, so it stuck, and he got away with it. To those of us at CNN reporting on the communities that he degraded, it was disheartening and insulting. And it was also only the beginning. We had entered an era where broadcasters would begin repeating and re-energizing lies and liars, an era that would set the stage for xenophobic and racist narratives that would take hold and polarize this country.

I have been a journalist for more than 30 years, reporting and anchoring for local TV, network news, cable, places like NBC, WBZ-TV, HBO Real Sports, CNN, Hearst. I do a podcast on QuakeMedia, documentaries, series from my own production company. And so my point is that I have my feet very firmly planted on the media landscape, and this is what the landscape looks like to me: Media, disguised as journalism, has been spreading lies for years, elevating liars, and using the ensuing slugfest to chase ratings, hits, subscriptions, advertisers. Period. Full stop.

So how did we get here? Michael Rich, who is the CEO of the Rand Corporation, where I am honored to serve on the board, defines what happened as truth decay, the diminishing role of facts and analysis in public life and important conversations about policy issues, policy decisions, and elections.

And I believe this era of truth decay began when local newspapers were badly—even mortally—wounded by the emergence of free social media and the decline of advertising dollars like classified ads. Our country has lost almost 2,100 papers since 2004. Local news is the heartbeat of American journalism, the glue of civic participation, the place where we turn to for information about our local taxes, quality education, infrastructure, and the demise left the public with only the unfiltered and unverified cauldron of presumed fact and opinion that is social media.

The public turned to TV for traditional reporting, especially on politics, where 65 percent of Americans report trusting information from TV and radio, depending on whether the stations conform to their political leanings. But here's the problem: TV didn't fill the

void of in-depth reporting on America's communities by producing stories about policies that affect regular people. Instead, it became a place where facts often go to die.

TV, cable news in particular, relies on the cheap and easy booking of talking heads who exchange colorful barbs, entertaining outbursts, and sometimes peddle outright fiction. It has only gotten worse as reporters and anchors chase ratings, toss aside objectivity to divide us into false categories, I believe, of left and right, manipulating facts, and debating the liars they booked for their very own shows.

Today, viewers who come looking for information instead get enraging and contradictory facts from an endless churn of guests who are not in the least representative of the public. On "Meet the Press," "Face the Nation," and "This Week" back in 2015, 80 percent of the guests were white, 12 percent were women, 2 percent were women of color, 41 percent were Republican, 22 percent were Democrats.

All of this has eroded the public trust: 72 percent of Americans said they trusted the media back in 1976. By 2020 that number had fallen to 40 percent.

So why did the media march down this road? Money. News organizations need a cheap way to draw big ratings, and big ratings mean more ad dollars, and it is really just that simple. And when news organizations make decisions based on ratings rather than responsible reporting, disinformation flourishes in dangerous ways. Important conversations are clouded, scrutiny is reduced, trust in our institution erodes.

So what to do about all this? Let me be clear that Congress cannot and should not regulate journalism in defiance of the First Amendment. But here is what we can do.

Don't book liars or advance lies. Cover the fact that lies and propaganda are being disseminated, but do not book people to lie on your show, because it elevates them and presents a lie as another side.

Stop posing every story as having two sides. Some stories, in fact, have many, many sides that are more complicated. And also, lies don't have a side. Take the time to unravel and report, and give history and context. We, as reporters, are verifiers. Every perspective does not deserve a platform. Media thrives on the open exchange of ideas, but that doesn't mean you have to book a neo-Nazi every time you book someone who is Jewish. Balance does not mean giving voice to liars, to bigots, and to kooks.

Stop saying you want a diverse staff, and go hire one. Fast. The public will trust you again if you tell the truth about who lives in this country and report accurately on communities.

Recognize that objectivity means having an open mind, not a lack of judgment. If you do not call a lie a lie, or racism racism, you empower the liar, you empower the racist.

Support efforts to challenge media that disseminates misinformation, particularly in vulnerable communities.

And most importantly, support ground-level reporting, journalism—the place, in fact, where major networks and cable news gets a lot of its best stories.

America trusts the media to deliver accurate, factual, unbiased information. It is the grist of democracy. It is the stuff that enables us to have intelligent and accurate conversations with our neighbors, to cast informed votes, and make thoughtful and intelligent decisions.

Thank you very much.

[The prepared statement of Ms. O'Brien follows:]

Back in 2005, CNN aired a piece on Lou Dobbs Tonight reporting that the US. had 7,000 new cases of leprosy in the previous three years because of unscreened illegal immigrants

That figure was completely false.

Back then, the official leprosy statistics showed about 7,000 cases of leprosy over the last 30 years, not the last three. But to Dobbs, who was my colleague at the time, a lie was a more convenient way to advance his agenda of demonizing undocumented immigrants.

"If we reported it, it's a fact," Dobbs said as Lesley Stahl eviscerated him for lying on 60 Minutes.

Much to the horror of his colleagues, this so-called mainstream journalist with a prime time show got away with lying, and even prospered. CBS executive Steve Friedman, who had named Dobbs a commentator on the CBS Early Show, said: "What makes Lou stand out is that he's not afraid to tackle the hot topics." He celebrated Dobbs, as well as the 60 Minutes report that debunked Dobb's fiction as "provocative."

His work was not provocative. It was a lie given legitimacy by my own network which emboldened Dobbs and so many other racist provocateurs while sidelining critical reporting. To those of us at CNN reporting on the communities he demonized, it was disheartening and insulting. What we didn't know was that this was just the beginning.

I have been a journalist for more than 30 years, reporting and anchoring for local TV, network news and cable -- places like NBC, WBZ-TV and CNN. I anchor and co-produce, along with Hearst, a weekly political magazine show syndicated in 93% of the country called Matter of Fact. I do a twice weekly podcast for Quake Media and am a correspondent for HBO's 'Real Sports', in addition to producing series and documentaries through my production company, Soledad O'Brien Productions.

My point is, I have both feet planted firmly on the media landscape -- and this is what that landscape looks like.

Media disguised as journalism has been spreading lies for years, elevating liars, and using the ensuing slugfest to chase ratings, hits, subscriptions and advertisers. Period. Fullstop.

In fact, the elevation of liars has accelerated, with radio, broadcast and cable TV in particular, repeating and reenergizing lies that harm all of us. The bombast that accompanies these lies, has also set the stage for an alarmingly xenophobic and racist narrative that has taken hold in this country.

So how did we get here?

Michael Rich, CEO of Rand Corporation, where I am honored to serve as a member of the board, defines what happened as “Truth Decay,” “the diminishing role of facts and analysis in public life” -- in important conversations about policy issues, policy decisions, and elections.

Truth Decay, Rand research shows, is characterized by four trends:

- Increasing disagreement about facts
- A blurring of the line between opinion and fact - The rising influence and quantity of opinion over facts.
- Declining trust in formerly respected sources of facts, like conventional media which has suffered from the rise of social media.

I believe this area of Truth Decay began when local newspapers were badly, even mortally, wounded by the emergence of free social media and the decline of advertising dollars, like classified ads. Local news is the heartbeat of American journalism where your town board gets the scrutiny it deserves. Losing local coverage meant fewer facts, the glue of civic participation. It also meant a decline in voter participation. A 2014 Study from George Washington University and American University researchers concluded that "Citizens exposed to a lower volume of coverage are ...less likely to vote ... regardless of levels of political awareness, indicating that the deleterious consequences of a decline in local coverage are widespread, not restricted to the least attentive citizens." The decline in local coverage has even affected bond ratings. Paul Gao, a professor of finance at the University of Notre Dame, who studied the decline of local news, found that in the three years following a newspaper closure, the costs for municipal bonds and revenue bonds increased, likely because no watch dogs were reporting on the machinations of government and how the money is spent.

A report from the University of North Carolina Huffman School of Journalism found that the United States has lost almost 2,100 papers since 2004, including 70 dailies and more than 2,000 weeklies or nondailies. About half of the remaining 6,700 plus papers in the country – roughly 1,250 dailies and 5,500 weeklies – are

located in small and rural communities. The average circulation of weeklies – which number around 5,500 – is 8,000. An estimated 1,800 communities which had a local news outlet in 2004 were without one at the beginning of 2020.

Today the residents of these towns and cities have no place to find basic reporting, on their planning boards, their schools, their police. That has left an enormous void of information with the possible exception of social media, which is too often an unfiltered, unverified caldron of presumed fact and opinion. In the absence of many sources for basic reporting, the public turned on their TVs, particularly in search of political reporting.

“While local news shrinks, national news coverage by cable television like Fox and MSNBC is growing and our understanding of news grows politicized and polarized, pulling us apart,” has written Charles Sennott, founder of the Ground Truth Project.

As of 2019, some form of TV is the go-to source for 45 percent of Americans seeking political coverage, a key to assessing policy, choosing candidates, and scrutinizing how decisions are made. In fact, the public looks to TV news as a *trusted* source for politics. Pew Research Center in 2019 found that 65 percent of news consumers trusted CNN, Fox News, the three networks and PBS and NPR depending on which way they leaned politically.

Here is the problem. TV hasn’t filled the void of in-depth reporting on America’s communities by producing stories about policies that affect regular people, like local taxes, climate change, quality education or infrastructure. Instead, it’s become a place where facts go to die. TV, cable news in particular, relies on the cheap and easy booking of talking heads who exchange colorful barbs, entertaining outbursts and sometimes peddle outright fiction.

According to the Pew Research Center, between 2007 and 2012, the percent of CNN evening programming filled with interviews jumped from 30% to 57%. Airtime for edited packages (taped produced stories) dropped from 50% to 24% during the same time period. In December 2012, 90% of MSNBC primetime coverage came in the form of opinion or commentary. Daytime news was no better. Live Breaking News was cut in half from 10% in 2007 to 5% in 2012 (across Fox, MSNBC, CNN). Reporters going live dropped from 23% to 18%. Interviews increased from 39% to 51%.

From there, it only got worse. Former Senator Rick Santorum, who once said legalizing same sex marriage was tantamount to the legalization of incest, became a prime time pundit. Kellyanne Conway, senior counselor to President Donald Trump, introduced the media to the notion of “alternative facts” during an airing of NBC’s Meet the Press. Conventional reporters and anchors, the so-called

professionals, started to behave like conspiracy theorists and entertainers. Rachel Maddow of MSNBC speculated that former Secretary of State Rex Tillerson might be a crony of Russian President Vladimir Putin, as Lawrence O'Donnell advanced the conspiracy that Russia orchestrated a chemical attack in Syria to help Trump. They chased ratings and tossed aside objectivity to divide us into these false categories of left and right, manipulating facts and using guests to pique the interest of partisan viewers. Then they would break into tears or slam their fists on their anchor desks as they debate the liars they booked for their very own shows. Viewers, who come looking for information, instead get enraging contradictory facts to support a bias to the left or right. The migration from reporter to entertainer is so complete that even the courts have recognized it. In 2020, Fox defeated a defamation case by claiming that viewers should know enough to consider anything Tucker Carlson reports with skepticism based on his reputation. From the judge's opinion:

"Fox persuasively argues...that given Mr. Carlson's reputation, any reasonable viewer 'arrive[s] with an appropriate amount of skepticism' about the statements he makes....Whether the Court frames Mr. Carlson's statements as "exaggeration," "non-literal commentary," or simply bloviating for his audience, the conclusion remains the same—the statements are not actionable."

The harm being done is profound. "If everyone is entitled to their own facts you can no longer have reasoned disagreements and productive compromise." says Yochai Benkler, co-director of the Berkman Klein Center for Internet & Society at Harvard University.

Moreover, the talking heads are not in the least representative of the public. On Meet the Press, Face the Nation, and This Week in 2015, according to Harvard's Shorenstein Center, 80% of guests were White, 12% were women (2% were women of color) and 41% were Republicans, 22% Democrats.

The media isn't diverse either, distorting the realities of American life even more. Big media is isolated in coastal cities, disconnected from poor and working class people of all colors, hosting newsrooms with scant diversity of anything -- race, ethnicity, socioeconomic status, anything. About three-quarters of newsroom employees are non-Hispanic white, compared with about two-thirds of all U.S. workers, according to a 2018 analysis from the Pew Research Center. About half of newsroom staff are white men, compared with about a third of the overall workforce. It's no wonder the media expressed shock when videos unveiled police brutality, a phenomenon that is well known to communities of color.

All of this has eroded public trust. Seventy-two percent of Americans trusted the media in 1976. By 2020 that number had fallen to 40%, according to Gallup. So why did the media march down this road? Money. News organizations need cheap ways to draw big ratings. Big ratings mean more ad dollars. It's really that simple. Leslie Moonves meant it when he said of the media's coverage of Trump, "It may not be good for America, but it's damn good for CBS" and "the money's rolling in, and this is fun ... It's a terrible thing to say. But bring it on, Donald. Keep going."

That's precisely what the media did more and more, as viewership -- and advertising money -- increased after they presented the 2015/16 primaries as entertainment. TV went big with Donald Trump, a 9th-place candidate, who the polls showed with 5% of GOP support. Racist Birtherism and Lies? It was all part of the news-entertainment complex. Knowing he would be entertaining, they went wall-to-wall when he launched his campaign with another lie -- that Mexicans were drug dealers and rapists. In his first nine months of campaigning, Donald Trump earned nearly \$1.9 billion worth of free media attention from TV, print, and social media. Trumps' GOP opponents collectively received \$1.159 billion in free media coverage. Hillary Clinton earned \$746 million in free media coverage. Four years later, TV's spotlight on lying has become even more dangerous. Lies about the recent election propelled a swarm of rioters, some carrying Blue Lives Matter flags, to attack those same blue lives as they tried to stop the electoral vote count.

When news organizations make decisions based on ratings rather than responsible reporting, disinformation flourishes. Important conversations are clouded, scrutiny is reduced, and trust in our institutions erodes. The result is less civic engagement and voting, and that exacerbates the damage already done by the decline of your local paper.

Examples abound of the consequences of misinformation, like the debate over the need to wear masks when a highly contagious virus is spreading; the erroneous speculations from both left and right surrounding intelligence about Russian interference in the elections or whether immigrants are fueling a leprosy comeback.

According to an IPSOS poll released on December 30, 2020, popular misinformation campaigns like QANON have too often gone mainstream. Thirty-seven percent of Americans aren't sure about whether "a group of Satan-worshipping elites who run a child sex ring are trying to control our politics and media." Thirty percent of the country does not accept the result of the 2020 election.

On April 25, 2019 the CDC reported 695 cases of the measles in the United States, the highest number of cases reported since eliminating the disease. Why? Because disinformation about the safety of vaccines had spread widely across social media and been elevated as vaccine deniers get airtime. The Annenberg Public Policy Center found that up to 20% of US adults were at least somewhat misinformed about vaccines. Imagine what will be the impact if vaccine panic grows now that COVID-19 vaccination is underway.

So what to do about all this?

Let me be clear. Congress can't, and shouldn't, regulate journalism in defiance of the First Amendment. It's enough that Congress underfunds and politicizes public media even as it strives to bring basic news to scores of communities big and small. What Congress can do is shed light on how irresponsible media contributes to disinformation in ways that have consequences for democracy. You can speak up, like I am today, and encourage education that helps the public discern between fact and fiction, opinion and reporting. The public can also speak up and look to educate themselves on disinformation. And, me and my colleagues can also be proactive

Here are some examples of what we in the media can and should do:

- Don't book liars or advance lies. Sure, cover the fact that lies and propaganda are being disseminated but don't book people to lie on your show because it elevates them and presents them as another "side."
- Get out of the office and interview people all over the country of all different backgrounds. Cable TV, in particular, infuriates Americans with elitist and tone-deaf coverage that often ignores the plight of regular people.
- Stop posing every story as having two sides when some stories have many sides and are more complicated. Take the time to unravel and report and give history and context.
- Every perspective doesn't deserve a platform. Media thrives on the open exchange of ideas but that doesn't mean you have to book a Neo-Nazi every time you book someone who is Jewish. Balance does not mean giving voice to liars, bigots and kooks.
- Stop saying you want a diverse staff and go hire one -- fast. A diversity of staff is not just fair, but it helps you reach into different communities and tell an accurate story of America. The public will trust you again if you tell the truth of who lives in this country and report accurately on communities.

- Make sure that reporting and anchoring staff adheres to professional standards by consistently speaking in a fair, accurate and balanced reportorial voice that is absent opinion. People who traffic in opinion should do only that and be labeled as that.
- Recognize that objectivity means having an open mind, not a lack of judgment. If you don't call a lie a lie or racism, racism, you empower the liar or the racist.

Reject the majority rule mentality in journalism. Just because a lot of people believe something doesn't make it real, true or reasonable.

Support efforts to challenge media who disseminate misinformation, particularly in vulnerable communities. Answering hard questions just makes us stronger. Voto Latino and Media Matters for America on Thursday just launched the Latino Anti-Disinformation Lab with \$22 million of funding.

We in TV news need to get better because things are getting worse, as the events of January 6 have foreshadowed. The American public has been fed lies, enabled by too many in the media and elevated by some of the very reporters who are supposed to support a facts based environment.

Most importantly, support local journalism, the place where major networks and cable news gets a lot of its best stories. The slow ascendance of non-profit independent media like Report for America, Chalkbeat, ProPublica, Hechinger Report and Marshall Project is a good thing for the public because it supports traditional newsgathering, gritty watchdog reporting of facts and information that help guide our conversations and inform decision making.

Meanwhile, Local newspapers are declining even more rapidly as coronavirus cripples the economy. At least 30 newspapers closed or merged in April and May 2020, and thousands of journalists at legacy and digital news operations have been furloughed or laid off, says a report by Penny Abernathy, Knight Chair in Journalism and Digital Media Economics at UNC. That leaves those of us on TV. America trusts us to deliver accurate, unbiased information, the grist of democracy, the stuff that enables us to have intelligent and accurate conversations with our neighbors, to cast an informed vote, and to make thoughtful decisions about everything, from the products we buy to whether we should vaccinate our children against a deadly plague. Bad information, wrong information, racist and crazy and cruel information hurts and even kills. But only if we let it.

Mr. DOYLE. Thank you very much. The Chair now recognizes Mr. Turley.

You are recognized for 5 minutes, sir.

[Pause.]

Mr. DOYLE. You need to—Jonathan, you need to unmute.

Mr. TURLEY. I am sorry.

STATEMENT OF JONATHAN TURLEY

Mr. TURLEY. Chairman Rodgers, Ranking Member Latta, members of the subcommittee, it is an honor to appear before you today. Appearing before the committee on a subject of disinformation in the media is not for the faint of heart. You know, this is an issue that is heavily laden with political passions and agendas.

As everything in my writings, I maintain what was once a mainstream view of free speech, that it is—that the greatest protection against bad speech is more speech. That view is admittedly under fire and, indeed, may be a minority view today. But history has shown that public and private forms of censorship do not produce better speech. It is, rather, a self-replicating, self-perpetuating path that only produces more censorship and more controlled speech. That is why I have encouraged you in my testimony not to proceed down that slippery slope toward censorship.

I have come to this subject as someone who has written, litigated, and testified in this area for decades. I also worked for television and print media for decades, including past contracts under NBC, MSNBC, CBS, BBC, and Fox. And I have had a wonderful past relationship with Soledad.

Now, extremist and violent speech is not an abstract or academic matter with me or many others who work in the public domain. Through the years I have received hundreds of threats against myself, my family, even my dog. My home has been targeted. Multiple campaigns have sought my termination as a professor, particularly after I testified in the Clinton and Trump impeachment hearings.

Thus, while I generally am viewed as a free speech purist, I have no illusions about the harm of disinformation and extremist speech in our society. And I believe that speech controls pose far greater threats for our country than misguided or malevolent speech.

Disinformation is a scourge in our society, but it is not a new scourge. And as discussed in my testimony, the Constitution was not only written for times like these, it was written during times like these. At the start of the Republic, Republicans and Federalists were not trying to cancel each other in the contemporary sense, they were trying to kill each other in the actual sense. There were rampant conspiracy theories, and newspapers and pamphleteers were highly biased and partisan.

This is also not the first time that people in power have declared that they can rid us of this meddlesome media. The question is, Who will be the arbiter of truth in any public or private regime of speech regulation? The First Amendment limits the ability of the Government to regulate or censor speech. Accordingly, the United States has been spared a history of a state media like China or Iran.

In the last few years it has shown that there is no need for a central ministry controlling the media if there is a common nar-

rative or bias among private companies that control communication. The reason that most of us have opposed state media controls is not simply because we disfavor state regulation of speech, but because we favor free speech. These companies can deny free speech more effectively, more efficiently than any state apparatus. We would achieve very little in our constitutional system if we allow politicians to achieve indirectly what they cannot do directly.

Of course, external controls on speech seem trivial or inconsequential when the speech is not your own, and even less if it is speech that you abhor, or despise. Europe has shown that speech regulation becomes an insatiable appetite. There is no evidence that European law has actually diminished hate speech. There is plenty of evidence that they diminished free speech. That impact is evident in recent polls out of Germany, where only 18 percent of Germans feel free to express their opinions in public, and only 17 percent felt free to express themselves in the internet.

Now, of course, it is notable that Angela Merkel recently criticized the United States for its crackdown on free speech, particularly Twitter and banning people, as a real threat to free speech.

This appetite for speech—limiting the speech of others is evident in the United States. We have talked briefly about the recent letter to AT&T and other companies. I would be happy to talk about that more.

But to be honest, from the perspectives of free speech and the free press, the letter is not just chilling, it is positively glacial.

I admit that I may be a relic in my views, but I continue to believe that the greatest protection against bad speech is better speech. Those seeking limits often speak of free speech like it is a swimming pool that must be monitored and carefully controlled for purity and safety. I view it more as a rolling ocean. It is indeed dangerous, but it is also majestic and inspiring. Its immense size allows for a natural balance. Free speech allows false ideas to be challenged in the open rather than driving dissenting viewpoints beneath the surface.

However, free speech, like other constitutional values, requires a leap of faith, a faith not only in free speech, but in each other. Citizens are capable of educating and informing themselves. They do not need politicians or corporate filters to protect them from speech deemed misleading, false, or incited.

Roughly 70 years ago, Justice William Douglas warned that the restriction of free speech is the most dangerous of all subversions. It is the one un-American act that could easily defeat us all. Some of the measures being discussed this week have the potential to defeat us all.

Once again, thank you for the honor of appearing with you and with my distinguished panelists. I would be happy to answer questions that you may have.

[The prepared statement of Mr. Turley follows:]

Written Statement

Jonathan Turley,

Shapiro Professor of Public Interest Law

The George Washington University Law School

“Fanning The Flames: Disinformation and Extremism In The Media”

United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Communications and Technology

February 24, 2021

I. Introduction

Chairman Doyle, ranking member Latta, members of the Subcommittee on Communications and Technology, my name is Jonathan Turley, and I am a law professor at George Washington University where I hold the J.B. and Maurice C. Shapiro Chair of Public Interest Law.¹ It is an honor to appear before you today to discuss “disinformation and extremism in the media.” This is an issue that is heavily laden with political passions and agendas. In our age of rage, every issue tends to be associated with the interests of one party or one personality. In such an environment, all values or rights often become purely functional questions as to whether they advance or inhibit political objectives. In coming to this hearing, I have only one interest and only one concern: free speech in the United States. As will come as no surprise to those familiar with my prior writings, I maintain what was once a mainstream view of free speech. I believe that free speech is the greatest protection against bad speech. That view is admittedly under fire and indeed may be a minority view today, but history has shown that public or private censorship does not produce better speech. It is a self-replicating and self-perpetuating path that only produces more censorship and more controlled speech. I encourage you (indeed I implore you) not to proceed down that slippery slope toward censorship.

¹ I appear today on my own behalf and my views do not reflect those of my law school, my colleagues at Fox News or the newspapers for which I write as a columnist. My testimony was written exclusively by myself, though I received inspired editing assistance from Jason Long and Seth Tate.

I come to this subject as someone who has written,² litigated,³ and testified⁴ in the area of free speech and the free press for decades. I have also worked for television and print media over three decades.⁵ These are dangerous times where disagreements on the law or politics are often expressed in personal assaults, cancelling campaigns, and vicious attacks. Extremist and violent speech is not an abstract or academic matter for me and many others who work in the public domain. Through the years, I have received hundreds of threats against myself, my family, and even my dog. My home has been targeted and

² Parts of this testimony are taken from a manuscript on the expanding anti-free speech movement in the United States. I have previously written on free speech issues, including the value of anonymity in the exercise of the right. *See, e.g.*, Jonathan Turley, *Registering Publicus: The Supreme Court and Right to Anonymity*, 2002 Supreme Court Review 57-83. I have long maintained a view of privacy and free speech rights shaped by a Millian view that maximizes individual rights. *See, e.g.*, Jonathan Turley, *The Loadstone Rock: The Role of Harm In The Criminalization of Plural Unions*, 64 Emory L. J. 1905 (2015). My blog, *Res Ipsa Loquitur* (www.jonathanturley.org), has a free speech focus as do dozens of my columns in national newspapers going back decades. *See, e.g.*, Jonathan Turley, *History Shows Free Speech Is The Loser In Mob Action*, The Hill, June 24, 2020; Jonathan Turley, *Declaring Antifa A Terrorist Organization Could Achieve Its Anti-Free Speech Agenda*, LA Times, June 1, 2020; Jonathan Turley, *Big Brother or Little Brother: The Public Applauds As Free Speech Dies On The Internet*, USA Today, May 29, 2020; Jonathan Turley, *The Death of Free Speech*, Washington Post, October 14, 2012; Jonathan Turley, *Free Speech Under Fire*, Los Angeles Times, March 9, 2012; Jonathan Turley, *Undo the Stolen Valor Act to Protect Free Speech*, Los Angeles Times, October 20, 2011; Jonathan Turley, *The Free World Bars Free Speech*, The Washington Post (Sunday), April 12, 2009, at B3; Jonathan Turley, *When is Violent Speech Still Free Speech?*, USA Today, May 3, 2005, at 13A.

³ *See, e.g.*, *Brown v. Buhman*, 822, F.3d 1151 (10th Cir. 2016); *See also* Jonathan Turley, *Thanks To The Sister Wives Lawsuit, We Have One Fewer Morality Laws*, Washington Post, December 20, 2013.

⁴ *See, e.g.*, United States Senate, Committee on the Judiciary, Subcommittee on the Constitution, “*The Right of The People Peacefully To Assemble: Protecting Speech By Stopping Anarchist Violence*,” August 4, 2020 (Testimony of Professor Jonathan Turley); United States House of Representatives, Permanent Select Committee on Intelligence, *The Media and The Publication of Classified Information*, May 26, 2006 (Testimony of Professor Jonathan Turley).

⁵ This includes multiple contracts with NBC, MSNBC, CBS, and BBC. I recently left CBS and BBC to work with Fox News as a legal analyst.

multiple campaigns have sought my termination as a professor, particularly after I testified as a constitutional expert in the impeachment hearings of former presidents William Clinton and Donald Trump. Thus, while I am generally viewed as something of a “free speech purist,” I have no illusions about the harm of disinformation and extremist speech in our society. Yet, I believe that speech controls pose far greater threats for our country than misguided or malevolent speech. For that reason, I welcome this hearing as an opportunity for a civil and informed discussion of the underlying issues related to speech regulation. I expect that there is much agreement among us on this panel on the costs of false or extremist speech. However, the costs of such speech should not blind us to the greater costs of speech regulation.

I would like to touch on three basic points in my testimony today. First, I will briefly address the problem of disinformation and extremist speech in our society. Second, I will discuss the growing anti-free speech movement building within our society. Third, and finally, I will address how free speech remains the best response to bad speech. Increasingly, free speech is being referenced as a danger in itself that needs to be controlled as opposed to being the very value that defines us as a people. History has shown that limiting free speech will not reduce hateful or false speech, but rather will only fuel such speech in different forums while enforcing approved or orthodox viewpoints. Before you abandon the bright lines of protections for free speech and the free press, I urge you to consider and weigh those costs in the interest of our country.

II. The Scourge of False Speech and The Spector Of Regulated Speech

It is important for hearings of this kind to begin with what is not in dispute. We all agree that there is a torrent of false, hateful, and extremist speech on social media and other public forums. This speech is not without cost. It fuels the rageful, victimizes the gullible, and alienates the marginal in our society. It is a scourge in our society, but it is not a new scourge.

As I often note in testimony before Congress, the Constitution was not only written for times like these, it was written during times like these. While politicians often describe their opponents as being unprecedented in their obstructionist or hostile attitudes, politics in the United States has always been something of a blood sport, literally. At the start of our Republic, the Republicans and Federalists were not trying to “cancel” one another in the contemporary sense. They were trying to kill each other in the actual sense through measures like the Alien and Sedition Acts. Thomas Jefferson once described the Federalists as “the reign of the witches.” That period was also notorious for scurrilous and false information on both sides. There were also rampant conspiracy theories of alliances with Great Britain, France, Spain, and other powers. Newspapers and pamphleteers were highly biased and partisan.

There is also a common suggestion that false information or “disinformation” is dramatically on the rise or more prevalent today than in prior periods. The fact is that there are no dark mysterious forces at work. The Internet and other communicative technologies have given a greater voice to millions – for better or worse. For the first time, media figures and politicians do not largely control the public debate. The Internet is empowering for individual expression. Indeed, it represents the single greatest contribution to free speech

since the printing press. With such enhancement comes an increase in all types of speech: good, bad, and everything in between.

The reliance on the Internet and social media has also been enhanced by the decline of trust in the mainstream media. For years, media companies have catered to viewpoint constituencies in what is often called “echo journalism.” Many people now confine their viewing and reading to news outlets that offer confirmatory coverage in line with their own viewpoints. It is the journalist version of comfort food. Few venture out of this siloed comfort zone. This is true on both the left and the right of the political spectrum. The open bias of much of our news has left many citizens without a source for reliable information. To make matters worse, some academics (and some reporters) are discarding traditional views of neutrality in reporting. For example, [Stanford Communications Professor Emeritus Ted Glasser](#) has publicly called for an end of objectivity in journalism as too constraining for reporters in seeking “social justice.” Given such views, it is hardly surprising that [trust in the media is at an all-time low](#). As a result, many citizens attempt to construct what is true from a variety of sources on the Internet. They do not trust the mainstream media and they certainly do not trust politicians.

This erosion of faith in the media has been accelerated by false or exaggerated stories on both the left and the right. There is currently a bizarre QAnon theory that Trump will become president on March 4th because an 1871 law converted the government into a corporation and that the country will return to a sovereign state next month. That facially absurd theory attracted [roughly 1.5 million views](#).⁶ Another example were the claims of systemic voting fraud by former President Donald Trump, including in his speech on January 6, 2021. I was critical on Twitter of that speech while it was being given and I opposed the challenge of electoral votes in Congress. I also condemned Trump for his false statements about the authority of Vice President Michael Pence to “send back” electoral votes. In other words, I was able to use the exercise of free speech to combat what I viewed as false speech. It is also true that the existence of such countervailing information will not always change minds, particularly when there is a mistrust of official or media sources of information. This can create a dangerous blind spot.

The same is true on the left. For years, false stories were rampant on the Russian investigation. For example, stories about Carter Page being a Russian agent were carried on a wide array of news sites despite the fact that there was little evidence to support the allegation. He was, in fact, an American intelligence asset. Other widespread accounts continued to be reported even after being refuted. For example, I [testified on the protests around Lafayette Park](#) and was surprised how members in the hearing repeated a debunked theory that former Attorney General Bill Barr cleared the area to make way for a photo op for Trump before a church.⁷ In reality, the plan to clear the area was approved long before any photo op was discussed and Barr was not aware of the photo op when he gave his

⁶ <https://www.rollingstone.com/culture/culture-news/qanon-conspiracy-theories-trump-tiktok-1118668/>

⁷ See United States House of Representatives, Committee on Natural Resources, Full Oversight Hearing: “*The U.S. Park Police Attack on Peaceful Protesters at Lafayette Square Park*,” June 29, 2020 (Testimony of Professor Jonathan Turley).

approval. As with the recent fencing around the Capitol, federal agencies decided a wider parameter was needed after protests threatened to breach the White House security area. The threat of a breach was deemed sufficient to require that the First Family be moved briefly to the White House bunker. Indeed, media like National Public Radio (NPR) still have articles proclaiming this false theory as a fact. Another example is the handling of the Hunter Biden story by the New York Post. The story was blocked by Twitter as based on suspected “hacking” despite the fact that the story made clear that the source of this information came from an abandoned laptop, not hacking. To this day, even after admitting its mistake in blocking the story before the election, Twitter maintains the hacking rationale.⁸

The question is who will be the arbiter of truth in any public or private regime of speech regulation. There are rampant false stories across the political spectrum. However, the First Amendment limits the ability of the government to regulate or censor speech. Accordingly, the United States has been spared a history with a state media like China or Iran. The focus on preventing state media controls is increasingly inconsequential in light of the growing levels of control exercised by Big Tech with the urging of many politicians. The last few years have shown there is no need for a central ministry controlling the media if there is a common narrative or bias among private companies controlling much of our communications. What is particularly concerning is the common evasion used by academics and reporters that such regulation is not really a free speech issue because these are private companies and the First Amendment only addresses government restrictions on free speech. As a private entity, companies like Twitter or publishing houses are clearly not the subject of that amendment. However, private companies can still destroy free speech through private censorship. It is called the “Little Brother” problem. That does not alter the fundamental threat to free speech. This is the denial of free speech, a principle that goes beyond the First Amendment. Indeed, some of us view free speech as a human right.

Consider racial or gender discrimination. It would be fundamentally wrong even if federal law only banned such discrimination by the government. The same is true for free speech. The First Amendment is limited to government censorship, but free speech is not limited in the same way. Those of us who believe in free speech as a human right also believe that it is wrong to deny it as either a private or governmental entity. That does not mean that there are no differences between governmental and private actions. For example, companies may control free speech in the workplaces and companies have been recognized as having their own free speech rights. However, the social media companies were created as forums for speech. Indeed, these companies sought immunity on the false claim that

⁸ One can point to such errors on both the left and the right. Even when confronted on such stories, many in the media refuse to correct them, but that does not mean that they should be blocked or banned. I was once [criticized by a Washington Post columnist](#) for a column that I did not write that argued a viewpoint that I did not support. The same columnist, Jennifer Rubin, misrepresented [a judicial decision without correction](#). See <https://jonathanturley.org/2020/05/15/washington-posts-rubin-misrepresents-emoluments-ruling-in-latest-trump-fueled-gaffe/> Yet, [free speech allows such errors to be addressed by others to create a countervailing record](#).

they were not making editorial decisions or engaging in viewpoint regulation. No one is saying that these companies are breaking the law in denying free speech. Rather, we are saying that they are denying free speech as companies offering speech platforms.

The reason that most of us have opposed state media controls is not simply because we disfavor state regulation of speech, but because we favor free speech. These companies can effectively deny free speech more efficiently and effectively than any state apparatus. It was not surprising that recently Russian President Vladimir Putin denounced Big Tech as a threat to “Democratic institutions.”⁹ As one of the world’s most authoritarian and murderous figures, Putin is hardly concerned with democratic institutions. He can, however, recognize (and even begrudgingly respect) a system of continual speech regulation and control that surpasses his own capabilities on a global scale. Political parties can engage in raw censorship through allies in Big Tech to a degree that would be impossible, even unimaginable, through a single government. We would have achieved little in our constitutional system if we took such an approach. It would be akin to putting multiple bolts and barriers on the front door of a house while leaving every window and the backdoor wide open. It creates the pretense of security the same way our current situation creates the pretense of free speech. Of course, for many, the risks to this emerging system of speech control seem slight because they agree with the bias in these companies. External controls on speech seem trivial or inconsequential when the speech is not your own – and even less if it is speech that you abhor or despise. The impact, however, on free speech is immense.

III. America’s Anti-Free Speech Movement

The calls for greater governmental and private censorship in the United States are growing at a time when free speech is under unprecedented attack. Such movements remain a type of dormant virus in our body politic. As parties see an opening to limit opposing views, they have tended to yield to that temptation with differing levels of success. In that sense, the struggle for free speech in the United States is interwoven with our history, from the colonial period to the present day. From the outset, there was a clear concept of free speech, but not a clear commitment to protecting it. Indeed, free speech was a rallying cry for patriots resisting colonial rule. Figures like Thomas Paine and John Peter Zenger raised many issues against the English Crown that are still debated today in conflicts over free speech and the free press.¹⁰ It is important to note that crackdowns on free speech have often come with the periods of our greatest government abuses as a nation.

The intolerance for dissenting speech exists across countries and societies. Orthodoxy is the enemy of free speech and such doctrinal views are often the result of religious or social values. Yet, the greatest anti-free-speech “movements” with national

⁹ MADELINE ROCHE, PUTIN WARNS BIG TECH POSES A THREAT TO 'LEGITIMATE DEMOCRATIC INSTITUTIONS,' TIME, JANUARY 27, 2021, <https://time.com/5933666/putin-davos-agenda-speech/>

¹⁰ See, e.g., Jonathan Turley, *Viewpoint: How likely is an Assange conviction in US?*, BBC (April 11, 2019), <https://www.bbc.com/news/world-us-canada-47874728>.

significance tended to be secular, government-mandated speech controls. A number of historical periods are strikingly analogous to the current controversies in our streets and in our schools.

The United States has gone through repeated periods of crackdowns and criminalization of free speech. Early in the Republic, the anti-sedition laws were used to not only to intimidate but to arrest those with opposing views. The use of the Sedition Act by President John Adams and the Federalists was recognized at the time as not just an abuse, but as the height of hypocrisy. Adams and the Federalists routinely engaged in false and malicious writings about Jefferson, including declaring that, if elected, “Murder, robbery, rape, adultery, and incest will be openly taught and practiced, the air will be rent with the cries of the distressed, the soil will be soaked with blood, and the nation black with crimes.”¹¹ Thomas Jefferson and James Madison denounced the law, which made it illegal for anyone to “print, utter, or publish . . . any false, scandalous, and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States . . .”¹² This included a Vermont congressman who was prosecuted for criticizing John Adams’ “unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice.”¹³ The prosecution proved the point but the irony was lost on Adams. It was not, however, lost on Jefferson, who remarked that “our general government has, in the rapid course of [nine] or [ten] years, become more arbitrary and has swallowed more of the public liberty than even that of England.”¹⁴ Yet, even those leaders seem to have had a more modest view of free speech protections, including the possibility of seditious prosecutions.¹⁵ Whether a result of the conflict with the Federalists or a deep-seated view of free speech, the sedition prosecution period led to the articulation of our modern First Amendment values.¹⁶ At least twenty-five leading Republicans were arrested, from journalists to politicians, though that number may not

¹¹ Peter Onuf, *Thomas Jefferson: Campaigns and Elections*, MILLER CTR., <https://millercenter.org/president/jefferson/campaigns-and-elections>

¹² Sedition Act of 1798, Ch. 74, 1 Stat. 596 (1798) (expired 1801).

¹³ See CHARLES SLACK, *LIBERTY’S FIRST CRISIS: ADAMS, JEFFERSON AND THE MISFITS WHO SAVED FREE SPEECH* 114, 127–28 (2015).

¹⁴ *Id.* at 163–64 (citing *Letter from Thomas Jefferson to John Taylor*, (Nov. 26, 1798), in Bernard Schwartz et al., 2 *THE BILL OF RIGHTS: A DOCUMENTARY HISTORY* (1971)).

¹⁵ In a disappointing statement during the Virginia Resolutions debate, Madison assured his opponents “every libellous writing or expression might receive its punishment in the state courts.” *Address of the General Assembly to the People of the Commonwealth of Virginia*, in 6 *THE WRITINGS OF JAMES MADISON* 333–34 (Gaillard Hunt ed., 1908).

¹⁶ See LEONARD W. LEVY, *EMERGENCE OF A FREE PRESS* 304 (1985) (discussing how this period of political conflict “provided the foundation for the Modern theory of the First Amendment”).

fully capture the full extent of the government crackdown.¹⁷ All those convicted would later be pardoned by President Jefferson. The Sedition Act was never found unconstitutional, and, fittingly, expired on Adams' last day in office as a lasting and indelible mark on his presidency.¹⁸

Prosecutions for unlawful speech continued periodically in the United States, becoming particularly abusive during periods like the Civil War and other times of armed conflict. For example, under President Woodrow Wilson, the country experienced a crackdown on dissenting views when the United States entered World War I in April of 1917. Wilson called for new laws to punish dissenters, dismissing free speech concerns by declaring that "[disloyalty] was not a subject on which there was room for . . . debate" since such disloyal citizens "sacrificed their right to civil liberties."¹⁹ To carry out the crackdown on free speech, Wilson needed, and found, an eager partner in Congress. Congress enacted the Espionage Act of 1917, introducing the criminalization of any acts that "cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of the United States" or willfully to "obstruct the recruiting or enlistment service of the United States."²⁰ At the time, Attorney General Charles Gregory made clear the menacing intent of such laws, declaring: "May God have mercy on them, for they need expect none from an outraged people and an avenging government."²¹

It was during this period that the Congress rediscovered the allure of sedition laws. One year after passing the Espionage Act, the Congress passed the Sedition Act of 1918.²² From 1918 to 1921, Gregory's successor Attorney General Mitchell Palmer prosecuted hundreds of individuals under these laws – gaining infamy as the architect of the "Palmer Raids." Communists, socialists, and anarchists faced repressive measures across the country.²³ In just one raid in January, 1920, over 3,000 alleged Communists were rounded up.²⁴ The abuses during this period were not simply a failure of the Executive and

¹⁷ Wendell Byrd, *New Light On The Sedition Act of 1798: The Missing Half Of The Population*, 34 L. & HIST. REV. 514 (2016).

¹⁸ GEOFFREY R. STONE, *PERILOUS TIMES: FREE SPEECH IN WARTIME FROM THE SEDITION ACT OF 1798 TO THE WAR ON TERRORISM* 71 (2004).

¹⁹ PAUL L. MURPHY, *WORLD WAR I AND THE ORIGIN OF CIVIL LIBERTIES IN THE UNITED STATES* 53 (1979).

²⁰ Espionage Act of 1917, Ch. 30, Tit. I, § 3, 40 Stat. 217, 219 (1917).

²¹ *All Disloyal Men Warned by Gregory*, THE N.Y. TIMES (Nov. 21, 1917) at 3, available at <https://www.nytimes.com/1917/11/21/archives/all-disloyal-men-warned-by-gregory-criminal-courts-will-handle.html>. For a discussion of this period, see Geoffrey R. Stone, *Free Speech and National Security*, 84 IND. L.J. 939 (2009).

²² Sedition Act of 1918, Ch. 75, 40 Stat. 553 (1918) (repealed Mar. 3, 1921).

²³ See generally, CHRISTOPHER M. FINAN, *FROM THE PALMER RAIDS TO THE PATRIOT ACT: A HISTORY OF THE FIGHT FOR FREE SPEECH IN AMERICA* 30, 32–34 (2007); STONE, *supra* note 100, at 220–26 (2004).

²⁴ Finan, *supra* note 105, at 1–4.

Legislative branches, the so-called “political branches,” to protect free speech. They were the result of a complete three-branch failure with the acquiescence of the Supreme Court and lower courts. A well-known example is the decision of the United States for the Ninth Circuit decision in *Shaffer v. United States*²⁵ where the court upheld the criminalization of clearly protected political speech. The defendant was charged with mailing copies of *The Finished Mystery*, a book with the following passage:

“If you say it is a war of defense against wanton and intolerable aggression, I must reply that . . . it has yet to be proved that Germany has any intention or desire of attacking us . . . The war itself is wrong. Its prosecution will be a crime. There is not a question raised, an issue involved, a cause at stake, which is worth the life of one blue-jacket on the sea or one khaki-coat in the trenches.”²⁶

That is clearly protected speech, but the Ninth Circuit blissfully dismissed the First Amendment claim while adopting a wildly attenuated analysis.²⁷ The Court upheld the conviction of Debs for speech that was the very essence of the First Amendment. Debs merely gave a speech opposing the war. Before the jury, Debs refused to back down in his exercise of free speech and reaffirmed his opposition to “the present government” and “social system”:

“Your honor, I ask no mercy, I plead for no immunity. I realize that finally the right must prevail. I never more fully comprehended than now the great struggle between the powers of greed on the one hand and upon the other the rising hosts of freedom. I can see the dawn of a better day of humanity. The people are awakening. In due course of time they will come into their own.”²⁸

Justice Oliver Wendell Holmes, writing for a unanimous Court ruled for the government, stating that these words had the “natural tendency and reasonably probable effect” of deterring people from supporting or enlisting in the war.

Outside of wartime crackdowns, our struggle to protect free speech hit another low during the Cold War and “Red Scare.” Again, this period revealed a total failure of all three branches in supporting a crackdown on free speech. The Executive Branch arrested suspected Communists and Congress enacted new powers under the Internal Security Act to allow the mass detention of dissidents. The grand jury process was regularly used to

²⁵ 255 F. 886 (9th Cir. 1919).

²⁶ *Id.* at 887; *see also* Stone, *supra* note 103, at 943.

²⁷ Jonathan Turley, *At Michigan rally, Bernie Sanders revels in his role as political successor to Eugene Debs*, USA TODAY (March 9, 2020, 4:51 PM), <https://www.usatoday.com/story/opinion/2020/03/10/bernie-sanders-michigan-rally-political-successor-eugene-debs-column/5000675002/>.

²⁸ Michael E. Deutsch, *The Improper Use of the Federal Grand Jury: An Instrument for the Internment of Political Activists*, 75 J. CRIM. L. & CRIMINOLOGY 1159, 1174 (1984).

target political dissidents and coerce people to reveal their associations and beliefs. Of course, the most visible abuses occurred in the hearings on “Un-American Activities” with figures like Senator Eugene McCarthy. The work of these committees was replicated in a myriad of federal and state laws barring rights and privileges to suspected Communists.²⁹ Notably, however, some academics supported this crackdown. For example, Professor Carl Auerbach reconstructed the premise of the early anti-Sedition laws by claiming that certain speech cannot be protected because it is inimical to the constitutional system.³⁰ Thus, Auerbach insisted that the First Amendment must be understood contextually as part of a “framework for a constitutional democracy.” As such, it is antithetical to interpret the First Amendment “to curb the power of Congress to exclude from the political struggle those groups which, if victorious, would crush democracy and impose totalitarianism.”³¹

The Auerbachian view captures the lingering rationale for excluding certain speech from constitutional or political protection. His construction is a simple and familiar construct. He frames free speech in functionalist terms. It is valued for its role in preserving a constitutional democracy, yet not valued to the extent that it is viewed as inimical to that system. In fairness, while Auerbach recognized the rights as a goal of the system, he also recognized that such rights cannot be used against the system. In this sense, it is a right qualified on its compatibility with the common values embodied in the Constitution. For those of us with a normative view of free speech, the constitutional system exists to guarantee the right, not the right to guarantee the constitutional system. Once a functionalist view is adopted, speech denial can become merely a matter of perspective. Those views deemed dangerous or hostile to the system are viewed as beyond the protections of the constitutional system. Hegemony becomes a mere reflection of consensus. It is a relativistic view that will be readily embraced, not just by the government, but by extremist groups alike.

²⁹ As Professor Stone observed: “The long shadow of the House Committee on Un-American Activities (HUAC) fell across our campuses and our culture In 1954, Congress enacted the Communist Control Act, which stripped the Communist Party of all rights, privileges, and immunities. Hysteria over the Red Menace produced a wide range of federal and state restrictions on free expression and association. These included extensive loyalty programs for federal, state, and local employees; emergency detention plans for alleged subversives; pervasive webs of federal, state, and local undercover informers to infiltrate dissident organizations; abusive legislative investigations designed to harass dissenters and to expose to the public their private political beliefs and association; and direct prosecution of the leaders and members of the Communist Party of the United States.” Stone, *supra* note 103, at 939, 949–50, 954.

³⁰ Carl Auerbach, *The Communist Control Act of 1954: A Proposed Legal-Political Theory of Free Speech*, 23 U. CHI. L. REV. 173, 184 (1956); see also *id.* at 189.

³¹ *Id.* at 189.

In a curious way, we are living through a period reminiscent of the Red Scare, though socialism is now, by some polls, popular with almost half of voters³² and a majority of Democratic voters.³³ That, in my view, is a good thing in terms of diversity and tolerance in our political system. However, there is now an inverse intolerance against conservative voices. The Red Scare was a period where writers and others were put on blacklists and denied employment for holding the “wrong” views. There are now new calls for blacklists from not just [members of Congress but writers and academics](#).³⁴ There exists an ever-present fear of being accused of being reactionary or racist in questioning any aspect of the current protests or their underlying demands. Professors and writers have faced demands to be fired or removed from boards due to their views questioning systemic racism in policing, or for the criticism of recent violent protests or particular groups. Ironically, where professors and writers were once targeted for their criticism of the government, it is more likely today that one will be denounced for being supportive of the government, particularly law enforcement.

The most chilling examples of intolerance have come on campuses of higher education. The extensive “cancelling” of speeches and events on campuses often involves rejecting the classical view that free speech protects all speakers, even those who are viewed as advancing harmful ideas. For example, a protest leader who succeeded in blocking a conservative speaker at Berkeley voiced an increasingly common refrain in an editorial: “I don’t think that anyone’s free speech is being impaired. I think sometimes the free speech amendment is used as a way to frame violent conversations as a matter of free speech.”³⁵ When a University of North Carolina student assaulted pro-life advocates on campus in 2019, she gave another common explanation for violent protests: that seeing certain opposing views is “triggering” and hurtful.³⁶ The rationalization for many disruptive or violent forms of conduct on campuses seeks to focus on the cause rather than the means of such protests. By declaring opposing views harmful or threatening, the range

³² Mohamed Younis, *Four in 10 Americans Embrace Some Form of Socialism*, GALLUP (May 20, 2019), <https://news.gallup.com/poll/257639/four-americans-embrace-form-socialism.aspx>.

³³ Hunter Moyler, *76 Percent of Democrats Say They’d Vote for a Socialist for President*, NEWSWEEK (Feb. 11, 2020, 10:34 AM), <https://www.newsweek.com/76-percent-democrats-say-theyd-vote-socialist-president-new-poll-shows-1486732>.

³⁴ <https://jonathanturley.org/2021/01/22/why-burn-books-when-you-can-ban-them-writers-and-publishers-embrace-blacklisting-in-an-expanding-american-anti-free-speech-movement/>

³⁵ Juniperangelica Xiomara Cordova-Goff, *Campus must prioritize safety of marginalized over free speech*, THE DAILY CALIFORNIAN (May 1, 2017), <https://www.dailycal.org/2017/05/01/399178/>.

³⁶ Caleb Parke, *Liberal student arrested for punching pro-lifer on UNC campus, triggered by images of aborted children*, FOX NEWS (May 9, 2019), <https://www.foxnews.com/us/liberal-student-arrested-punching-pro-lifer>.

of responses is expanded to include measures of “self-defense.” This construct converts speech into a discretionary right, subject to how it is received or interpreted by other individuals or groups. It also justifies the targeting of a wide range of individuals who can be silenced under the same rationale.

The effort to silence opposing views is not just confined to speakers. Faculty members across the country have faced investigations, threats, and even termination over espousing unpopular views. Harvard Professor Steven Pinker was the subject of a campaign to fire and remove him from a leading academic society because he questioned, on Twitter, whether police shootings were due to systemic racism, or rather, were part of a long pattern of excessive use of force by police departments.³⁷ University of Chicago Professor Harald Uhlig was targeted for criticizing the Black Lives Matter movement and the Defund the Police campaign.³⁸ University of Pennsylvania Professor Carlin Romano was targeted because he questioned language on a proposed statement on systemic racism.³⁹ Cornell Professor William Jacobson, who is also a conservative commentator, faced calls for his termination after criticizing the Black Lives Matter movement.⁴⁰ One professor was stripped of his directorship over a program after questioning affirmative action in medical admissions⁴¹ while another was put under investigation (and required police protection) after tweeting criticism of “white shaming” and claims of systemic

³⁷ Michael Powell, *How a Famous Harvard Professor Became a Target Over His Tweets*, THE N.Y. TIMES (July 22, 2020), <https://www.nytimes.com/2020/07/15/us/steven-pinker-harvard.html>.

³⁸ Jonathan Turley, *Writers and Academics Call For Removal Of Chicago Professor For Criticizing BLM and Defunding Police*, RES IPSA (June 11, 2020), <https://jonathanturley.org/2020/06/11/writers-and-academics-call-for-removal-of-chicago-professor-for-criticizing-blm-and-defunding-police/>.

³⁹ Petra Mayer, *National Book Critics Circle Board Members Resign Over Racism Allegations*, NPR (June 15, 2020, 4:25 PM), <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/06/15/877385352/national-book-critics-circle-board-members-resign-over-racism-allegations>; see also Jonathan Turley, *Penn Professor Faces Call For His Removal After Questioning An Anti-Racism Statement*, RES IPSA (July 23, 2020), <https://jonathanturley.org/2020/07/23/penn-professor-faces-calls-for-his-removal-after-questioning-an-anti-racism-statement/>.

⁴⁰ Nick Givas, *Cornell professor who criticized Black Lives Matter faces student boycott*, FOX NEWS (June 17, 2020), <https://www.foxnews.com/us/cornell-professor-criticized-black-lives-matter-faces-student-boycott>.

⁴¹ Crystal Phend, *Anti-Affirmative Action Paper Blows Up on Twitter*, MEDPAGE TODAY (Aug. 4, 2020), <https://www.medpagetoday.com/publichealthpolicy/medicaleducation/87903>.

racism.⁴² These are only a few of the growing number of examples of intolerance on campuses, which include cases where professors have been physically assaulted or threatened by protesters.⁴³ What is striking about many of these instances is that other professors have supported the campaigns calling for terminations or punishment of colleagues with opposing views. While most professors do not condone such conduct, the most extreme faculty voices have advocated violence or making life a “living hell” for those with opposing views.⁴⁴ There is a range of such “direct actions” from professors who have led protests, from “shouting down”⁴⁵ speeches to physically⁴⁶ or verbally assaulting⁴⁷

⁴² Martin E. Comas, *UCF protesters demand professor be fired for racist tweets*, ORLANDO SENTINEL (June 14, 2020, 6:32 PM), <https://www.orlandosentinel.com/news/seminole-county/os-ne-ucf-professor-negy-racist-tweets-20200614-pqznqgsafnhqbd36eb2pign4si-story.html>.

⁴³ See, e.g., Katharine Q. Seelye, *Protesters Disrupt Speech by ‘Bell Curve’ Author at Vermont College*, THE N.Y. TIMES (Mar. 3, 2017), <https://www.nytimes.com/2017/03/03/us/middlebury-college-charles-murray-bell-curve-protest.html>.

⁴⁴ Jonathan Turley, *“Living Hell”: Clemson Professor Prompts Others To Find The Home Address Of Public Letter Author*, RES IPSA (Aug. 8, 2020), <https://jonathanturley.org/2020/08/08/living-hell-clemson-professor-under-fire-after-prompting-others-to-find-the-home-address-of-critic/>.

⁴⁵ See, e.g., *University of New Hampshire Professor Identified In Effort To Disrupt Free Speech Event*, RES IPSA (May 30, 2018), <https://jonathanturley.org/2018/05/30/university-of-new-hampshire-professor-identified-in-effort-to-disrupt-free-speech-event/> (Professor shown shouting “We don’t want you in the LGBT community. Get the f**k out.” at speaker); Ryan Blessing, *Police: QVCC administrator stole conservative commentator’s notes*, THE BULLETIN (Dec. 13, 2017, 10:42 AM), <https://www.norwichbulletin.com/news/20171213/police-qvcc-administrator-stole-conservative-commentators-notes> (professor and administrator shown stealing notes of conservative speaker to stop event).

⁴⁶ See, e.g., *California professor pleads no contest to assault on pro-life students*, FOX NEWS (Nov. 23, 2015), <https://www.foxnews.com/us/california-professor-pleads-no-contest-to-assault-on-pro-life-students> (University of California Professor charged with assaulting pro-life display and table on campus after leading her students from a class).

⁴⁷ See, e.g., Mackenzie Mays, *Fresno State prof says he did nothing wrong, won’t ‘pay a dime’ for erasing anti-abortion messages*, FRESNO BEE (Nov. 10, 2017, 2:59 PM), <https://www.fresnobee.com/news/local/education-lab/article183987576.html> (Professor berated pro-life students, denied they had a right to free speech on campus, and erased their chalk messages).

people with opposing views on campus.⁴⁸ This includes faculty members associated with violent antifascist groups⁴⁹ and professors condoning killing conservative protesters. Most of these voices have not been barred from social media or campuses.⁵⁰

Students have faced similar backlash over expressing opposing or unpopular views. For many years, there have been questions raised over ill-defined speech standards. Recently, however, any pretense of ideological neutrality has been lost in cases where schools or even fellow students have attacked students for simply expressing opposing views on issues of racism or police abuse.⁵¹ There is no empirical study on the range of

⁴⁸ One of the early and most notable examples of this trend of intolerance was the videotaping of Missouri Professor Melissa Click telling protesters to get rid of a student journalist. *Ex-Mizzou Professor Melisa Click Fired Over Protest Clash, Gets New Job*, NBC NEWS (Sept. 4, 2016, 6:14 PM), <https://www.nbcnews.com/news/us-news/ex-mizzou-professor-melissa-click-fired-over-protest-clash-gets-n642711>.

⁴⁹ One such faculty member is college professor Eric Clanton who pleaded guilty after assaulting various people at a free speech rally by hitting them in the head with a heavy bike lock. Emilie Raguso, *Eric Clanton takes 3-year probation deal in Berkeley rally bike lock assaults*, BERKELEYSIDE (Aug. 8, 2019, 2:14 PM), <https://www.berkeleyside.com/2018/08/08/eric-clanton-takes-3-year-probation-deal-in-berkeley-rally-bike-lock-assault-case>.

⁵⁰ I often oppose discipline for such statements even when professors [espouse hatred](#) or support violence against those with opposing views. One professor [called for more Trump supporters to be killed](#). Rhode Island Professor Erik Loomis, who [writes for the site Lawyers, Guns, and Money](#), said he saw “[nothing wrong](#)” with the killing of a [conservative protester](#) — a view [defended by other academics](#). While sites like *Lawyers, Guns, and Money* feature writers like law professor Paul Campus who call for the firing of those with opposing views ([including myself](#)), it is not their commitment to free speech but our own that must guide our actions.

⁵¹ In one recent case, Georgetown University junior Billy Torgerson was the subject of a formal resolution of condemnation by the Student Senate as well as a bias complaint from the university. The reason is a column posted on his own website in which he espoused widely held conservative views of the law and patriotic views of the country. See William Mitchell Torgerson, *A Nation of Virtuous Individuals*, AMERICAN BUCKLER (July 6, 2020), https://americanbuckler.com/articles/?fbclid=IwAR3Dg59FPZYaJ-dFd8dRsiSYwj2eqMbe0KdHBJlb077_2NNNSJX-sbiGkSU. The university did nothing to reaffirm the right of Torgerson or others to speak without fear of such collective action. One professor recently asked other colleagues for a list of students who engaged in what they viewed as hateful speech so that she could unilaterally exclude them from classes. Ethan Greer, *GUSA Senate condemns blog post written by a Georgetown student*, THE

such controversies, but few would disagree that they are on the rise around the country.⁵² Polls show a sharp decline of support for free speech and a rise in students who say that they do not feel comfortable sharing their views.⁵³ For example, a Yale poll found that seventy percent of students said that they experienced political bias and the same poll said that the students only believe one percent of their faculty were conservative.⁵⁴ A poll at Pomona found nine out of ten students said that “the campus climate prevents them from saying something others might find offensive.” Nearly two-thirds of faculty members felt the same.⁵⁵ Seventy-five percent of conservative and moderate students strongly agree that the school climate hinders their free expression.⁵⁶ The poll showed a sharp difference in the freedom expected from students based on their ideology. The number of students

GEORGETOWN VOICE (July 8, 2020), <https://georgetownvoice.com/2020/07/08/gusa-senate-condemns-blog-post-written-by-a-georgetown-student/>

⁵² One poll of 800 full-time students at Yale found one in three believed violence was justified to oppose “hate speech.” Jonathon Turley, *Poll: One In Three College Students Believe Violence is Justified to Stop “Hate Speech”*, RES IPSA (Nov. 5, 2018), <https://jonathanturley.org/2018/11/05/poll-one-in-three-college-students-believe-violence-is-justified-to-stop-hate-speech/>.

⁵³ See, e.g., *Harvard Youth Poll Finds Majority of Young Americans Support Impeachment and Removal of President Trump*, HARVARD KENNEDY SCHOOL (Nov. 18, 2019), <https://iop.harvard.edu/about/newsletter-press-release/harvard-youth-poll-impeachment-nov18-2019> (finding that only 35 percent of young Republicans felt comfortable sharing their political opinions on campus); Jennifer Larson, et al., *Free Expression and Constructive Dialogue at UNC at Chapel Hill*, UNC FACULTY REPORTS (Mar. 2, 2020), <https://fecdsurveyreport.web.unc.edu/files/2020/02/UNC-Free-Expression-Report.pdf>; *Perceptions of Speech And Campus Climate*, POMONA COLLEGE (Feb. 8, 2018), <https://www.pomona.edu/public-dialogue/survey>. According to a Knight Foundation survey 41 percent of students believe that hate speech should not be protected. *Free Speech On College Campuses*, KNIGHT FOUNDATION (May 13, 2019), <https://knightfoundation.org/reports/free-expression-college-campuses/>.

⁵⁴ Jennifer Harper, *Inside the Beltway: Yale students report that just 1% of their professors are conservative*, THE WASH. TIMES (May 4, 2017), <https://www.washingtontimes.com/news/2017/may/4/inside-the-beltway-yale-students-say-1-of-professors/> [<https://perma.cc/9RDW-WF9E>]; see also *Survey: 70% of Yale Students Often Experience Political Bias in the Classroom*, WILLIAM F. BUCKLEY, JR. PROGRAM AT YALE (May 3, 2017), <https://www.buckleyprogram.com/post/survey-70-of-yale-students-often-experience-political-bias-in-the-classroom> [<https://perma.cc/UDJ6-SK8S>].

⁵⁵ See POMONA, *supra*.

⁵⁶ *Id.*

fearful about expressing their views was “nearly 2.5 times higher than very liberal students.”⁵⁷ Another poll of 800 full-time Yale students found that a majority “felt intimidated” in sharing their views due to the expressed views of their professors and other teachers.⁵⁸ Running below the surface of these controversies is a fundamental disagreement over not just the protection but the nature of speech. As with the growing intolerance among professional journalists, student journalists and editors are being attacked for expressing opposing views.⁵⁹ Similarly, university administrators have called for limits on free speech and have supported often vague limitations on speech.⁶⁰

We are living in one of the most extreme anti-free speech periods in our nation’s history. We have never seen the current coalition of political, media, and academic figures aligned to limit speech rights. For the first time in my life, I am no longer confident that our free speech values will prevail. This body should act as a firewall for free speech, not the accelerant for this rapidly spreading conflagration.

IV. Combatting False Speech With Free Speech

There is a growing view, as reflected in many of these cases, that free speech itself is a danger and that certain views constitute harm for the purposes of proscriptive or

⁵⁷ *Id.*

⁵⁸ James Freeman, *Most U.S. College Students Afraid to Disagree with Professors*, WALL STREET JOURNAL (Oct. 26, 2018, 5:52 PM), <https://www.wsj.com/articles/most-u-s-college-students-afraid-to-disagree-with-professors-1540588198>.

⁵⁹ *Free Speech Is Not Violated At Wellesley*, THE WELLESLEY NEWS (Apr. 12, 2017), <https://thewellesleynews.com/2017/04/12/free-speech-is-not-violated-at-wellesley/> (“Shutting down rhetoric that undermines the existence and rights of others is not a violation of free speech; it is hate speech . . . hostility may be warranted.”); Jessica Chasmar, *Syracuse University independent paper axes columnist who argued ‘institutional racism is a myth’*, THE WASH. TIMES (June 11, 2020) (editors fired columnist who questioned claims of institutional racism in another publication).

⁶⁰ University presidents have opened up their schools for speech regulation by denouncing absolutist views of free speech. See, e.g., Douglas Belkin, *Why Northwestern President Morton Schapiro Favors Safe Spaces*, WALL STREET JOURNAL (May 16, 2017, 10:12 PM), <https://www.wsj.com/articles/why-northwestern-president-morton-schapiro-favors-safe-spaces-1494987120> (“You want to protect the First Amendment, obviously, but it isn’t absolute.”). Other presidents have expressly denounced “the disingenuous misrepresentation of free speech” and declared that they will not protect speech that can “spread hate or create animosity and hostility.” Ric N. Baser, *Hate speech does not equal free speech*, SAN ANTONIO EXPRESS-NEWS (Dec. 13, 2017), <https://www.expressnews.com/opinion/commentary/article/Hate-speech-does-not-equal-free-speech-12428780.php> (discussing letter declaring that colleges will not protect inappropriate or hostile speech).

defensive action. It is a construct that is familiar to many libertarians under the “harm principle” of John Stuart Mill—with a lethal twist. While many of us have long used the harm principle in a myriad of areas to define the limits on government controls and action,⁶¹ a type of warped Millian harm principle is now being used to justify both government controls and private action to silence those with opposing views. Indeed, the anti-free-speech movement on our campuses is often defended as a type of militant Millian movement, a construct that is neither faithful to Mill’s writing nor logical in its application. Yet, it is a view that has repeatedly been expressed in some of the most violent confrontations around the country.

Given these views, it is not surprising that I have called myself an [Internet originalist](#).⁶² The Internet was originally seen as the most transformative tool for free speech in history. It was an open, free platform for speech that united the world. Not surprisingly, it also was a threat to authoritarian countries and figures who have struggled to control and censor the sharing of information and viewpoints. Originally, Twitter was the ultimate expression of those free speech values, as individuals interacted with others to share instant observations and experiences. Back then, the platform was neutral. Its appeal was its convenience, not its supervision. Dorsey himself said the success of Twitter is based on the principle that you “make every detail perfect and limit the number of details to perfect.”

Yet, the original free use of the internet has come into increasing conflict with politicians who demand that social media companies actively prevent people from sharing information they deem to be false or misleading. Notably, when Twitter’s CEO Jack Dorsey came before the Senate to apologize for blocking the Hunter Biden story before the election as a mistake, senators pressed him and other Big Tech executive for more censorship. Rather than addressing the dangers of such censoring of news accounts, Senator Chris Coons pressed Dorsey to expand the categories of censored material to prevent people from sharing any views that he considers “climate denialism.” Likewise, Senator Richard Blumenthal seemed to take the opposite meaning from Twitter, admitting that it was wrong to censor the Biden story. Blumenthal said that he was “concerned that both of your companies are, in fact, backsliding or retrenching, that you are failing to take action against dangerous disinformation.” Accordingly, he demanded an answer to this question:

“Will you commit to the same kind of robust content modification playbook in this coming election, including fact checking, labeling, reducing the spread of misinformation, and other steps, even for politicians in the runoff elections ahead?”

⁶¹ Jonathan Turley, *The Loadstone Rock: The Role of Harm In The Criminalization of Plural Unions* 64 EMORY L. J. 1905 (2015).

⁶² Jonathan Turley, The Case For Internet Originalism, The Hill, Nov. 2, 2020.

“Robust content modification” has a certain appeal, like a type of software upgrade. It is not content modification. It is censorship.⁶³ If our representatives are going to crackdown on free speech, they should admit to being advocates for censorship. Indeed, leading [academics had the integrity recently to declare that they believe that “China is right”](#) about censorship.⁶⁴

The expanding list of areas for censorship is no surprise. Europe has shown that such speech regulation becomes insatiable – an invitation to every group to seek to silence or sanction those who hold opposing viewpoints. For years, some of us have [warned of the exportation of European speech laws](#) to the United States. Free speech is in free fall in Europe where countries like France, Germany and England routinely charge people for speech deemed offensive or insulting to any group.⁶⁵ There is no evidence that this speech regulation has made a measurable impact on the ranks of actual fascists and extremists. They have claimed the status of victims and relish the circumvention of these laws. Neo-Nazis are [holding huge rallies by adopting new symbols](#) and coded words, while German authorities arrested a man on a train because he had a [Hitler ring tone](#) on his phone. There is no evidence that these laws actually diminish hate speech but there is plenty of evidence that they diminish free speech. That impact was evident in a [recent poll of German citizens](#). Only eighteen percent of Germans feel free to express their opinions in public. Fifty-nine percent of Germans did not even feel free expressing themselves in

⁶³ Recently, there was a widely reported study that purportedly showed that the censoring of material on Twitter and other platforms showed no political bias. See Jonathan Turley, *The NYU Study: The Claim of Anti-Conservative Bias In Social Media is Unfounded But Inconclusive?* Res Ipsa, February 3, 2020 (available at <https://jonathanturley.org/2021/02/03/the-nyu-study-the-claim-of-anti-conservative-bias-in-social-media-is-unfounded-but-inconclusive/>). However, the report states the following: “The question of whether social media companies harbor an anti-conservative bias can’t be answered conclusively because the data available to academic and civil society researchers aren’t sufficiently detailed. Existing periodic enforcement disclosures by Facebook, Twitter, and YouTube are helpful but not granular enough to allow for thorough analysis by outsiders.” Thus, the report is not actually based on a review of individuals and groups censored by these companies because the companies refuse to release the data.

⁶⁴ <https://jonathanturley.org/2020/05/04/china-was-right-academics-and-democratic-leaders-call-for-censorship-of-social-media-and-the-internet/>

⁶⁵ In France, twelve protesters were fined for supporting the [boycott of Israel](#). In Denmark, a politician was [convicted for burning Korans](#). A German politician was criminally charged for calling migrants “[scum](#).” In England, a Baptist minister was jailed overnight for [preaching against homosexuality](#) and a man was investigated for telling a [Nelson Mandela joke](#).

private among friends. And just seventeen percent felt free to express themselves on the Internet.

The same appetite for limiting the speech of others is growing in the United States. This is not just reflected in demands for greater censorship on the Internet, but in recent calls for networks like Fox News to be taken off the airways. In a recent letter to companies like AT&T, Reps. Anna Eshoo and Jerry McNerney demanded answers from carriers on why they continued to air Fox News, Newsmax, and other networks on cable television. The letter follows calls for cable companies to refuse to air the networks. The letter stresses that “not all TV news sources are the same” and confronts the carriers on airing the networks as purported “hotbeds” of disinformation and conspiracy theories. Specifically, they object that “Fox News . . . has spent years spewing misinformation about American politics.”

From the perspectives of free speech and the free press, the letter is not just chilling; it is positively glacial. The letter does not address the long-standing objections to networks like CNN, MSNBC, and others for pronounced bias and refuted stories. There is a long list of such false stories. Some were corrected and some were not. Indeed, major media figures like Chuck Todd have made demonstrably false statements⁶⁶ and aired a clearly false or misleading clip⁶⁷ without any correction. Those were false stories but there are a broader array of stories that advance arguments based on rejected theories or legal interpretations.⁶⁸ Claiming that there are strong criminal cases to be made on rejected legal interpretations is “disinformation” but it is also a form of opinion – and clearly an exercise of free speech.

Yet, the letter solely seeks to bar those networks that the members and their constituents do not like or likely watch. It is a complete list of every major television channel viewed as conservative-leaning. If the companies were to yield to such pressure, there would be no major television outlet offering a substantial alternative to the coverage of companies like CNN and MSNBC. Tens of millions of viewers would be forced to watch those channels or watch nothing at all. Frankly, such curtailment or outright elimination of these networks would work to the advantage of these and other Democratic members. There is a rather obvious conflict of interest that is laid bare not only by the demand but the inclusion of only networks with large conservative audiences. The objection to “spewing misinformation about American politics” is clearly made from one side of such politics.

In the meantime, various members are also pushing to close down or bar conservative blogs and news sites on the Internet for spreading “disinformation” about everything from election fraud to global warming to police abuse. It is another example of seeking to achieve indirectly what cannot be achieved directly in curtailing free speech.

⁶⁶ <https://jonathanturley.org/2020/10/18/chuck-todd-the-michigan-supreme-court-did-not-cite-any-law-in-ruling-whitmers-actions-unconstitutional/>

⁶⁷ <https://jonathanturley.org/2020/07/19/nbcs-chuck-todd-repeatedly-airs-clip-previously-denounced-as-misleading-and-wrong/>

⁶⁸ <https://jonathanturley.org/2020/07/12/when-awfully-close-is-just-awful-nadler-raises-invalid-bribery-theory-in-call-for-barr-investigation/>

Congress could never engage in this type of raw content discrimination between news organizations. However, it can use its influence on private companies to limit free speech. The move makes obvious sense if the desire is to shape and control opinion. It is not enough that such viewers can continue to watch alternative networks. They are seeking to curtail or to prevent others from being able to watch or hear opposing views. This is the essence of a state media model. Controlling speech on certain platforms is meaningless if citizens can still hear opposing views from other sources. You must not only control the narrative but also eliminate alternatives to it.

The most notable question in the letter is the very first one asked by Reps. Eshoo and McNerney.

“What moral or ethical principles (including those related to journalistic integrity, violence, medical information, and public health) do you apply in deciding which channels to carry or when to take adverse actions against a channel?”

The answer should begin with the obvious principles of free speech and the free press, which are not even referenced in a letter pushing for major news outlets to be essentially shutdown. Instead, the companies are asked if they will impose a morality judgment on news coverage and, ultimately, access. This country went through a long and troubling period of such morality codes being used to bar speakers to censor material in newspapers, books, and movies, including feminists, atheists, and other disfavored groups. To invite a return to such subjective standards is alarming, particularly in barring the preferred news sources for tens of millions of citizens. Fox News has long ranked as the most watched cable network for news, and is the primary source of news for tens of millions of citizens. Like CNN and MSNBC, it is also the target of criticism over the balance of its reporting. However, the role of these companies is not to take “adverse actions” against channels because of such objections to the focus or viewpoints exhibited on such channels. As for Fox, there are a variety of voices and perspectives offered, including analysis from some of the best-known Democratic figures.

It is easy to portray disagreements as “disinformation.” Indeed, it is difficult today to report or address these controversies without facing partisan outrage.⁶⁹ It is transparently

⁶⁹ For example, in the days following the election, various claims of irregularities were raised. Such irregularities occurred in all of the presidential elections that I have covered as a legal analyst, including legal challenges. In virtually every interview after the election, I (and others) included a statement that there was no evidence of systemic fraud. Yet, we are all subject to the same hair-triggered cancel culture. For example, in one segment, we addressed the controversy in Michigan where a district using computer voting systems initially gave thousands of votes to Biden rather than Trump, as reported by Michigan Secretary of State Jocelyn Benson. The wrong designation of Trump votes as Biden votes was quickly corrected. I stressed that this appeared “human error” and that we would have to see if there was any “vulnerability” for human error raised in the promised

one sided. When I worked for NBC/MSNBC and CBS, we covered such challenges by both Democrats and Republicans. We never faced such attacks or retaliatory actions. Indeed, while blasting coverage of claims of computer vulnerability or glitches, there is [no such outrage over continuing litigation from Democratic lawyers](#) alleging such errors in challenges in states like New York.⁷⁰ As legal analysts, we try to cover all such challenges and claimed irregularities but many would prefer to tailor or bar such coverage by labeling it as disinformation.

The election coverage is a good example of how free speech offers its own protections. Many of us countered claims of systemic electoral fraud in covering the election challenges. While some individuals remain unconvinced, many more would still harbor doubts if Big Tech or Congress had succeeded in silencing those raising such questions. Instead, viewers could hear opposing views on channels like Fox with experts who overwhelmingly noted that no compelling evidence had been presented in court. Those conclusions were more compelling because they came from analysts and reporters who were open to reviewing such evidence while stressing that it had not been produced. It is the difference between a process geared toward reaching conclusions and a process of dictating conclusions. However, this process requires trust. A free and open forum for communication was the original and perfect design for the Internet. And here, once again, the Constitution could offer the clarity of that original meaning to limit the detail to the perfect. To paraphrase the First Amendment, Twitter and carriers can hold to a simple static, “originalist” position: It should “make no policy abridging the freedom of speech or the press.”

Rather than seek to silence others (or whole networks), there is an alternative way to combat bad speech. Congress should focus on publishing data and information that supports citizens in reaching their own conclusions. I am not speaking of processed or conclusory reports, but objective material for citizens to consider. There is a palpable mistrust of Congress and the media in framing information. That can be addressed through greater transparency and access to information.

I admit that I may be a relic in my views, but I continue to believe that the greatest protection against bad speech is better speech. I sometimes tell my students that free speech often metaphorically divides those who prefer oceans to swimming pools. Those seeking limits often speak of free speech like it is a swimming pool that must be monitored and carefully controlled for purity and safety. I view it as more of a rolling ocean. It is indeed dangerous, but it is also majestic and inspiring. It’s immense size also allows for a natural balance. Free speech allows false ideas to be challenged in the open rather than driving

challenges. For that commentary a [law professor accused me to being akin to a Holocaust denier and called for my termination at George Washington University](#). It is an example of disagreements are framed as disinformation but even akin to Holocaust denial.

⁷⁰ Jonathan Turley, *The Return of Marc Elias: The Lawyer Implicated In The Clinton Dossier Scandal Is Back In The News*, Res Ipsa, Feb. 5, 2020, available at <https://jonathanturley.org/2021/02/05/the-return-of-marc-elias-the-lawyer-implicated-in-the-clinton-dossier-scandal-is-back-in-the-news/>

dissenting viewpoints beneath the surface. However, free speech, like other constitutional values, requires a leap of faith. Faith, not only in free speech, but in ourselves. Citizens are capable of educating and informing themselves. They do not need politicians or corporate filters to protect them from speech deemed misleading, false or inciting. History has shown that the far greater danger is found, not in these individual speakers, but the empowered censors in a system of speech control.

V. Conclusion

Roughly 70 years ago, Justice William O. Douglas accepted a prestigious award with a speech entitled “[The One Un-American Act](#),” about the greatest threat to a free nation. He warned that the restriction of free speech “is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.” The measures being discussed today have the potential to defeat us all. It is surprisingly easy to convince a free people to give up their freedoms, and exceedingly difficult to regain those freedoms once they are lost.

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

Jonathan Turley
J.B. & Maurice C. Shapiro Chair of Public Interest Law
George Washington University

Mr. DOYLE. Thank you, Mr. Turley.
We now recognize Ms. Urquiza for 5 minutes.

STATEMENT OF KRISTIN DANIELLE URQUIZA

Ms. URQUIZA. Thank you, Chair, and thank you to everyone here for allowing me the opportunity to provide testimony. My name is Kristin Urquiza. I am the cofounder of a grassroots, nonprofit group called Marked By COVID, which my partner, Christine Keeves, and I founded the day we buried my father, Mark Anthony Urquiza, from COVID-19 on June 30th, 2020. He was 65.

My father's story is tragic, yet it is not unique. Every single day since he has passed, I have spoken to people who have lost close family members and loved ones to COVID, and I am haunted by the eerie similarities between so many of us.

Let me start by stating the obvious. The primary person and entity responsible for my father's death and hundreds of thousands of people in the United States is Donald Trump and his administration. This is why Marked By COVID is advocating for a commission to investigate the Federal Government's response to the pandemic thoroughly, so we know exactly what happened and why.

However, crime and malfeasance aren't always committed by a single actor. Frequently there are accomplices, enablers, and complicit parties. To the people in this room and this sacred body who blindly followed the President without questioning, who put party over country, you and your colleagues are enablers. To the media, and in particular cable news, you were complicit. These actors may not have pulled the gun that point triggered—that pointed at my father's head, but they indeed drove the getaway car.

My beloved father loved his country, and he instilled in me this: During times of crisis, it is our duty to our country to turn to our leaders for information on what to do to keep one another and our democracy safe. So on May 5th, 2020, when the former President made his first public appearance from his quarantine in Phoenix, Arizona, and said it was time to open up, my dad listened. When Arizona Governor Doug Ducey flipped the switch on May 15th, reopening the State with absolutely no safety measures in place, my dad noticed.

But let me be abundantly clear: My father was not a personal friend of Donald Trump, nor Doug Ducey. Like everyone I know, my dad received his information through an intermediary. And his media of choice was Fox Cable News and Arizona's KTAR News 92.3 radio station.

Also, let me be clear: My parents never questioned the reality or the severity of the pandemic, nor the efficacy of simple public health safety measures like wearing masks. But that all started to change after the President's visit to Arizona. My dad then started to say to me, "Kristin, why would the Governor or the President say that it is safe, if it is not safe?"

And you don't have to dig very deep to find both President Trump and Doug Ducey pushing that we have nothing to fear, and that if you do not have an underlying health condition, it is safe to be out there.

The people in charge, the people he trusted and voted for, told him over and over again that he didn't have to worry. And I did

my best to fight back. But there is no way that one person can compete with the microphone of the Office of the President, nor the propaganda machine that has become Fox Cable News.

He died on June 30th, alone, with just a nurse holding his hand. This should not have happened. It did not have to be this way. The President and his enablers lied repeatedly, and that disinformation was allowed to litter the airwaves and created the exact right conditions for the virus to thrive and for hundreds of thousands of people to pass away needlessly.

I said it earlier, and I will repeat it: The media didn't pull the trigger, but they drove the getaway car. Cable news channels like Fox News are complicit.

Isabelle "Obie" Papadimitriou, Charles Krebs, Genivieve Martinez, Dr. Gaye Griffin-Snyder, Mike Horton, Kathy Jones, Calvin Schoenfeld, William Curby, Manuel Urquiza, Mark Anthony Blackjack Urquiza, and more than half a million other names—every single one of them deserves to be said out loud in this hearing. All irreplaceable, all dead.

Thank you for allowing me to share our Marked By COVID story and holding this hearing to address the role of media fanning the flames of disinformation.

[The prepared statement of Ms. Urquiza follows:]

Congressional Testimony

Before the Energy and Commerce Subcommittee on Communication and Technology

Kristin Danielle Urquiza

Marked By COVID

February 2021



Thank you for the opportunity to provide testimony before the Energy and Commerce Subcommittee on Communication and Technology of the United States Congress on the topic of disinformation in the media. My name is Kristin Urquiza. I am the co-founder of a grassroots non-profit called Marked By COVID. My partner Christine Keeves and I founded it the day we buried my father, Mark Anthony Urquiza, who died from COVID-19 on June 30, 2020; he was 65.

Last summer, I shared an abbreviated version of my story at the Democratic National Convention. I spoke about two themes in my brief remarks: the two Americas that exist (one for the elite and one for everyone else) and that "my father's only pre-existing condition was trusting Donald Trump and for that, he paid with his life." During this 5-minute testimony, I will expand upon these themes. But I must also share with you that while my father's story is tragic, it is not unique. What you might not know about me is that every single day since my father has passed, I have spoken to people who have lost close family members and loved ones to COVID, and I am haunted by the eerie similarities between so many of us.

Let me start by stating something obvious: the primary person and entity responsible for my father's death and hundreds of thousands of people is Donald Trump. Until the day I take my last breath, I will fight for this truth to be recognized and recorded in the history books so that we know the unvarnished truth of what happened and why. My family has hearty genes: we tend to live into our 90s, so I'm in this for the long game. A growing body of evidence already substantiates this fact: on October 22, 2020, Cornell University released a study finding the 'Single Largest Driver' of Coronavirus Misinformation: Trump. On September 9, 2020, with the release of audiotapes from interviews with Bob Woodward, we heard the President confess he clearly understood the imminent threat and danger of them as early as February and decided to downplay the virus not to create a panic. Marked By COVID is advocating for a Commission to investigate the Federal Government response to the pandemic thoroughly, so we know exactly what happened and why.

However, crime and malfeasance aren't always committed by a single actor. Frequently there are accomplices, enablers, and complicit parties. To the people in this room and this sacred body who blindly followed the former President without questioning, who put party over country, you and your colleagues are enablers. The media and, in particular, cable news, the topic of

today, was complicit. Cable news may not have pulled the gun's trigger pointed at my father's head, but it indeed drove the getaway car.

Let me start by giving you a bit more background on just who my beloved Dad. Besides being a high school state track star, which I wrote about in my Dad's #HonestObituary, he was in the Reserve Officer Training Corps, better known as ROTC. He was eager to join the military—I recently found his saved draft card from the Vietnam War—but his dreams were cut short by a hunting accident. At age 18, he was shot in the head. His three brothers, my uncles, would all serve instead. He was unable to serve did not damper nor wane his love for this country nor interest in the military. He would work in manufacturing in the aerospace industry, where his employers worked on many government contracts for military machinery. He would spend ample time instilling in me values of patriotism, country first, and the military's role in keeping our freedom.

He instilled in me this: during times of crisis, it is our duty to our country to turn to our leaders for information on what to do and keep one another and our Democracy safe. My Dad reinforced this message through our weekly viewings of war stories on the History Channel. I have so many memorials of watching the History Channel that they all bleed together. It was part of what we did together. His love for this country, just like the twinkle in his eye and his mischievous smile, was infectious and central to our bond. One lesson—besides the United States has the most powerful military in the world—that was taught repeatedly in those documentaries was this: in times of crisis, you turn to the people in charge. You follow orders. You do this for the good of the country.

So on May 5, 2020, when the former President made his first public appearance from his quarantine at the White House to the Honeywell facility in Phoenix, Arizona—the same facility where my father worked for many years, where I can remember joining him for a "take your daughter to work day"—and said, it was time to open up, my Dad listened. When Arizona Governor Doug Ducey flipped the switch on May 15, reopening the state with absolutely no safety measures in place and forbidding local governments from taking additional action, the evidence was mounting that we had overcome the enemy of the virus. As May progressed, the messages I started to hear from my Dad were: "It's safe. We're on the other side."

Let me be abundantly clear: my father was not a personal friend of President Donald Trump nor Governor Doug Ducey. He never met the former President. He did not know anyone close to the former President. Like everyone else I know, my Dad received his information through an intermediary. His media of choice since the early 2000s was Fox Cable News when he was at home and Arizona's KTAR News 92.3 radio station when he was driving around the Valley.

My Dad was always a voracious consumer of television, radio, and print media. He instilled in me the need to keep updated with news. The second to last picture on his phone was a picture of the television in his hospital room turned onto the news to capture an image of President Trump and Doug Ducey at an unmasked campaign rally they held in Arizona at the time when Arizona had the worst cases per capita in the world. Even as he fought to breathe, he was keeping up with what was going on.

My parents never questioned the reality of the pandemic nor the efficacy of wearing masks. During the quarantine, my Dad sheltered in place, only leaving to go to work until his job furloughed employees in late April. Afterward, he was at home, watching cable news and looking for employment. We spoke regularly as the pandemic started to spread across the country and as new information on safety measures came into focus. We were both concerned for my mom's safety, who is diabetic, and the potential severity an infection could have on her. Unlike other millennial friends struggling to reason with boomer-generation parents, I felt relieved that we were in communication with one another and on the same page.

That all started to change after the President's visit to Arizona. My Dad, a huge supporter of President Trump, began to push back on me when I would caution him about the states reopening strategy and whether it was safe. I can remember my Dad saying to me, "Kristin, why would they say it's safe to reopen if it's not safe. Why would the Governor or the President say that if it is not safe?" You don't have to dig very deep into the annals of the internet to find both President Trump and Doug Ducey pushing out the message that we have nothing to fear; we've got to get back to business. As late as May 28—around the exact time we suspect my Dad contracted the virus—Governor Doug Ducey joined my Dad's favorite radio show, KTAR, for a Q&A on the coronavirus. He said, "We're safe out there. We've been responsible ... I want to encourage people to get out and about, to take a loved one to dinner, to go retail shopping," Ducey said, "If you don't have an underlying health condition, it's safe out there."

Just two months prior, my Dad had received a clean bill of health from his doctor. Many of our relatives, including his Dad and Aunt, lived well into their 90s. While my Dad was 65, he did not consider himself "old nor unhealthy" by any stretch of the imagination, and through the month of May, the people in charge, the people he trusted and voted for told him over and over again that he didn't have to worry. He did what he needed to do for his country, and now he needed to get back out into the world he loved so much and help jump-start the economy.

As May progressed, I started to hear more and more of the disinformation about the virus, about the risk, about safety measures coming from my Dad. I did my best to fight back, but there is no way that one person can compete with the microphone of the office of the President nor the propaganda machine that has become Fox Cable News.

On June 11, 2020, my Dad woke up with a fever, cough, and exhaustion. Similar symptoms to the news reported that the President had several months later when he contracted the virus. When my father went to the doctor on June 12 for a COVID test, he was not admitted into the hospital under an "abundance of caution," the treatment that elite political COVID deniers like President Trump, Governor Chris Christie, and Mayor Rudolph Giuliani received. No, the doctor told him to go home and report to the hospital if he started to experience trouble breathing. Five days later, he woke up unable to breathe, and my mother rushed him to the emergency room where he would battle the virus for 14 days before succumbing to it. My Dad took a bullet to the head and lived to tell the tale, but he couldn't survive this pernicious, dangerous, and deadly viral infection. The day before his condition worsened and he was admitted to the ICU, he texted me to say, "I feel so much better; I think I'll be home on Monday." Instead, he died on Tuesday. He died alone. I took the phone call from a gas station on the highway, where I tried to get home to be closer to my mother and father from California. I didn't get to say goodbye. He did not get the dignity we all deserve in the process of transitioning.

This should not have happened: it did not have to be this way. In the days following the passing of my father, my partner and I decided to launch Marked By COVID, the organization that we now co-lead where we uplift stories of loss and support civic engagement from one of the largest growing stakeholder groups in the country: people who have lost a close loved one to COVID. Many of these people have entrusted in us their stories, and so many of their stories echo mine. The President lied repeatedly. That disinformation was allowed to litter the airways

and created the exact right conditions for the virus to thrive and for hundreds of thousands of people to pass away needlessly.

I said it earlier, and I'll repeat it. The media didn't pull the trigger, but they drove the getaway car. Cable news channels like Fox News are complicit. However, other news institutions are at fault, too; it wasn't until after the Woodward quotes debuted that the media started to list the President's falsehoods as lies. Free speech scholars argue that for a democracy to function, informed debates and the marketplace of ideas must work off a shared set of facts.

Mark Anthony "Black Jack" Urquiza. Isabelle "Obie" Papadimitriou. Charles Krebs. Genevieve Martinez. Dr. Gaye Griffin-Snyder. Mike Horton. Kathy Jones. Calvin Schoenfeld. William Curby. Manuel Urquiza. And more than half a million other names. Every single one of them deserves to be said out loud in this hearing. Every single one of them was irreplaceable yet treated as expendable by their own country. Betrayed by the people entrusted to serve and protect them.

Thank you for allowing me to share my story and holding this hearing to address the role of media fanning the flames of disinformation.

Mr. DOYLE. Thank you. Thank you so much.

And now we have our last presenter. Ms. Bell is recognized for 5 minutes.

STATEMENT OF EMILY BELL

Ms. BELL. Thank you, Chairman. Thank you, Ranking Member and distinguished members of the subcommittee. And thanks for having me here today to speak about this incredibly important issue.

I also want to thank the journalists and researchers working in this area with an extraordinary lack of data. And I hope that this is something that we can also address, which is why we know so little about what actually happens in our environment when we have such abundant material often trapped in the service of our largest technology companies.

We heard about how both the tragic existential events that faced America this year were accompanied by the circulation of widespread and often politicized misinformation, conservative cable news channels, often amplified by a President who was notorious for spreading misinformation himself—he has 30,000 fact-checked statements during his presidency, 15,000 of the—false statements during his presidency. Fifteen thousand of those occurred in this last crucial year.

Whilst we are here to discuss the role of the news media, I just want to emphasize that the digital context is just as important. The influence of what was once thought of as mainstream media I don't think can be any longer separated in any way from the digital environment in which we all swim.

Misinformation, it is a systemic problem. It affects all, and I wholeheartedly endorse the view this is not a partisan issue. We sit in different geographies and right across the political spectrum, operating in the same way.

We see content which is produced perhaps by cable news can be amplified and discussed by white supremacists and militia groups that lurk in online corners of the Internet.

We see conspiracy theories about the coronavirus that make it to cable talk shows that still exist uncorrected on social media.

Broadcasts that get just a few thousand viewers in real time circulate clips and posts that reach millions more.

Some of this is the result of policy decisions and an environment that we have created for a thriving media market. A 40-year path of deregulation has transformed the U.S. media landscape in both economic and political terms. Rollback of regulations has liberated the market but taken with it some of the safeguards and support from all various localized media.

Digital media and the lowering of barriers has helped elevate previously marginalized and ignored voices, and it has made our public discourse much more diverse. But an open market without regulation will always favor bad actors over good. In financial markets this is known as Gresham's Law. Those with ethics are inhibited in ways that those without ethics are not.

It is also worth saying that, in an open market, we talk about more speech being corrective. Too often voices we really need to

hear are silenced by harassment and drowned out by electronic amplification.

Whilst all news, national news media, and particularly polarized, opinionated news has flourished, local trusted news provision has really declined. As we have already heard, local newsroom staff have halved in the past 15 years, and there are now over 800 markets without any local news at all in the United States. Unfortunately, coronavirus has been an accelerant for this. This is something we track at my research center at Columbia University. We know that we have lost another 100 or so outlets just in the course of the last year.

There is really a need for American democratic institutions to identify and work together on the priorities that would mitigate this kind of extremism and misinformation. Solutions encouraging a different news media environment should be central, I think, to our thinking. Finding the means to fund and sustain more independent local reporting are a burning priority. Civic journalism representative of the communities it serves should be established and strengthened through a reform agenda centered, I think, on the information rights of all communities. We talk about the information needs, but I think that they should really be thought of—rights, the right to hear good information.

Mistrust of the media, it doesn't just exist in polarized pockets, either. It also exists within communities who have been ignored or misrepresented by mainstream media for decades. The opportunities to correct this cannot and should not be ignored. And I believe that they are an essential part of throwing a fire blanket on these flames that we are talking about today of extremism and division.

I also believe that it is not just down to individual choice, or even the free market and choices made by companies. I believe that there is policy role here, which is not about infringing the First Amendment but which is about strengthening ways in which we can have a more vibrant, truthful news environment.

Thank you very much.

[The prepared statement of Ms. Bell follows:]

Emily Bell

Leonard Tow Professor of Journalism,
Director of the Tow Center for Digital Journalism
Columbia Journalism School

Evidence submitted to:

The Subcommittee on Communications and Technology of the Committee on Energy and Commerce.

The hearing on "Fanning the Flames: Disinformation and Extremism in The Media"
Wednesday 24th February 2021, 12.30pm.

Chairman Doyle, Ranking Member Latta, and distinguished members of the subcommittee, thank you for inviting me here today to speak about disinformation and extremism in the media.

In 2020 and 2021 the United States of America experienced two grave threats to its people and its democratic institutions. One, the global Covid-19 pandemic, and the other, the refusal by a sitting President to recognize the results of a free and fair election. Both events, though markedly different, share a common thread in that widespread misinformation caused serious real-world consequences, including the loss of lives.

One of the challenges for reporters, researchers and policy experts tackling the subject of public trust and information, is that effective action requires a detailed understanding of the interdependencies of a complex media system often without adequate access to data. That I am able to draw on so much of the work of colleagues in the field today is a testament to their ingenuity and application.

This Committee hearing is focusing on the role partisan media played in creating and propagating misinformation, and "Fanning the Flames of Extremism" during 2020. Whilst I will

use examples in my evidence that focus more on some outlets than others, it is important to note that the root issues here should not be seen as partisan. The formula for the creation, circulation and amplification of misinformation is seen across different geographies, and across the political spectrum.

In this testimony I will seek to:

- Describe how the current commercial and regulatory environment for news media in America plays a part in creating the conditions for misinformation to spread unchecked.
- Present evidence for how polarization and a lack of trust in news media can create real world consequences and hamper mitigation strategies.
- Draw conclusions about the events of 2020 in terms of potential preventative and mitigating strategies

The commercial and regulatory environment for US news media: How we got here

For the past 25 years, the broadcast and print industries have been disrupted by the rise of new platforms which democratized the distribution, circulation and monetization of media. The gatekeeping function of broadcast and print media has gone, and shifted to the aggregation and search platforms of companies such as Facebook, Twitter and Google. Two players, Google and Facebook, now dominate a digital advertising market which was once the key support mechanism for funding free news media. Whilst news media companies have benefited from digital in terms of audience growth, the disruption to the advertising model particularly for non-broadcast media has had an enormous impact.

The vast majority of US citizens now access news through online aggregators, with Facebook and YouTube being by some way the largest. For news journalists and consumers alike these changes have meant navigating a dynamic but noisy environment of often unverified and

unverifiable sources. The 'attention economy' of the advertising-based internet boosts content which is highly engaging, be it cat videos or well-crafted political rhetoric. [Research](#) has repeatedly shown that material which appeals to emotions is more likely to garner large audiences or 'go viral' than material which is rational or boring.

There are many advantages to the low barriers to entry created by online media, and the microtargeting model of advertising that underpins it. Minority voices long ignored or excluded by mainstream media and those previously reliant on the intermediary powers of the old gatekeepers can now speak directly to their communities and markets. It is cheap to create and promote a vast diversity of content in a free flowing environment. The flip side of information abundance is however that, like any unregulated market, the opportunity for bad actors to manipulate the capabilities of digital media outstrip the capacity of those good faith actors to correct it. As a result misinformation and disinformation is rampant, and, as we saw in 2020, carries with it [often grave consequences](#) in the real world.

Although we are here to discuss the role of the traditional media in amplifying extremism and untruths, the digital context is important, as it sets the regulatory, economic and cultural agenda for every media market, from the parish newsletter to the largest broadcaster. It is I believe impossible to separate fully the influence of cable news, broadcast television and even print media from the dominant gatekeeping platforms and messaging systems. The seeding and proliferation of any narrative in a digital environment relies on a network of interlinked news sources, influencers and promotion techniques for success.

As the Committee is examining the role of legacy media, it is worth underlining that media owners and platform companies alike are operating in an increasingly deregulated environment designed to foster competition and growth.

A forty year path of deregulation has [transformed](#) the US media landscape in both economic and political terms. The abandonment of the Fairness Doctrine in 1987 paved the way for the late Rush Limbaugh and other opinionated broadcasters to address audiences on matters of

political sensitivity and public interest without an obligation to provide contrasting views or context, and the establishment of Fox News in 1996 brought similar sensibilities to cable news. The Telecommunications Act of 1996, including the Communications Decency Act, and more recently the [2017 roll back of rules](#) restricting cross-media ownership and physical presence in local media markets by the Federal Communications Commission are all significant liberalizing measures. However, these changes also mean that the content produced and carried by powerful media entities - old and new - is unfettered of obligations towards fairness or even truth.

The polarization of cable news audiences

The Covid-19 pandemic of 2020 caused economic disruption to all sectors of society, and it kept people at home, glued to the news. Simultaneously the presidential election featured an incumbent, President Donald Trump, whose engagement with social media and mainstream news media drove the news cycle across all news outlets. The two market leaders in cable news, Fox News and CNN both saw historic levels of audience growth. Fox News became the first cable news channel [ever to average 3 million viewers in prime time](#), and CNN broke its own records.

As audiences grew, there was also a sharp polarization in how far they trusted news sources, research showed.

In [a study released by the Pew Research Center](#) in January 2020, conservative Republicans showed a very high degree of trust in Fox News, 75 per cent, and a high degree of distrust in CNN at 67 per cent. For liberal Democrats, these ratios were broadly reversed.

One of the key differences that the Pew Center noted in its longitudinal survey was the erosion in trust in other non-Fox news broadcasters that Republicans showed over time.

"One of the biggest changes we saw was increased distrust among Republicans for 14 of the 20 news sources included in both studies, with particularly notable increases in distrust of CNN,

The New York Times and The Washington Post – [three frequent targets of criticism for President Donald Trump](#). While there has been far less change on the Democratic side, two exceptions are The Sean Hannity Show and Breitbart News, which are now distrusted by a larger share of Democrats than in 2014.”

By the end of 2020, however, Fox News was less of an outlier as a single choice of destination for President Trump's supporters. Two relatively new cable news channels with a conservative slant, NewsMax and One America News Network, picked up endorsements from President Trump through his social media feeds and showed themselves willing to continue to repeat false narratives about the legitimacy of the election result. Although their audience sizes are a fraction of those of Fox News, their growing loyalty among President Trump's supporters follows the perceived disloyalty of Fox News in failing to wholeheartedly support the assertion that the election was “stolen”. Both channels have anchors and personalities with large social media followings.

A [Suffolk/USA Today poll](#) of people who voted for President Trump demonstrated that although small, the OANN and NewsMax audiences are gaining trust and audience at the expense of Fox News. The poll also demonstrated that supporters of President Trump who watched NewsMax and OANN were more likely to believe the election was stolen than Fox News viewers.

It is important to add to the viewing numbers and trust ratings of networks, that material aired on cable is also routinely remixed and recirculated on social media, through targeted advertising methods. In addition it is widely distributed and discussed in closed social groups on Facebook and messaging apps, where we lack data from the platforms to know how material is disseminated.

The decline in local news is creating polarization and diminishing trust

Local news has historically provided a backstop for truth and trust in the American information system. In her book *Ghosting the News*, The Washington Post's media commentator Margaret Sullivan quotes research into the devastating democratic effect of a decline in local news, including a lack of civic engagement, lack of government efficiency and an increase in polarization: "...citizens are less likely to vote a split ticket choosing candidates from various political parties. Instead relying on national sources of news including cable news outlets, they are more likely to retreat into tribal corners, voting along strict party lines "

The pandemic has had a catastrophic effect on an already weakened local news market, with advertising revenues across newspaper groups down 42 per cent. An annual survey of news deserts from the University of North Carolina, [The News Landscape in 2020: Transformed and Diminished](#), describes how 25 per cent of local news outlets and 50 per cent of local journalists' jobs have disappeared since 2004. The pattern of closures and job losses accelerated in 2020, at a moment where communities needed accurate local information even more urgently than before.

In our own research at the Tow Center, [we have tracked](#) over 100 closures and mergers of local news outlets since the beginning of the pandemic alone. There are now over 1800 communities across the country that do not have their own source of local news. The deep recession in local newspapers is significant on two levels. First, that local newspapers and their websites have been the largest employers of local reporters, whose stories once fed local and national broadcast outlets. Secondly, local news outlets tend [to be more trusted than national media](#), although there are signs that as local news dwindles, so too does trust in those outlets

A further development to note is the polarization effects we see in national cable news are to some extent being imported into local markets. The 2017 FCC rule changes to local media ownership [were interpreted as being helpful](#) to Sinclair Broadcasting Group, America's second

largest television network, which reaches 40 per cent of US homes and carries right leaning material programming. [Academics](#) from Emory University in 2018 studied Sinclair Broadcasting's network before and after the rule changes, the researchers detected a discernible shift in coverage by local affiliate stations towards national coverage and away from local coverage, and a move to the right.

These effects

of polarization in local markets could be compounded by the trend towards using the '[Trojan horse](#)' of local news to advance political and lobbying aims. In our own research at the Tow Center, we have traced how dark money from political and commercial sources is [infiltrating local news](#). This pattern is an established playbook now used in campaigning across the political spectrum. In a [report](#) from academics and researchers forming the Election Integrity Partnership, a watchdog group monitoring misinformation about polling practices, the importance of local news in providing a corrective to polling misinformation is highlighted. As is the propensity for spreaders of disinformation to pick up local news stories and distort them to gain traction for a false narrative. In our research at the Tow Center we have also noted how hyper-partisan local news sites used misleading or deliberately false stories on election night to add to a strategic campaign undermining the integrity of the election.

It is clear that the existence of strong local news outlets is a possible line of defence against the worst excesses of disinformation, particularly when it is representative of the community it covers and rigorous in its reporting. It should be a matter of great concern to the Committee that local news markets are denuded of funding and are now subject to the same forces of polarization seen in national media.

The vacuum left by advertising receding from local markets is easily filled by low-cost, high volume networks who rely on political or corporate funding in what the [New York Times](#) describes as a 'pay to play' influence model.

Polarization, distrust and the spread of misinformation

Research confirms that even in a varied news environment, the effect of many sources does not necessarily mean that audiences are persuaded by evaluating different views. In fact, abundance of sources can have the opposite effect, as demonstrated [in a recent paper](#) for the Scientific American, where the authors note:

“Experiments consistently show that even when people encounter balanced information containing views from differing perspectives, they tend to find supporting evidence for what they already believe. And when people with divergent beliefs about emotionally charged issues such as climate change are shown the same information on these topics, they become even more committed to their original positions”

In other words, ideological belief can overwrite evidence. The Washington Post [found](#) that President Trump made more than 30,000 false or misleading claims during the course of the Presidency with nearly half of these occurring in the last year of his presidency. That finding is likely to be believed by those that have some trust in the processes and institution of the Washington Post, and discarded by those that see this as part of liberal media bias.

Equally, the presence of Fox News as the premier source for right-leaning and Conservative audiences, brings with it liberal scrutiny to the station’s partisan handling of sensitive stories.

In April 2020, an [open letter from journalism educators](#) to Fox News owner Rupert Murdoch and his son, Fox News chief executive Lachlan Murdoch, outlined what the threat to public health posed by Fox News coverage. The letter laid out specific instances of journalistic carelessness and malpractice committed in the first month of the pandemic:

“The network’s delinquency was effective.A Pew Research poll found that 79% of Fox News viewers surveyed believed the media had exaggerated the risks of the virus. 63% of Fox viewers said they believed the virus posed a minor threat to the health of the country. As recently as Sunday, March 22, Fox News host Steve Hilton deplored accurate views of the

pandemic, which he attributed to “our ruling class and their TV mouthpieces — whipping up fear over this virus.”

The influence of one cable channel on national discourse and political opinion is hard to evaluate precisely, and correlation is not causation, although there are a number of academic papers under review which examine the link between cable news and viewership and compliance with basic safety measures. A [paper](#) published in January 2021 measured the impact of the viewership of Fox News on compliance with Covid-19 mitigation strategies. The paper found that on one measure - stay at home measures - the impact was ‘significant’ : ‘In particular, news media appears to be sufficiently persuasive to dissuade many individuals from complying with containment policies.’

Similarly for the narrative around the insecurity of mail-in ballots. Harvard law Professor Yochei Benkler and a team of media researchers produced [a report](#) detailing evidence of a pattern of promoting speculative and verifiably false narratives about mail-in ballots was planted early in the election cycle, through mainstream media coverage and frequent tweeting by former President Donald Trump.

This analysis is in line with other research, such as [the finding](#) that Fox News repeatedly aired items and guests casting doubt on the election results. ([In the two weeks after it called the election, Fox News cast doubt on the results nearly 800 times](#)) .

As Fox News is challenged by new competitors willing to take more extreme positions such as News Max and OANN, the problem of news audiences being exposed to conspiracy theories and untruths which they are ideologically predisposed to believe only increases. In the recent [Suffolk /USA Today](#) poll, this effect can be seen in supporters of President Trump believing that the election was stolen at rates that vary according to their choice of news outlet.

“Fox News is losing the most loyal Trump voters. On the issue of whether Trump voters believe Joe Biden was legitimately elected, 73% (of viewers who trust Fox News) said Biden was not. Among Trumpers trusting OANN, the number was 90% and among Newsmax Trumpers it was 92% saying Biden was “illegitimately elected.”

Mitigating the damage of 2020

It is impossible to know precisely what actions might have mitigated or avoided the shocking events of 2020 and 2021. A president who regularly denigrated the press has undermined trust in all but the most loyal outlets. The commercial success of Fox News, Sinclair Broadcasting, OANN and NewsMax serves to remind us there are few penalties for deploying misinformation. The markets and technologies that enabled the seamless manufacture of vast amounts of misinformation are the outcome of editorial, product and policy decisions. We are at the end of a forty-year arc of deregulation during which the environment has optimized for growth and innovation rather than for civic cohesion and inclusion.

There is an opportunity for America to identify and act on the priorities that are already known to work against extremism and disengagement. Finding the means to fund and sustain more independent local reporting is a burning priority. The gap between abundant polarizing national coverage and scarce local accountability journalism is widening. Civic journalism representative of the communities it serves, could be established and strengthened through a reform agenda which takes the information needs of communities seriously. This should not be a luxury but a right. The Washington Post’s editor-in-chief, Marty Baron, retires from his post at the end of this week. He was asked what represents the biggest challenge for news media in the future. He replied it is the “*level of conspiracy thinking that has become entrenched with a substantial portion of the American public.*”

"... It's expected that in a democracy, people will debate the challenges we face, the policies that should be implemented, and that debate should be vigorous....But traditionally we have always operated from a common set of facts — and now people can't even agree on what happened yesterday."

I would like to thank the Sub Committee for giving me the opportunity to contribute towards the work being done on this most important topic.



Emily Bell

Leonard Tow Professor of Journalism, Columbia University
Director, Tow Center for Digital Journalism

Mr. PALLONE [presiding]. Thank you, Ms. Bell. And that concludes our witnesses' statements. And so we are now going to move to Member questions. Each Member will have 5 minutes to ask questions of our witnesses.

I am going to start by recognizing myself, but I wanted Mr. McNerney to know that I am going to cut myself off at 4 minutes and give you my last minute to do what you were going to do before, which—I forgot to give you the minute. All right?

So let me start out by saying I wanted to know if either Ms. O'Brien or Ms. Bell—are there any organizations that have found a way to properly police disinformation and deal with public figures inclined to spread it?

And are there any best practices that news organizations can employ for this purpose?

Quickly, since my time is now even more limited.

Ms. O'BRIEN. I can begin very quickly, and then I will hand it off to Professor Bell.

I would say that policing is not the word that I would use. I think my call would be for news organizations themselves to recognize the dangerous position that they have put themselves in and their viewers in. And I would say the list of things in my written testimony and what I read would be the things that you can do.

In some ways it is very simple: Do not book liars on the air. That is not brain surgery. People who lie, people who traffic in misinformation and disinformation should not be booked on the air. That would be a very good place to begin.

Mr. PALLONE. Thank you.

Ms. Bell?

Ms. BELL. There is a burgeoning area of research and civil society organizations—there is a research group, actually, convened around the election called the Election Integrity Partnership, which looked at both the roots of this and discussed ways in which things could be mitigated. It is what we work on, again, at Columbia.

I think that when you say is there any successful strategies, as Soledad said, there are a whole range, I think, starting with journalists really recognizing how their work can be used in different contexts, right from, you know, the headline or the push alert that you get on your phone through to when you are talking to maybe a politician, for instance, who is not telling the truth, how you phrase that, what my colleague at NYU, Jay Rosen, would call a truth sandwich: frame what is perhaps challengeable with context.

There are plenty of ways in which news organizations can connect better, I think, with the communities and with sources. I think that just prioritizing, reaching people where they are with high-value, high-quality information is really important, and also recognizing that they are not trusted and thinking about different ways to mitigate that trust.

Has anyone done it completely effectively yet? No. We would hope that, in the next 4 years, that we could address that.

Mr. PALLONE. Thank you. And then I am going to—one more question, briefly, of Ms. Urquiza.

I have been troubled particularly by the degradation of science. And we have seen, you know, whether it is climate change, public health, or with COVID-19, there are not two sides, in my opinion,

when it comes to the acceptance of basic facts, particularly facts that are verified and backed by active scientific methodology.

So I am—I really—I wanted to start off by saying I am so sorry for the loss of your father. And I am sure he would be proud to see you here today. But do you think, in a—that there is any way that some media outlets, when they are portraying as—there being two sides to the seriousness of COVID-19, whether and how to take precautions against this virus has blurred the danger it actually poses?

Like, you know, should you really be getting two sides on the virus, when the facts are known, and doesn't it blur when you are trying to get a message out about COVID and how to crush it?

Ms. URQUIZA. I am happy to weigh in on that. You know, the—facts are facts. There is no such thing as alternative facts. And even free speech scholars argue that, for a democracy to function, informed debates and the marketplace of ideas must work off a shared set of facts.

When it comes to science, science is truth, and there are not two sides to what science tells us. I think part of the problem that—

Mr. PALLONE. All right, Kristin, I am going to have to cut you short, because I promised to give Jerry some time.

Ms. URQUIZA. Oh, of course.

Mr. PALLONE. I apologize.

Ms. URQUIZA. No worries.

Mr. PALLONE. Jerry, you have the remaining time, for what it is worth. Go ahead.

Mr. MCNERNEY. Well, I thank the chairman for yielding to me on this.

You know, rampant disinformation and conspiracy theories that we witnessed to overturn the election results led to the insurrection on the United States Capitol and posed a great threat to our safety, security, and way of life. But the foundation of our democracy is rooted in truths. Any effort to undermine that truthfulness is an effort at—to undermine and dismantle our democracy.

We should all be concerned about any source that helps spread disinformation, conspiracy theory, and lies. And that is why I sent a letter with Representative Eshoo asking cable, satellite, and streaming providers the questions to understand how disinformation spreads, and the role of various companies in enabling its spread.

While social media undoubtedly plays a major role in enabling disinformation ecosystems, traditional media outlets should not escape scrutiny or accountability.

I am pleased to have this hearing. I appreciate your testimony, and I look forward to the questions.

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

Mr. PALLONE. And Mr. Doyle, Chairman Doyle, has returned.

So I yield back to you, Mr. Chairman.

Mr. DOYLE [presiding]. OK, thank you, Mr. Chairman. I now want to recognize the ranking member of the subcommittee, Mr. Latta, for 5 minutes for questions.

Mr. LATTI. Well, thanks very much, Mr. Chairman. I really appreciate that.

And before I start my questions to Professor Turley, first of all, I want to just say that, you know, reading your document that you presented to us is very enlightening. And we have to remember, as a student of history, at some point remember what happened in our founding days, especially with the Sedition Acts in the Adams administration, the founding of those early newspapers with Hamilton and with Jefferson and Madison, and what was going on back and forth, through the Civil War, the Espionage Act under Wilson, that—you know, we see all these things reoccurring, and what we are seeing being brought forward to today.

And one of the things I remember being taught in school years ago in college that—as a history major—is that he who forgets the past is condemned to repeat it.

And Professor Turley, again, I want to thank you for being with us today, and your defense of the Constitution. The Democrat hearing memo for today states that, “despite criticism, many traditional media outlets continue to allow for the disinformation in an attempt to follow journalistic standards and present multiple viewpoints on a news story.” How would silencing one or more of those viewpoints, as the memo seems to imply would be helpful, actually hurt the ability of the media to correct the facts, to educate, and inform the public?

Mr. TURLEY. Well, it would, and part of the value of a free press is the diversity of opinions and also the multiplicity of sources that it allows as exposure of lies. And lies tend to die from exposure. Sometimes it takes too long for most of us—as most of us would wish. But if you start to eliminate those viewpoints, you don’t create better speech, you just create coerced or official speech.

My problem with the letter is that it only talks about networks that are viewed as conservative leaning. You know, the CNN, MSNBC, other networks have also been criticized for bias and criticized for false stories. And I think they have tried to address those issues, as have other networks. But to just focus on one part of that industry to try to either curtail or eliminate them is not advancing the interest of free speech, it is advancing the interests of a type of official speech, or regulated speech.

Mr. LATTA. Let me follow up. We have heard from our other witnesses today about the need for Congress to shed light on how irresponsible media contributes to disinformation in ways that have consequences for the democracy and encourage public education that helps the public discern between fact and fiction. Yet some of my Democratic colleagues prefer to cancel certain news channels. How does government oversight of the media align with the First Amendment principles?

Mr. TURLEY. Well, you know, this is not a new issue. You know, if you look at the origins of the free press values that we hold dear, as well as free speech, they go back to the fight of John Milton in the 1600s, when he was fighting official licensing laws, laws that allowed the Government to dictate who would be published.

And this is like a dormant virus in our system. There is always a new generation and a new interest in trying to regulate the free press to produce a more pleasing or acceptable or less objectionable product. That never worked. What it does is it produces an official product, which is exactly what the free press is designed to avoid.

Mr. LATTA. Well, in a followup to that, what do you think is the appropriate role of the Government in working to combat the disinformation that exists out there?

Mr. TURLEY. Well, there is a lot that could be done.

To be frank, as I think Soledad O'Brien stated correctly, the view of the press among the public is at an all-time low, you know, 40 percent—I may be optimistic at this point—in terms of people who trust the media. The question is why. That is not just the conservative media. That is the media across the spectrum. And part of it is this echo journalistic model that has been replicated throughout the industry.

They also don't trust Congress, quite frankly. They don't trust this committee or other committees. And we have to accept that.

And what we should do is try to create forms of information that are reliable for the public to reach their own conclusions, not to give them processed conclusions, but to give them that essential data and information, to give transparency to investigations. And then I think that trust can rebuild, not only with the media, but also with Congress.

Mr. LATTA. Well, thank you very much. And again, we appreciate your testimony today.

And, Mr. Chairman, my time has expired and I yield back.

Mr. DOYLE. I thank my friend for yielding back. The Chair now recognizes himself for 5 minutes.

Ms. O'Brien, in your testimony you talk about the weakening of journalistic standards throughout the media and the rise of anchors and commentators more intent on enraging their viewers than informing them. What is the danger when content is presented to viewers as news or as facts that really amounts to entertainment, without a factual basis or any journalistic standards?

Do you believe that this has exacerbated the pandemic? And do you think it helped foment the insurrectionist attack on January 6th?

Ms. O'BRIEN. I think you fail in your journalism when you do not actually do what the job is, which is to bring facts to people.

And listen, first of all, I just want to say I am incredibly proud to be a journalist. I work with many great colleagues. And there are many good news organizations large and small, local TV stations, newspapers big and small, and I will name some of them. I think Report for America is quite good. Hechinger Report is quite good. ProPublica is quite good. They are elevating, and they are reporting, frankly, around the country. And I think probably the biggest issue is that there is just not enough of them, right?

So, when you have misinformation and when you have lies elevated—we talk about more speech and good speech and better speech. I think the actual conversation is about the risks of elevating lies. My conversation is about facts and lies. And so I think that you should not be allowed and the news organizations should not want people to be on the air if they are, in fact, lying and they are liars. They should—because the news organizations' values are to inform their public.

Sometimes you get the sense that truth is unknowable. That is just not correct. I am advocating for good journalism. I am advocating for reporting, which is how we verify information. We do not

need to put people who are spreading misinformation on the air. And I think that is nothing that the Congress has to deal with, it is news organizations themselves who should hold themselves to this standard. It is a journalistic standard.

Mr. DOYLE. Right. Thank you.

What about you, Ms. Bell, do you have anything to add to that?
[Pause.]

You need to unmute.

Ms. BELL. My students will be laughing at me now.

So I think this point about better speech, good speech, the checks and balances of having a balanced market, it is really important that we understand how difficult that is in a digital environment.

Some of the networks we look at, which are partisan, they exist on both the left and the right that don't disclose their funding, that operate at local levels. They create a million stories in the course of a year. They contain very little original reporting. They are designed to get people to think about the repetition of phrases and think that things are issues that are not really issues.

You can create an enormous amount of that material, and you can actually target it at people very, very cheaply and easily. And the job, then, of journalists on the ground becomes incredibly difficult. We see this showing up in local news rooms all the time. So we hear from editors and reporters saying, you know, "Increasingly, half of my job is just combating stuff which is not true." And that is the narrative I have heard a lot from reporters in places like Ukraine, places like Russia, 5:36 PM and really not something you expect to hear in the U.S.

So I think it is not just about this partisan issue. I think we really do have to understand that the environment does not support and promote the things that are based in truth in the way that it should. And that is about incentives in all areas, I think, of the market.

Mr. DOYLE. Yes, it seems like more free speech just isn't winning the day over the kind of speech that we are concerned about, unfortunately.

Ms. Urquiza, first of all, my condolences to you and your family. This pandemic has taken many people's family and friends and loved ones away from us. And I appreciate you appearing today because I know this must be tough for you. I want to ask you, Do you think your father's story is unique?

And what role do you think the news media played in delivering what was an untimely, deadly disinformation to your father?

Ms. URQUIZA. My father's story is absolutely not unique. I have, over the course of many, many months, have been hearing similar and eerie stories from literally hundreds of people across the country who have come to Marked By COVID looking for support to figure out how to push forward.

And my dad's messages to me started to change as the news media started to say that it was safe, advertising the messaging coming from the White House that we didn't have anything to fear from. I know exactly that that was a huge role in him making the decisions that he made.

Mr. DOYLE. Yes, thank you very much. I see my time is up. The Chair now recognizes the ranking member of the full committee, Mrs. McMorris Rodgers, for 5 minutes.

Mrs. RODGERS. Thank you, Mr. Chairman. Today's hearing, along with the majority's letters that target right-wing cable outlets, are really a dangerous escalation in the left's crusade to silence anyone who does not agree with their ideology. It appears to me that the Democrats may want to revive the Fairness Doctrine.

And Mr. Turley, I wanted to start by asking you: Can you explain the significant issues you see with a new Fairness Doctrine and why you would caution Congress against bringing it back?

[Pause.]

Mr. DOYLE. Jonathan, you need to unmute. We can't hear you.

Mr. TURLEY. I don't know how many times I have to be told that, I am sorry.

Questioning a fairness doctrine for the media sounds a lot like questioning a purity doctrine for milk. It is hard to explain, but there is a substantial question as to whether the Fairness Doctrine would be upheld today based on the earlier decision. It was upheld in 1969 in the *Red Lion* case.

Now, I must confess, I don't favor the Fairness Doctrine because I don't favor government regulation of the media. I adhere to the view of Justice Hugo Black, when he said, "I take no law abridging" to mean no law abridging, in quoting the First Amendment. That is why many people treat me as—often refer to me as a free speech and free press purist in that sense, something that I take as a compliment.

But in *Red Lion*, the court applied an intermediate scrutiny standard that many of us have questioned as to whether that was appropriate. It based its decision on the notion that broadcast networks were a unique medium, they were a scarce source of news, that people didn't have the ability to choose between news, and it was free. This was available to the public. And so they decided to apply a lower standard.

It is not clear they would do that again. In cases like in 1974, in *Miami Herald Publishing v. Tornillo*, the Court struck down a Florida law requiring newspapers to give space to people who were criticized or attacked. But also we now don't have that scarcity, right? We have cable news that—

Mrs. RODGERS. Yes, thank you. I want to get to a couple more questions.

So I wanted to ask all the witnesses that are here—and this is a yes-or-no question: Do you support government pressure on private companies to remove legally protected content from their viewing platforms?

I would like each of you to answer yes or no, please.

Ms. BELL. No.

Mrs. RODGERS. Thank you.

Mr. TURLEY. Yes, I don't support government regulation.

Mrs. RODGERS. Great. As has been referenced, you know, earlier this week certain members of the majority sent a very concerning letter to companies pressuring them to block conservative outlets. And I know we have heard a lot from people on both sides of the

aisle about the importance of upholding the First Amendment. I would like to offer this letter into the record, Mr. Chairman.

Mr. DOYLE. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mrs. RODGERS. To be clear, combating disinformation is a shared goal. But we do not want to follow the lead of authoritarian countries like China, not here in the United States, where we cherish an independent press.

So Mr. Turley, do you agree that the answer to speech we disagree with is more speech, rather than less? And would you just explain briefly?

Mr. TURLEY. I do. And I think history shows that. What history shows also is that limiting speech, trying to regulate it to private or public means, it tends not to produce better speech. It tends to produce regulated or official or approved speech. It tends to favor an orthodoxy. And that is a reason many of us oppose government regulation of the media, which is inherently at odds. And going back, as I mentioned, to the 1600s, the very foundation of a free press was formed in this conflict between the press and the government, and trying to keep the government from exercising these controls.

But it takes a leap of faith. You have to believe, not just in the free press and free speech, you have to believe in each other, that we can make the right decisions.

And it is not always the case. It doesn't always turn out the right way. There are a lot of people that aren't convinced. Many of us said soon after the election that there was not systemic fraud. A lot of people didn't believe that, but—

Mrs. RODGERS. Right, OK—

Mr. TURLEY [continuing]. Speech allows them to be convinced.

Mrs. RODGERS. Thank you, I appreciate that.

Finally, just to Mr. Chairman, you know, you once wrote, "Censoring or interfering with broadcasters' discretion to air legally protected content is wrong," and threats by politicians about protected speech were concerning, and that anyone who "stays silent could undermine the First Amendment and our Communications Act." So, Mr. Chairman, I just want to say we need to be united in our effort to uphold the Constitution. We need to work together and not use our positions of power to threaten private companies to censor or interfere with constitutionally protected content. And so we stand ready to work together to protect these constitutionally protected freedoms of speech and the press.

And with that, I—

Mr. DOYLE. The gentlelady's time has expired. The Chair now recognizes Mr. McNerney.

Mr. MCNERNEY. Well, I thank the chairman for holding this very important and informative discussion. It is important to talk about these things.

My district includes the City of Stockton, California, with a population of over 300,000 people. It is the most racially and ethnically diverse city in the country. And here is what we are seeing in Stockton. In 2010 the Stockton Record, our local paper, had a staff of about 80 people. Today it has a staff of 8. When we look at the total number of reporters in the city region and State that covers

our metropolitan area, we see the same trend. In 2010 there were 100 to 110 reporters in print and broadcasting. Today there are 10 to 20. I am concerned about how this decline of local news is impacting our community.

Ms. O'Brien, when there are fewer reporters covering everyday life in a community, is there—and there is less local reporting, how does this affect the ability of individuals to stay informed?

Ms. O'BRIEN. Clearly, it is a huge problem, and those numbers that you are talking about in Stockton, California, are repeated across the country. It is devastating.

And part of the problem is that people aren't only just getting misinformation and disinformation, they are also just getting no information. And so that becomes very problematic. There are real costs to that. How do you make decisions? How do you make decisions around policy? How do you make decisions about what is happening in your community?

Local news—local newspapers, specifically—were very much the way to do that. And because they are being decimated, there are some real tangible results of that, and those tangible results are devastating to communities, small communities.

Mr. MCNERNEY. Well, when there are local cuts to local newsrooms, how does this impact the ethnic diversity of the news cadre?

And how could not having a diverse news staff impact trust in the press?

Ms. O'BRIEN. I have spent a lot of time reporting stories about diverse communities. And I think one thing we see is that diversity in the newsroom helps to actually get out more accurate stories, more interesting stories from diverse communities. So there is a real cost.

Often, since many—and I don't know how it is in Stockton, but since many reporters of color are sometimes more recently hired, that often means that if there are layoffs, they are pretty quickly fired. And that means that your newsroom reverts back to not a particularly diverse newsroom.

There, of course, is a tremendous cost to that. How do you cover a community that is growing more and more diverse without the staff that actually can navigate that? And how do you make sure that you are showing the public, day in and day out, that you care about the community, when you are not actually there to cover their stories? It is hugely problematic.

Mr. MCNERNEY. Thank you. Professor Bell, how does a void in local news contribute to the spread of disinformation?

Ms. BELL. Well, I think in every dimension it is exactly right that—just as Soledad O'Brien just said, you know, we have done research in urban Philadelphia, we have done it in rural Kansas. You have really, really different populations there. But the thing that they share in common is that they feel like journalism was something which just was traditionally done to them, not for them. They have low expectations of the press. They have little trust in it.

And I think the problem is—support for local media, and local media does actually keep government accountable, it keeps expenditure down. It keeps—I mean, all of this is in the evidence.

And I think the other thing which is sociological, which is really important to say here, which is that, if you are from one of the communities, if you are from your area that you represent, and you are a young person with ambition to serve their community and particularly if you are a young person who is not properly represented in the press, you are not going to look at the moment at local press and think that is a great, stable path for me to follow.

So, you know, I think that losing that step of—the first step of accountability and democracy, really, it means that almost everything else in the pyramid of media is standing on a very faulty foundation. I think we really—you can't overestimate how important it is as a foundation of democracy.

Mr. MCNERNEY. Thank you. Well, for consumers with cable subscriptions, channels are typically bundled and consumers can't opt out of paying for certain channels, even if they don't want the channel. I recently wrote a letter with Representatives Eshoo that has been referred to today expressing grave concern about how some of these channels are spreading disinformation and conspiracy theories.

Professor Bell, have consumers, even those who do not want to watch these channels, been paying for disinformation?

Ms. BELL. The economics of bundling and cable coverage does mean that inevitably you end up paying, as a consumer, for things that you wouldn't necessarily pay for otherwise. So, in that dimension, yes.

Mr. MCNERNEY. Well, it should be noted a lot of Americans don't realize they are paying for disinformation.

Mr. Chairman, I yield back to you.

Mr. DOYLE. The gentleman yields back. The Chair recognizes Mr. Guthrie for 5 minutes.

Mr. GUTHRIE. Thank you, Mr. Chair. I appreciate the recognition.

My daughter just graduated from journalism school, so this is important to me. She is going to start a career in a great field. And it is important that we have honesty and integrity in journalism.

And I have a lot of people at home asking me quite often, "What news should I watch?" I mean, I think some people realize that we have divided ourselves into news for one belief and news for the other, and which one to watch. And it is difficult for me to say. And I always say that, if you had two conspiracies, two conspiracies, both of them conspiracies, one is that there were emergency measures put in place on mail-in voting in certain States and that mail-in voting had irregularities that changed the election, and the other one is the Russian president hijacked the American election because he had information on the American president to make him an agent of the Russian government, which one do you think would get investigated, and which one do you think would get summarily dismissed?

We both—we know that the Russian investigation was false. We know that Members of Congress were on television and cable shows saying they had evidence that the President—that was all true. They were never called out on it. And so it is just frustrating that, if we are looking at one side or the other, it is both sides, and we really need to focus on this. And the question is, Where is Congress's role in doing it, and—given the First Amendment?

And so I want to focus on—and I think what Ms. Urquiza was talking about—I am on the—I am the ranking member of the healthcare subcommittee of this committee. And it is important that we get accurate information, it absolutely is important we get accurate information out.

During the Operation Warp Speed phase, when they were developing the vaccines, we had members of this committee, we had the Vice President, current Vice President of the United States, talk about the process of Operation Warp Speed and getting the vaccines in a negative way, in my opinion. And it just really frustrated me, because everybody who wanted to know knew they were—FDA was following the standards of every other vaccine. That was what was evident.

And by spreading disinformation, if somebody chooses not to get a vaccine because they heard somebody from this committee, or they heard the Vice President earlier in—and that was during the campaign season, not during our current vice presidency—it really does lend to people making decisions that Ms. Urquiza was talking about, that is not with the best information.

And so the question you get to, if we say, “Well, only people that have this information can go talk on television,” what do we tell the politicians that spread disinformation? Do we tell them in the course of a campaign they can’t make those kind of comments? And so we are all for the right information.

The question, I guess, with Dr. Turley, I went and visited a—there was a vaccine site in my district where they were doing the experimentation. I go in, and the researcher, the lady who was doing all the—set up the research and the tests and so forth, really kind of excoriated me. And we deserved it on the political side for politicizing the process. It is—and she corrected me, said, “This shouldn’t be political. This is—we are moving forward.” And she really brought forth—and I said, “You are right, it shouldn’t be political. We should have answers.”

And then the two physicians who were responsible for the practice where she was doing the administration, one sat down and said, “Children can spread this, and children are needing to be vaccinated” and so forth, and I won’t get into it, where the other one completely contradicted what he said. Two physicians in the same practice, sitting in the same room.

And I looked to the researcher, I said, “See, this is the problem we are having getting information out.”

So the question, I guess, Dr. Turley, if there are two opinions—I mean, how do you get to the point where we say we know this is safe and effective, we know that all of the criticisms against the vaccine are wrong, therefore we are—what process would you say would Congress have in place to say only the people telling what we know to be true can go on television? I don’t understand how we would do that, practically.

Mr. TURLEY. Well, I don’t think you could do that. And I don’t think the courts would allow you to do that under the First Amendment. But the way you resolve that is you have to convince people, and that is never easy, right? It is very frustrating, because some people won’t be convinced.

I actually felt it was very important in the days following the election to say, “Let’s look at all of these allegations” while also saying that we didn’t see any evidence of systemic fraud. Just we would like to look at it. There was a whole group of people that were, within a couple of days of the election, saying there is no fraud, no irregularities, and even threatening lawyers and trying to get them to drop these cases. That didn’t help. That didn’t help convince people, because what they saw was a bunch of people trying to silence others, and I think it snowballed into what we saw, that both sides were not listening or speaking to the others.

So those of us who are in the middle on—in the media have to try to do our best to try to frame these issues, to convince people. It is not as easy as silencing some voices, it is not as easy as marginalizing voices. But it is the only thing that can unify us, is to find avenues for dialogue. Congress can play a role in that by trusting citizens enough to give them greater transparency, greater information, so that they can make their own decisions.

And I want to echo what the Democratic Member said before, and also what my copanelist said. I also believe that the loss of local media is a serious problem. And that is another area where Congress really could play a good role in focusing on how we can get back to a robust local media.

Mr. DOYLE. The gentleman’s time has expired.

Mr. GUTHRIE. Thank you, I am sorry, my time has expired. I yield back.

Mr. DOYLE. The Chair recognizes Mr. Soto for 5 minutes.

Mr. SOTO. Thank you, Mr. Chairman. A top 10 of facts that we saw contested vigorously over the last year: COVID–19 is real and can kill you; masks protect us; Pfizer and the Moderna vaccines are safe and effective; Joe Biden won the Presidential election; there are no massive instances of voter fraud; it was Trump supporters that stormed the Capitol on January 6th; there are 530 Members of Congress that are capitalists and about 5 that are Democratic Socialists; the Federal Government infected black men with syphilis from 1932 to 1972; a third of Puerto Rican women were forced—sterilized from 1930 to 1970, both by the Federal Government; and lastly, the Earth is still round.

I say this because you see so many of these facts were the subject of intense campaigns and misinformation in social media, in newspapers, and broadcasting. And I get we have to strike a balance on this.

First I want to ask Ms. O’Brien, who obviously has the show “Matter of Fact,” about how important it is to get the facts right, particularly regarding COVID–19, vaccines, and other key public health facts when it comes to communicating with communities of color.

Ms. O’BRIEN. Clearly, it is absolutely essential, especially for vulnerable populations, because, obviously, when there is lots of misinformation or disinformation or just flat-out lies, then you run the risk that people are making decisions off of this misinformation.

On the show that I do, “Matter of Fact,” we have consistently been dipping back into communities of color to talk to them about their fears, their concerns, and talking to experts, as well, as we

follow what is happening with the vaccine. I think it is really critical.

But I think it is essential to remember that robust dialogue is great. It just has to be robust dialogue around facts. You know, this—again, this idea that, you know, speech and more speech—all great, as long as it is centered in facts. And I think we should be really clear to tease out misinformation and disinformation and lies are very different than people just having disagreements over a set of facts.

Mr. SOTO. And what do you think the consequences could be of continued massive falsehoods regarding vaccines and COVID-19 among communities of color?

Ms. O'BRIEN. We have already seen many communities of color are very slow to get access to the vaccine. Sometimes that is structural, and sometimes it is because they have had a history of distrust in the medical profession. And so there are already concerns there. And it is one of the reasons we keep dipping back into this story consistently, almost every other week, to make sure we are elevating that conversation.

Mr. SOTO. Thank you so much.

Professor Turley, it is great to see you again. I enjoyed your classes at GW Law. It is always a pleasure to have you in committee.

We saw a huge Spanish language misinformation campaign in South Florida in particular in our State, blaming Antifa and BLM for the Capitol insurrection. The FCC already has laws on the books that, if you knowingly broadcast false information that will cause substantial public harm, that it is illegal. Is this one of the proper ways we could pursue making sure that we have some truth in broadcasting and existing laws? Would that be a way to strike that balance, by the FCC looking at it and beefing up their Spanish language staff?

Mr. TURLEY. Well, thank you again, Congressman, it is good to see you again.

I wish I could say that that was a potential avenue. I don't think it is a workable avenue, because it quickly gets bound up in this sort of regulation of the media and can trip these same wires under the First Amendment.

There are protections, of course. You know, you do have defamation laws, even with public figures. You can sue people. We have had a whole plethora of lawsuits recently, including by Dominion Computers, which has been suing a number of people about falsehoods that have been made. Those do have deterrent impacts. They do have an impact on media as well as nonmedia figures.

The most important role of Congress is to be a vehicle of truth, to get that information out, and to allow the media to filter out these voices.

I am not as confident as Soledad. I don't—I have to say that I don't think it is fair to say, "Well, look, I am in favor of free speech and free press as long as you are not a liar, as long as what you are saying is not untrue." And it gets us back—it is sort of circular, because it—we end up in the same spot. Who is the arbiter of that? What is the meaning that someone is a liar and someone is being untruthful?

Mr. SOTO. Thank you, Professor. And I want to give Ms. O'Brien—

Mr. DOYLE. The gentleman's time is—you have 4 seconds, so—
Mr. SOTO. My time is expired.

Mr. DOYLE. Thank you, Mr. Soto. The Chair now recognizes Mr. Kinzinger for 5 minutes.

Adam, you are up.

Mr. KINZINGER. Hey, thank you, Mr. Chairman, and thanks, everybody, for being here.

You know, one of the interesting—when we talk about truth, I mean, I think, you know, when you think back to COVID, I have had people that have sent me, well, how come there is 500,000 that have died from COVID and flu deaths are way down? And that is seen as some kind of a thing that this is really the flu. And, you know, you just got to remind people because we are all wearing masks and keeping distance, and that is how the flu passes.

So I do want to say to our panelist who lost a family member and anybody else, I am truly sorry and devastated, and I hope you can find some solace in the work you are doing.

You know, lots of what we are talking about—I think the important part here is we look back at past actions and we do a lot of “what about this,” and well, “Democrats did this,” and the Democrats say, “The Republicans did this.” And you are never going to win an argument that way. I think, in the future of disinformation, the key is to call it out in your own party.

I will tell you, some of you lefties on this panel, you know, call my base and tell them something, they are not going to listen to you. But if I say it, they are much more likely to. And I think that is where it is important for each party and each political philosophy to take a personal account for what you are telling your constituents and people that are listening to you. Because I got to tell you, as much as this debate is important, if this society falls apart we are going to look back and say not just “We could have done more,” we are going to say all the things we argued about were nothing in comparison to the fact that now society has failed and my dad can't get his heart medicine, or something like that.

So this is deadly serious. And I think it is important for everybody to remember this is far beyond what it means for the next election and who is going to win the majority, and anything like that. And we need a 10-part series to cover the way that government officials, media, and the public have contributed to this.

But I think we need to focus today on fear and anger associated with our discourse.

National news media has a substantial role in society. But over time we have seen traditional news reporting devolve into opinion reporting. Too often, national news outlets give prime-time slots to opinion personalities over news reports. And some of these personalities will start a segment by reporting the top lines of a current event, but then they quickly transition and spend more time on expressing their political hot take on the matter. They point fingers, they create, you know, political narratives, and more time on that than they do offering important background and details and letting you make your own decision.

Plus the fact that we are being hit from every front with all kinds of information. Eventually, it is like, if you are being attacked on three sides, you are just going to jump into a foxhole and hide and listen to the one person that maybe you trust. And that person can now take a hold of anything you believe and tell you anything.

There is plenty of evidence to show that fear mongering and fomenting anger drives engagement and ratings. We know that. And similar constructs, of course, can be applied to social media. Ultimately, this fosters a culture of fear and click bait to get attention.

Civility is not limited to the words we choose or to the tone that we employ. It means respecting one another as equals through our shared humanity. And as it applies to this hearing, civility means prioritizing the reporting of facts over opinions, and then trusting the public to interpret the events for themselves and assign the right value.

I do want to make a general distinction, though, again, between national and local media, as was discussed. There is always exceptions, but I have to tell you I am a big fan of local media and local news. I think it is very fact-based. It can show people, you know, where to get the latest vaccine, what is going on. I think the degradation or the disappearing of local news is a real concern. They also can play a very good role, as we have seen, in, you know, exposing scams that are out there that we have seen, for instance, of seniors and others. So I am all for keeping it local.

I do want to ask, though, Professor Turley. Mis- and disinformation have to be addressed in a bipartisan fashion. We know that foreign actors utilize both to sow the seeds of discord and to threaten democracies across the globe. And at the same time, the most important principle of democracy is the freedom of speech and expression. But I worry that we are crossing into yelling fire in a theater if it is this dangerous.

So let me ask you. I am interested in exploring the legal ways to curb disinformation and protect the First Amendment. Given the important role the media has, what do you think about these outlets having to make it clear to their audience when their segments are opinion versus fact?

Mr. TURLEY. Well, I think that is important. There is a blurring that has occurred. If you go past 6:00 on most cable networks, you are pretty much in the realm of opinion today. And it does blur.

And I think what you said earlier, Congressman, is really important. Let's be honest: Rage is addictive. I mean, we are a nation addicted to rage. People complain about how tired they are and how they wish they could get beyond this, but I don't see any evidence of it. People are addicted to rage, and they are using that rage to try to silence others or blame others. And it is ripping this country apart.

The media can play a very important role in trying to create a dialogue. And that is all the media, the diversity of media that we have. And the Congress can help in that sense.

Mr. KINZINGER. That is right. Well, it is—

Mr. DOYLE. The gentleman's time has expired. I am sorry, Adam.

Mr. KINZINGER. I yield back. Thank you.

Mr. DOYLE. OK, buddy, thank you. The Chair now recognizes Mr. McEachin for 5 minutes.

Mr. MCEACHIN. Thank you, Mr. Chairman, and thank you for putting together this very important hearing.

Mr. Chairman, the spread of misinformation and disinformation strikes at the heart of our democracy. Without the ability to discern what is true from what is not, or the ability to even work from the same shared sets of facts, there is no way we can earnestly debate the important and complex issues that impact our constituents every day.

I could go on, Mr. Chairman, but I think there has been a lot of commentary in this area already. I will just jump straight to my questions so we have enough time to have a little bit of a conversation. I would like to start with Ms. O'Brien.

Some have argued that equal time should be given to competing sides of controversial issues. I tend to agree with that, generally. But in practice it seems awfully difficult. How do broadcast journalists and media sources in general give equal time to each side of an issue without vindicating those whose opinions are not based in facts?

Ms. O'BRIEN. So I covered this in my written testimony, so I refer back to that. But I would say that I think debate around facts is great, and I am absolutely a proponent of debating. I think where we see a difference is when we are not dealing with facts, and we are dealing with something that is dishonest and a lie.

So I do not believe that lies deserve equal time. And I think that journalism students from pretty much day one are able to begin to ferret out what things are true. It is reporting, right? It is the who, why, what, when, how. And so, for me, that is really how it needs to be thought about.

Facts are not unknowable. It is not this who knows what is real, who knows what is not real. There are verifiable facts. And, in fact, those can be the center of a very good and engaging and important debate that will engage your viewers, that will help them make decisions, that will help your constituents. But when those things that are being debated are actually based on misinformation and lies, there is no obligation to elevate a lie, ever. There is no one in a news organization who would say that that is the mission of journalism, to elevate and platform lies.

Mr. MCEACHIN. Thank you, ma'am.

Turning to Ms. Bell, do you think that climate change and the potential consequences of allowing the spread of inaccurate or just simply wrong information has similar perils and dangers as to what we saw with the spread of misinformation regarding the COVID 2019—I am sorry, the COVID-19 virus in the 2020 elections?

And add on to that, please, do you think there should be some sort of immediate action? And, if so, what should that action be to combat disinformation?

Ms. BELL. So I think climate change is a very useful parallel here. And again, when we are debating or finding out more about complex environments, then there is always an area where things are under debate. The consensus of the scientific community on cli-

mate change and what is needed to mitigate it is pretty much [audio malfunction] point.

But we still see, I mean, even last week in Texas we saw, unfortunately, lots of pretty, I think, balanced discussion, right, the—way across the political spectrum about what the problems with power supply were. We saw a narrative emerge about wind turbines, which was not actually reflective of the true situation of what happened. And you can just trace how those stories were proliferated in one place and amplified online until it became the dominant narrative, rather than the real problems, the real suffering that people were experiencing on the ground.

So I think climate change is one of those areas, exactly like health, where we just need—and I think Texas is important in this because, again, local outlets, the Governor of Texas went to local news and talked about, I think, the issues in a much more balanced way. He went on to Shorthouse in the evening, and it was all about wind turbines again. So I think that, you know, kind of—we all have to—I think local media does a great job of keeping people accountable, when there is [inaudible].

The job here is to think about some of the incentive structures and what we can do to positively regulate rather than negatively regulate, rather than saying that certain speech—I don't think anybody is in favor of that. How do we make sure that that type of journalism and those types of systems—it is not just the journalists that are actually really encouraged.

Mr. DOYLE. The gentleman's time has expired.

Mr. MCEACHIN. I yield back, Mr. Chairman.

Mr. DOYLE. Thank you, Mr. McEachin. Let's see, it looks like my buddy Gus Bilirakis is next.

Gus, you are recognized for 5 minutes.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I appreciate it. And I want to tell you—I want to invite you down to Florida for spring training. It begins this weekend. So, again, I am the eternal optimist with regard to the Pittsburgh Pirates.

Mr. DOYLE. Gus, with the weather we have had in Pittsburgh, I will come tomorrow.

[Laughter.]

Mr. BILIRAKIS. Professor Turley, in 1987 the FCC repealed the Fairness Doctrine—I know you know that—which required that television stations air contrasting views to controversial issues. The justification for the Fairness Doctrine was that, in 1967, Americans only had access to a handful of broadcasting stations, which were granted licenses by the Federal Government. And I remember all that, I am old enough. If your viewpoint was attacked and you didn't have an opportunity to respond, you might never have been able to defend yourself back in 1967.

In 2021 we are no longer limited to a few TV stations, and Americans are increasingly relying on other forms of media to inform their views. Given the exponential ways Americans can access news and opinions in 2021, do we really need the Fairness Doctrine in order to ensure opposing voices are heard?

And are there constitutional concerns with the Fairness Doctrine today that might not have existed in 1967?

Again, for Professor Turley.

Mr. TURLEY. Yes, thank you. I should—this may have bearing, because I will have to answer your question as a Cubs fan. So, as a Pirates fan, you may want to discount everything I am about to say.

But I—there are serious concerns. I have really substantial doubts about whether *Red Lion* would be upheld in its original form, if at all. The first issue is really this intermediate scrutiny standard that was applied, instead of strict scrutiny. But you really hit on the key, in terms of the changing context. Back then, the Supreme Court put a lot of emphasis on the fact that there were very few broadcast networks, very few choices, and therefore it elevated the interest of the government. But the court also said that, if there is evidence that there is, in fact, scarcity, then that can be put forward, or if there is evidence that they are controlling the message.

The objection I made to the letter that went to AT&T actually is the same objection that goes to *Red Lion*: That letter seems like an effort to encourage the dropping of some of these cable news programs, to actually reduce the diversity of cable programs.

But, if the Supreme Court was to deal with this today, I think it would see a very different situation, and I think it would adopt a different analysis. There are a variety of choices on cable, as well as broadcast. And I think they could very well not only change the standard but the outcome, particularly as it applies to cable.

Mr. BILIRAKIS. Thank you. The next question. In a free market, when a product or service continually fails to meet an expected standard, the public either moves to a competitor, or the opportunity for a new market competitor arises. You touched on that. I believe this system extends to journalistic standards, as well. If an outlet fails to report the truth and damages its reputation as a reputable network, its viewers will seek out the competition.

Professor Turley again: If the Government were to pull competitors from the news market and then prevent new competitors from entering, doesn't that lower accountability and journalistic standards than would otherwise exist in an open market for the entities that remain?

Mr. TURLEY. Well, that indeed is the concern, because if you go down that road you come close to the state media model. That is, it is not enough to control the narrative, you also have to eliminate alternatives to the narrative, right? Because you—it doesn't work if people can just go to another source and hear a different view. So that is part of the value of the diversity of these news outlets that you can choose from.

Now, we do have a serious problem here. My copanelist touched on this, that we have a new model of this echo journalism. People have these siloed existences. And echo journalism is like the comfort food of journalism, right? People go to these comfort zones, where they only hear news that confirms their bias. And a lot of these networks are shaped by that. And a lot of us want to see some breakage there to try to get back to that. But we have to convince people to do that. You don't do that by eliminating or curtail other news sources. You do that by trying to work with responsible journalism and journalists in elevating that news.

Mr. DOYLE. The gentleman's time has expired.

Mr. BILIRAKIS. Yes, somebody did say——

Mr. DOYLE. The gentleman's time has expired.

Mr. BILIRAKIS [continuing]. As well. All right, thank you. Thank you, Mr. Chairman.

Mr. DOYLE. Thank you. And Gus, we don't pay attention to American League teams.

[Laughter.]

All right. Let's see who is next here.

Ah, my good friend Anna Eshoo, you are recognized for 5 minutes.

Ms. ESHOO. Thank you, Mr. Chairman, and thank you to the witnesses for your testimony.

And Mr. Turley, I am sorry that yours came in late, so I couldn't read it last night, but I did today.

I want to just take a minute or so for observations, because I have been listening since we began, and it is always worthwhile to listen, and to listen well. I think that today's hearing about misinformation and listening to a lot of things that have been said simply underscores that we have a lot of misinformation going on right in the middle of this very hearing.

The letters that Congressman McNerney and I sent, some have insisted that those letters violate the First Amendment. The First Amendment, my friends, starts with four words: "Congress shall make no laws." So those of you who may not have read the letters, I suggest that you do.

I would also like to state that the letter asks the companies questions.

Now, I don't know, Mr. Turley, if you find this so chilling that it is actually glacial for Congress to ask strong, important questions. I think we owe that to Ms. Urquiza. How do you answer to what was put out, and her father is gone? I call them lies. I don't know what you call them. You call that the open market, something that is competitive?

We have a problem in this country. It is a large one. It is a sticky wicket because of our Constitution. But we need to examine and be frank with each other about what is taking place in the country.

I would also like to add that, if you want assurance, Members, Mr. McNerney and I had the nonpartisan First Amendment experts at CRS, the Congressional Research Service, read every word and every footnote of our letters and review them against all relevant case law. They are finalizing the legal analysis memo, which I will share with all the members of the committee. Yesterday CRS informed me they see no First Amendment red flags in the letters whatsoever.

So I thank my Republican pals for elevating this hearing. I think we have a much broader audience because of the red herrings that have been raised or put out there before the hearing. So we have a terrific audience, as I said, probably larger than what we originally anticipated.

To Ms. O'Brien, I think your testimony is magnificent. And I think that you—your term that we have truth decay today couldn't be better capsulized.

Now, Newsmax, One America News Network, Fox News, all use “news” in their name. As a well-respected journalist of 30 years, how do you define the word “news”?

Ms. O'BRIEN. For me, news is about searching for verifiable, accurate, factual information, and bringing that to the public. I think journalists spend every day—good journalists, at least—trying to figure out how they can serve their public, how they can bring accuracy and facts and nuance and context to the people who are watching them or reading them. And to me, that is news.

Now, CNN also has news in its headline, as well. So I don't think it is as much as what is in the headline, I think it is what is the actual practice that you are seeing day in and day out.

Many news organizations, as I have in my written testimony, have moved—slid into a lot of opinion, an opinion that is not necessarily labeled as opinion or highlighted as opinion or sort of pointed out strongly as opinion. Instead, it just sort of slides into opinion, and it is very hard to tell the difference. I think it does not serve the public to have two debating talking heads who are often not versed in facts, who are not experts debating. You could have—

Ms. ESHOO. Can I interrupt you? Because I have a few seconds left.

I would like this to be understood: The idea that Members asking questions violates the First Amendment is absolutely absurd. It is our job to ask questions.

So I want to thank all of the witnesses. Even though I don't agree with you, Mr. Turley, I thank you for coming up to—well, your appearing on the Hill, but you are probably at home or in your office. But we appreciate it.

And to Ms. Urquiza, my father—my daddy was the north star of my life. And so I understand your aching heart. God rest him.

Thank you, everyone.

Thank you, Mr. Chairman. I yield back.

Mr. DOYLE. I thank the gentlelady. The Chair recognizes Billy Long.

Billy, you are recognized for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman. And I would like to start out here in the spirit of the late, great John Dingell, asking a yes-or-no question to all of the panelists that we have here today, all of the witnesses.

And Ms. O'Brien, yes or no, please: Do you support taking Fox News, Newsmax, and One America News off of the air?

Ms. O'BRIEN. Before I answer your question, I am going to tell you, as a reporter, when I ask people yes-or-no questions, I am trying to very directly force them into something that has no context, whatsoever. So I will just note that for the committee here.

I do not support that, is my answer.

Mr. LONG. OK. And Ms. Bell, same question for you: Yes or no, do you support taking Fox News, Newsmax, or One America News off the air?

Ms. BELL. I am afraid it is going to be the same answer, which is yes-or-no questions don't necessarily serve the purpose of—

Mr. LONG. OK. Well, due to time constraints, that is what I am asking. So I will go on to Ms. Urquiza.

Yes or no, do you support taking Fox News, Newsmax, or One America News off of the air?

Ms. URQUIZA. No.

Mr. LONG. Thank you. And Mr. Turley, same question to you: Do you support taking Fox News, Newsmax, or One America News off of the air?

Mr. TURLEY. No.

Mr. LONG. Thank you. I have a little story I would like to tell here. A buddy of mine, a constituent—not a constituent, a colleague. He could move from Tennessee, I guess, if he wanted to. But I don't want to give you his name, but I will give you his initials. His initials are Steve Cohen.

And when Steve was a little boy, his father was a pediatrician. And his father came home one day and said, "I am going to vaccinate your older brother," who I believe was 7 years old at the time.

Steve was 4, and Steve said, "Well, can I have the vaccine?" This was for polio.

And his father said, "No, it is not approved for anyone under 5, and you are 4," so he did not give Steve that vaccine. And 6 months later, Steve Cohen developed polio.

So, when we are talking about facts and science and—one of my colleagues also this morning, I am not sure which one, said "Should you be giving two sides on COVID, when the science is clear"—Ms. Urquiza said science is true. If science is true, which I don't—different people have their idea of what is true and what is not in science.

Take, for instance, Robert Kennedy, Jr. Robert Kennedy, Jr., put out a tweet after Hank Aaron passed away—home run king—"Hank Aaron's tragic death is part of a wave of suspicious deaths among elderly closely following administration of COVID vaccines. He received a Moderna vaccine on Jan. 5 to inspire other Black Americans to get the vaccine." And this was from an article from The Defender, Children's Health News & Views, who were taking the position that, 18 days before he deceased, Henry Aaron had received the vaccine, indicating that the vaccine was not safe.

So, like I say, science—people have their different opinion on science. I know the people in my constituency, in my area, are calling me repeatedly, daily: "Where can we get the vaccine? Where can we get the vaccine?"

So when we put stories out like this, that the vaccine is not safe, is that fake news? Is that the truth? Does it lie somewhere in the middle? So these are things that I don't think this hearing today is quite as cut and dry, black and white, as people would like to think that it is.

And, as far as fake news and things that are put out, and the—some of you think that the center-right media is putting out false stories, I wonder about the sins of omission. And one of the sins of omission that I find is when The Washington Post fact checker, Glenn Kessler, said that we won't be counting false Biden claims. I assume he will be like Obama, and tell the truth. So if a network, a newspaper, or a news outlet decides that they are not going to report—I watch Morning Joe pretty much every morning when I am getting ready, on MSNBC. When the Hunter Biden story was

coming down, I paid particular attention to see if they ever mentioned one time—this was, of course, before President Biden was sworn in, but, you know, if they ever mentioned Hunter Biden. And, as far as I could tell, I have never heard it. And like I said, I watch it daily, so I have never heard it uttered one time—another, I say, sin of omission.

So we have sins of omission, where people don't report on facts and things that are coming out that they don't want to be known, and yet other people saying that, well, the right, center-right folks are reporting false news.

And I yield back.

Mr. DOYLE. I thank the gentleman. Let's see, next is the gentleman from Texas, Mr. Veasey.

You are recognized for 5 minutes.

Mr. VEASEY. Thank you, Mr. Chairman. I am very glad that we are here today, talking about disinformation and extremism in the media. And I want to be clear where I stand.

I worry about this, particularly as a Black American. And with this being Black History Month, let me just highlight some of the—how this has really turned violent, and has not been good for people of color in this country historically. And I know that, for a lot of people, this all centers around First Amendment.

But let's go back to 1915. D.W. Griffith had a hit movie called "Birth of a Nation" that was presented as factual, that was presented as real, and much of the media of the day presented it as real and factual. And, as a result of that, people went to the streets, targeted African Americans. There were riots, there were fires because disinformation was presented as real. And part of the information in the movie was presented was that Whites were victimized by Blacks in the form of voter fraud.

And so you fast forward 106 years later in 2021, and you have people that decided they were going to come to the Capitol because of a lot of the similar disinformation that places like Atlanta and Milwaukee and Detroit victimized them and stole an election from them.

And so, trying to figure out the freedom of speech versus other people's safety, you know, what Oliver Wendell Holmes talked about, people's safety, how you distinguish between the two, I think that this is a very serious conversation that we are having.

I wanted to ask Ms. O'Brien: Are there any incentives that exist that can be used for journalists and publishers to bring more context and nuance to their news and commentary, so that viewers can better understand what they are watching, especially when it comes to a lot of the more extreme views that can lead to violence?

Ms. O'BRIEN. So first, as you point out, the problem of misinformation isn't a new problem. It is not something that popped up a couple of years ago and now we are going to tackle it for the first time. Technology has obviously changed how that problem now gets to the public. And I think that is what brings us here to where we are today.

I think there is this opportunity for journalists to do better. Often there are financial incentives that make journalists want to do better, or news organizations that hire journalists to do better. But actually, a lot of the way talk is, it actually financially is quite

inexpensive. And so it is much cheaper to have dueling talking heads rather than having a long, contextual, nuanced, explanatory conversation.

Like you, there is—very upsetting to see the Confederate flag on the steps of the U.S. Capitol. That was very problematic to me, as a biracial woman here in America.

Lies, obviously, have real implications. To listen to Ms. Urquiza's testimony, it is heartbreaking, right? I mean, for everybody.

And again, I don't think facts belong to a party. I don't think we should think of this as a partisan issue. Every single person, regardless of who votes for you, what State you are in, what side of the aisle you are on, you should want to have more facts and accuracy that is being disseminated to the people who voted you into office. That is what you should all want.

So, yes, I agree with—very problematic. At the end of the day, I think the pressure from the public will go a long way, not pressure from Congress. As I have said in my remarks—and I have reiterated a couple of times—I don't think the role of government is to do that. I think viewers have to say no more elevating misinformation.

Mr. VEASEY. Thank you.

Mr. Chair, I yield back.

Mr. DOYLE. I thank the gentleman.

Let's see, Markwayne Mullin, you are recognized for 5 minutes.

Mr. MULLIN. Thank you, Chairman, and thank you for all the panelists that are here today.

And, you know, obviously, this is about getting down to the problem we have with the media, and with the social media, as—alike. And I appreciate the Democrats bringing this up. We have been talking about this for 4 years, especially with the whole Russia collusion narrative to which the media drawled for so many years—4 years, in fact. And that was complete misinformation that was out there.

And while I know this one seems to be focusing on Fox and left outlets, Ms. O'Brien, do you believe that MSNBC and CNN are also guilty of misinformation?

Ms. O'BRIEN. Sir, I am concerned that you did not read my written testimony fully, or you would be able to know that.

Mr. MULLIN. No, I read it—

Ms. O'BRIEN. I am being sarcastic.

Mr. MULLIN. I want to hear it.

Ms. O'BRIEN. Absolutely, yes. Clearly, and I state that very clearly in my testimony—

Mr. MULLIN. You did.

Ms. O'BRIEN [continuing]. That this is not an issue that—

Mr. MULLIN. But—and Ms. O'Brien, I appreciate that. But the focus has been on Fox and the left media. And you have been very clear about where you lie on that. And I wanted to make it very clear. Your testimony absolutely made it clear, on the written testimony. But I hadn't heard you say that. So I appreciate you stating that.

Mr. Turley, as I stated before, after the 2016 election with Hillary Clinton, the left-wing media repeatedly talked about the Russia collusion and their interference within the election. And given

this misinformation by the left wing, do you think the House Democrats' letter only pressing providers who provide conservative media channels and not CNN and MSNBC and other left-wing channels is correct? And what should be done about it?

Mr. TURLEY. Well, thank you for that. I actually didn't get a chance to respond to Representative Eshoo when she was addressing me, and this touches on that.

Mr. MULLIN. Right.

Mr. TURLEY. I mean, first of all, I am not too sure the purpose of submitting that letter to the CRS to look for First Amendment violations, because most of us haven't said the letter violates the First Amendment any more than the Endangered Species Act. I said in my testimony that I—that free speech is not contained entirely within the First Amendment. This is an old spin people put on and say, "Well, this isn't a free speech issue, because the First Amendment only applies to the government." Well, no, free speech goes beyond the First Amendment. It is something that some of us view as a human right.

And the question is, does that letter impinge upon or threaten free speech or the free press, and I think it does. Making a statement including a question mark at the end of it doesn't change the import of the statements. Writing to these companies and saying, "So why are you still airing Fox?" The fact that that is a question doesn't hide the fact that it is really meant as a rather audible statement. And the letter went out with a building movement to try to pressure cable companies to get rid of these networks.

What if you succeed? Fox was the most-watched cable news program of 2020. So you would have tens of millions of people that would have to either choose between those networks that the letter does not list, or just not watch anything at all.

And I give Soledad credit for this. I mean, she has been critical of networks on the other side, and so have I. I have been critical and on both sides, I hope. But the letter is not. I mean, the letter is quite focused on only those networks viewed as conservative leaning.

Mr. MULLIN. Right. In 2017 Rachel Maddow of MSNBC claimed that Secretary Rex Tillerson was being a Russian agent. I think that is—which is absolutely false. And that was an extreme view.

And then the House Democrats' letter asked the CEOs to outline the actions they are taking against misinformation. And my question to you, sir, is who should be the one deciding what is an extreme and what is disinformation out there?

Mr. TURLEY. You know, this is where I think Soledad O'Brien and I will probably end up having a slight divergence, and this may be because I am a relic.

[Laughter.]

I do follow this sort of outdated notion of free press and free speech. I am not comfortable with people who say, "Look, we are going to let you have free speech, free press, as long as you are not a liar, as long as you are not giving disinformation." I have a feeling that Soledad and I agree on a lot of stuff that is disinformation.

In fact, I have seen some of her work, and I agree with it.

But the question is, What do we do with that? That is, Soledad, I think, made a—forgive me for referring to your first name, it is

an old habit. But it was referring to both sides of this, and trying to get viewers to make that decision. I am all in on that. It just—is there something more there, in terms of trying to stop liars from lying? And that is where I get off the train.

Mr. MULLIN. Right. Well, thank you.

My time is up and, Chairman, I will yield back. Thank you.

Mr. DOYLE. The gentleman yields back. Let's see who is next here.

Mr. Butterfield, you are recognized for 5 minutes.

Mr. BUTTERFIELD. Thank you so very much, Mr. Chairman. Let me say good afternoon to all of you, and thank you very much to the witnesses for your testimony today. Mr. Chairman, you are absolutely right. This is a debate that we must have if we are going to protect this democracy. And so thank you for convening this hearing. This is very, very timely.

I have very serious concerns that the dissemination of election-related disinformation that we witnessed in the days leading up to and, most harmfully, the days following the election will undermine access to the ballot box for underrepresented communities in future elections.

Many State legislatures across the country have already started the process of changing their election laws that will restrict access to the ballot box, specifically for voters of color. Many of these State officials proclaim the need for these changes are due to public distrust in the electoral process, and they often cite disinformation and conspiracy theories that have been spread by popular media outlets.

And so I am going to stay with you, Ms. O'Brien. You have been in the hot seat all day, and just thank you so very much for your brilliance. How does the spread of disinformation by the media disenfranchise marginalized communities?

Ms. O'BRIEN. It is my opinion that, when you give a platform to a lie, it travels very quickly and across many other platforms. And so often I have found that journalists who even understand that they are having someone on whose opinion that they believe is not accurate, inaccurate, misinformation, they will bring them on in order to argue with them.

I think, personally, it is a way to seem tougher, but it is also good TV, meaning it is dynamic, it sometimes involves arguing, it has a lot of drama to it. Well, I believe what ends up happening, by elevating disinformation, whether it is being challenged well, challenged not well, challenged not at all, you give a platform to something that is not true.

And of course, I think vulnerable communities are often most at risk for disinformation. A lot of those communities, as we spoke about earlier, local media does not exist anymore. We have lost, what, 2,100 local newspapers. And so that means that they are sometimes in a news desert. And so it is very, very problematic that they are getting misinformation, disinformation, or no information at all. It is very, very damaging. I think it has dire consequences.

Mr. BUTTERFIELD. Over the years, Ms. O'Brien, you have effectively—and I watched you many, many times—you have effectively exercised your First Amendment rights to free speech as a member

of the press. How do journalists effectuate more responsible journalism throughout the industry to solve this pervasive problem and protect our voters?

Ms. O'BRIEN. I think most journalists want to do a good job. Again, I—the journalists that I know work really hard.

I think, actually, Congressman Kinzinger said it a little bit earlier, which was, as much as Congress members have to look at themselves and the messages that they are spreading to their constituents, journalists have to do the same. And news organizations have to assess what do we do well, what do we do wrong, how can we be better, how do we serve the public. That is the gig. That is the job. And so, without that self-reflection, I think we are going to continue to make, as a whole, media, continue to make a lot of the same mistakes.

Again, I don't think Congress has a role in regulating it. I think news organizations should say "We are here to serve the public. This is what we are supposed to do. How do we do a better job?"

Mr. BUTTERFIELD. Mr. Chairman, I understand we may have four votes that are coming up right now, and so I am going to make this my last question.

I want to talk about local news, Ms. O'Brien, finally: How does the lack of robust local news coverage and the growing spread of disinformation impact the information needs of our communities?

Ms. O'BRIEN. It is an absolutely huge problem. I think you have a void that is filled with just things that aren't true, or things that are not centered in a community.

For example, on "Matter of Fact" the other day—which is a show that is carried by affiliates, we are in all the local markets—we did the story of a young woman who is reaching out to her constituents in her news—you know, around her who are served by her newspaper, because they couldn't figure out how to get online to actually sign up for a vaccine, right? And so she literally, by herself—she is a reporter—literally helps connect those people to vaccines. I mean, that is a local reporter doing the work of journalism, helping people solve a problem, bringing them information. I would like to see more of that. As those newspapers die, it is very, very problematic.

Mr. BUTTERFIELD. All right, well, thank you so very much.

Mr. Chairman, I am going to give back a few seconds and give Mr. Walberg a running start. Thank you, I yield back.

Mr. DOYLE. I thank the gentleman. And you are correct, there are four votes called on the floor. We are not going to recess, so Members pick and choose your time to get down to the floor and get back in time for your speech.

OK, the Chair recognizes the gentleman from Michigan, Mr. Walberg.

You are recognized for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman. My preface is saying I am a proud father of a journalist son who, while at one of the major Chicago newspapers, received a nomination for a Pulitzer, who told me once when he first went to that major paper, when I asked him somewhat jokingly—somewhat—"Hey, be good to some of us conservative Republicans, OK?," and he told me, "Listen, Dad.

You would want me to do exactly what I have been trained, and that is to report the facts.”

At another time in his life, later on, he said, “Dad, sometimes it is very, very difficult determining what is fact and what is fiction.” So we do have a challenge here. And I appreciate the hearing today. But, Mr. Chairman, I may be wrong, but I see—at least I perceive—a deliberate attempt by the majority to sanitize the airwaves of content that does not conform to their preferred political philosophies.

Now, disinformation and fake news are real problems. But the solution is not to limit free speech. In fact, it is just the opposite. Robust debate and free speech enables us to better fight the spread of disinformation.

Sadly, at least it appears that my colleagues seem to be focused on squashing political dissent, as their letter claims that conservative news outlets have, and I quote, “long been conspiracy theory hotbeds that produce content that leads to real harm,” end quote.

I would like to remind my colleagues of what happened in January 2019, when CNN, along with various other liberal media outlets, ran editorial content baselessly calling Covington Catholic High School student Nick Sandmann a racist. If we are talking about harmful content, CNN’s coverage of that incident resulted directly in that boy, his parents, and his classmates receiving death threats and harassment. Of course, a subsequent investigation found many of the facts initially reported were inaccurate and misleading. As a result, Mr. Sandmann sued CNN for defamation, and the network settled the case.

Even though CNN recklessly defamed a teenager, Republicans did not call for broadcasters to remove CNN from their programming. Why? Because the system worked. Our Nation’s vigorous libel and slander laws incentivize networks to tell the truth. And when they don’t, they pay the consequences.

Professor Turley, do you agree that our defamation laws are a strong deterrent against lying on television, or would a return to the Fairness Doctrine be a better approach?

Mr. TURLEY. I do not favor a return to the Fairness Doctrine because I do not like government regulation of the media.

I also think that there are strong First Amendment arguments that can be made against the doctrine.

I really do appreciate you raising the Sandmann case, because it was really quite disturbing. That story was treated as true because people wanted it to be true. They—it fit the narrative, and it just happened to involve a teenage kid who was ground up by the story and treated as a vicious and violent racist. Even after he was cleared of that whole story, when he was accepted in college a professor went online and said, “Don’t worry, we are going to follow him around campus to watch if he goes out of line.”

That is what I am talking about, of a nation addicted to rage and people pretending that they are tired of it when they need it, they need the rage.

Mr. WALBERG. And that is—

Mr. TURLEY. And people like Sandmann are hurt by it.

Mr. WALBERG. Yes, and that is a chilling, chilling issue there.

Professor Turley, in your testimony you cite the first question in my colleagues' letter as the most troublesome. And this question asked companies what moral or ethical principles they apply in deciding which channels to carry or when to take adverse action against the channel.

I would note that, if my colleagues truly cared about morality and coming together in unity after the horrendous attack on our Capitol, they surely would not be holding a hearing as deeply divisive as this. I am reminded of President Biden's inaugural address in which he invoked, and I quote, "the better angels of our nature with malice toward none, with charity for all."

That being said, Professor Turley, can you please elaborate on the fundamental problem with imposing selective morality codes on news coverage and access for networks like Fox News and Newsmax? Doesn't this lead us directly down the path of government censorship?

MR. TURLEY. Well, this is the problem of a statement masquerading as a question. To say what morality rule you apply in determining whether to continue to air certain channels, where the numbers are not there to apply morality codes—we used to have those. Atheists, feminists, others were barred from publications under these types of morality rules. And it was very chilling. And when I talked about the chilling—of that letter, that is one of those issues that I flagged.

MR. WALBERG. Thank you—

MR. DOYLE. The gentleman's time has expired. The Chair now recognizes Mr. Cárdenas.

MR. CÁRDENAS. Thank you very much, Chairman Doyle. And also I would like to thank Ranking Member Latta for us having this hearing today.

And I would like to say that I don't find this hearing to be very divisive. I think that we are probably so boring that we are probably losing our seven listeners who bothered to even chime in today. So we certainly aren't as exciting as some of our other news outlets, or supposed news outlets, like to be. I really believe that far too often they are opinion givers, and not so much news outlets.

I would like to take this opportunity to also thank Ms. Urquiza. My heart goes out to you and your family, and to the 500,000 families who have experienced, unfortunately, what your family experienced, the loss of your father. So thank you for being with us today, and your willingness to share your important story with all of us.

And also I would like to enter into the record a letter from the National Hispanic Media Coalition on today's topic of discussion—into the record.

[The information appears at the conclusion of the hearing.]

MR. CÁRDENAS. I am glad we have this opportunity to talk about the serious problem we are seeing with disinformation and misinformation that traditionally has—we have experienced the United States for hundreds of years. But, more importantly, it is now very prevalent and very, very massively distributed by our news outlets and many other outlets that we will get to in another hearing when we talk about our social media platforms.

It is a problem when some of my colleagues who are incredibly smart are susceptible to the spread of dangerous disinformation, such as claims that wearing masks are ineffective measures when it comes to preventing the lethal coronavirus. It is this kind of disinformation and misinformation of facts perpetuated by certain outlets, on top of the bungled response by the Trump administration, that has increased the severity and the number of deaths from this pandemic.

And it is very important for us to understand that, like I said earlier, this has been going on for hundreds of years.

As a little boy born and raised in the United States of America, here in Los Angeles, I have witnessed with my ears and my eyes—and broken hearted—to see how people treated my parents, who were immigrants from Mexico. And just because of the color of their skin, or the fact that they had 11 children, I heard the derogatory things that they would say about them. For God's sake, my father, who put food on the table for 13 people every single day with a first-grade education, who worked sometimes two and three jobs to do so, was a proud, hardworking person. And in America they call Mexicans lazy.

Now, that is disinformation and misinformation that can prove fatal. For example, right now, with the former President of the United States, Trump, trying to encourage people to believe that people who are Chinese or Asian are the cause of why so many Americans have died from the coronavirus. So much so, it is dangerous because there are attacks on Asians in America that are at a high right now.

And yes, I truly do believe that certain outlets permeated that by using derogatory labels for what the coronavirus is. And yes, the President of the United States permeating those lies.

Ms. Bell, many have discussed the role that social media has played in the spread of disinformation. In your testimony you talk about the relationship between social media and traditional media and how social media feeds off of traditional media outlets. Can you talk about how this pattern plays out, and the influence that it has on the amplification of disinformation?

Ms. BELL. Yes, of course. Thank you for the question. It is—well, so when we take—I think your point about masks is a good one.

You might come across—I came across a headline, actually, from one of the cable news channels we have been discussing that was put out on the 13th of October, just saying there is no evidence supporting the fact that masks stop coronavirus. But I saw it for a second on a Twitter feed, or in—retweeted, I think, kind of several thousand times. And, you know, if you stopped, went back to the source, watched the segment, it wasn't the only thing that was said. But it was the only thing that many people saw, and it could have been put out with bad faith around that.

There are teams of people in news rooms that I think actually clip and promote material on social media because it is the only way that they can reach substantial parts of their audience. So, even if you are presenting what seems like a balanced view, you can still put out something on social media which speaks to perhaps a more extreme or less truth-based view. And the problem is that we—understanding that dynamic is hard, because we do not

have the data that say, “How did this story spread, who saw it, when did they see it, what effective does it have, what do people do next?”

So I think that this is actually a really solvable problem. Understanding more about this complex environment is something that—you know, some of us are spending our lives doing this at the moment. And I think that it is one way to make progress, is really understanding those dynamics. The amount of material that we have to really examine what effect it has is limited. And I think that—I wish that was different.

Mr. DOYLE. The gentleman’s time has expired.

Mr. CÁRDENAS. I yield back.

Mr. DOYLE. Let’s see, Mr. Duncan, you are recognized for 5 minutes.

Mr. DUNCAN. Thank you, Mr. Chairman. Thanks for the hearing. My first question is for witness O’Brien.

Did you report on the Michael Brown shooting in Ferguson, Missouri?

Ms. O’BRIEN. I did not.

Mr. DUNCAN. You didn’t?

Ms. O’BRIEN. No, sir. I left daily news approximately 8 years ago, 9 years ago. So, if you are talking about doing, like, live, rolling coverage on cable TV, for that story I did not go to Ferguson. I did not report on that story as a reporter.

Mr. DUNCAN. OK. But you did tweet out and you hashtagged Black Out Black Friday about the “Hands up, don’t shoot” narrative. Is that correct?

Ms. O’BRIEN. I tweet out millions of things, so I could not confirm that for you, sir.

Mr. DUNCAN. OK. The point I am trying to make here, Ms. O’Brien, is that the “Hands up, don’t shoot” narrative was a fabrication actually put forward by Dorian Johnson, witness number 101. It was a fabrication that was proven incorrect over and over. In fact, there is a Washington Post article dated March 16, 2015, that says “Hands up, don’t shoot” was built on a lie.

So all the news services—MSNBC, ABC, CBS, CNN, Fox News, NPR—all reported the same thing about “Hands up, don’t shoot.” But it was a fabrication. And I am not advocating for them to be shut down because of reporting on a fabrication. In fact, I think that a lot of times there is a rush to report first, whether it is a blog, or whether it is a tweet, or whether it is a Facebook post, or whether it is an actual news service, a cable news network like CNN, or MSNBC, or even Fox News, a rush to report that sometimes the investigation is not done. In fact, you actually alluded to that—or Marc Veasey, or Cárdenas, or somebody related to that earlier—that it is spread on a lot of different platforms quickly, and oftentimes it is based on no investigation.

Let me just give some examples here. CNN’s Anderson Cooper on March 4th said that coronavirus wasn’t nearly as deadly as the flu. Sanjay Gupta said on March 2nd to “Headline News” that, if you are a healthy person, you don’t need a mask. Let’s see, CNN’s Ali Velshi said, talking about the protests last summer, talked about a peaceful protest in front of a burning building. CNN’s Chris

Cuomo said on June 2nd, "Please show me where it says protesters are supposed to be polite and peaceful."

I guess the point I am trying to make is that there is a lot of misreporting, rushed reporting—I wouldn't call them lies, I would just call them quick judgments on a lot of information that is out there that the left is trying to say that are lies now, and they are trying to say that places like Fox News and other broadcasters ought to be shut down. I disagree with that, because you can apply that same standard to all of these—and I say all of the news networks—in the rush to be first, in order to monetize.

And this is all about monetization, to monetize that tweet, that blog, that Facebook post, or that news story that rushes people to the TV in order to find out what is going on. We saw it yesterday with Tiger Woods. It wasn't a fabrication, but there was a rush to the TV of folks to see what was going on.

And so I want to just turn to Professor Turley real quick and—in the little bit of time I have left. And my colleagues across the aisle are trying to say that they are having today's hearing to emphasize local broadcasters. But if they succeed in canceling out large networks, wouldn't it be easier for them then to cancel out local broadcasters? Don't they face the same threat, Mr. Turley?

Mr. TURLEY. Well, indeed, that is part of the slippery slope that I think that this committee should avoid, that once you start to allow government to regulate, or to answer the questions in the affirmative that were asked in that letter, you do end up on that slippery slope. You debate—you end up deciding what is disinformation and what is not, who would be held accountable, who would be taken off the air. And the result will be less diversity in the news media. And then we could have a single echo chamber, which is not an improvement of having multiple echo chambers. I prefer no echo chambers.

When Ms. O'Brien and I first met in the media business, I think that there was still a media that wasn't based on an echo chamber. You know, there was information-driven media. The market has changed, and we should all focus on that. But bringing the government in, putting that nose within the tent, has never been a good thing for free speech or the free press.

Mr. DUNCAN. My time is out. And Mr. Chairman, I just ask that we apply the same standard to all of the media outlets as you are trying to apply to the right-leaning media outlets.

With that, I yield back.

Mr. DOYLE. I thank the gentleman, the gentleman yields back. Let's see, the Chair now recognizes Ms. Kelly for 5 minutes.

Ms. KELLY. Thank you, Mr. Chairman. Thank you for holding this hearing today. It is obvious to everyone that the news landscape has changed considerably over the past 20 years, and especially over the past 4. The rise of cable news changed the news cycle and the way we see live events unfold. The old media saying, it is—"if it bleeds, it leads."

Too often we have seen horrific events like mass shootings replayed on screens, and the killers become instantly famous. The Columbine shooting in 1999 was one of the first widely covered shootings that plastered the names and faces of the shooters all over the news. It has led to some following in a cultlike fashion.

For example, the shooter in the 2012 Sandy Hook shootings kept a detailed journal with clippings from previous school shootings, including Columbine. A 2014 investigation by ABC News identified that, with 17 attacks and another 36 alleged plots or serious threats against schools since the assault on Columbine High School, that can be tied to the 1999 massacre.

Ms. O'Brien, thank you for being here. And I don't know if you remember me. We met at the Union Club in Chicago, and we took a picture with the Lieutenant Governor. So great to see you, and great—you know, to all the work that you do, you do a fantastic job. Have you ever been a part of any conversation about the violence that was depicted in the media, and what have journalists wrestled with in these conversations?

Ms. O'BRIEN. Yes, and thank you, and yes, I think that there are lots of conversations about how violence is depicted in the media, and I think the point of a good editorial debate is to come to the understanding of what makes sense. And that is why you want a diverse group of people around the table. You really want a lot of input on that.

I think it is often—we heard from a previous speaker about sort of the rush to investigation, and in those editorial meetings you have the opportunity to slow it down, to actually pose challenging questions to each other. I think of the question, Is something a “protest,” is it a “melee,” is it a “mob,” you know, all those things have varying degrees of definition. You know, what exactly are we looking at?

When I was covering Hurricane Katrina many years ago, I remember we all walked around with Merriam-Webster dictionaries, right, to talk about “evacuees,” or “refugees.” What exactly is the terminology? So, yes, that is clearly a conversation of debate in every news room I have ever been in.

Ms. KELLY. And to your knowledge, do most newsrooms have a procedure for handling mass shootings?

Ms. O'BRIEN. That I could not answer for you across the board for most news rooms. I would not have access to that information.

Ms. KELLY. Recently there seems to have been a push not to name shooters, so they don't gain any notoriety or fame. Do you agree with this approach?

And do you have any thoughts on how these events could be covered, I guess, in a more—I don't know if it is a responsible way, a compassionate way?

Ms. O'BRIEN. That is a very interesting question, because I often know families who have lost children to mass shootings, and it is devastating. At the same time, I think the name of the shooter is part of the narrative of what happened.

But again, I think that is a conversation that has happened—I both had that conversation kind of in the macro, but never actually—I have had to be on air naming or not naming a shooter. So it has been a little bit of an academic exercise. But I have now many friends who have lost their children in horrific ways, and I understand the emotion behind not wanting to give more notoriety to somebody who has committed a horrific crime.

Ms. KELLY. Thank you so much.

Professor Bell, do you have any thoughts about this?

Ms. BELL. Yes, there are guidelines for covering mass shootings. I think it is a great example of what actually the media has learned, again, around covering things like people who take their own lives. There are guidelines now because we know more about the media, effects of things, as you correctly identify. We know more about what motivates mass shooters, and we know how to frame that coverage.

There is a really difficult line to walk, though, between keeping an accurate public record and illuminating stories in ways which actually just cause more harm. And I do think that this kind of rather obscure area of, you know, media studies, or media effect studies is something, actually, that, you know, we need to be doing much, much more of, because we can now measure some of those effects. We can actually measure whether or not changing coverage has a positive effect.

So there are guidelines. People are following them a lot more. And I think, on the whole, it is beneficial, but it is always difficult to get those contextual pulls right.

Ms. KELLY. Well, let me ask you this quickly.

Ms. BELL. Sure.

Ms. KELLY. When traditional local media are competing against social media, is there a path to getting truth and fact to catch up on, instead of bombastic opinion?

Ms. BELL. Yes. I think, again, it is just a—I think, again, it is a balance. We have to learn that new cadence about all of those new sources. It is a really complex area now, just even to be a local reporter, I think, or especially to be a local reporter.

Ms. KELLY. Thank you, I am—

Mr. DOYLE. The gentlelady's time has expired. Let's see. Mr. Curtis, you have 5 minutes to ask questions.

Mr. CURTIS. Thank you, Mr. Chairman.

Mr. Turley, I would like to ask you some questions, and I will give you a minute to think about it while I share some thoughts. And as I share these thoughts, I would like my colleagues to know that I am genuinely not trying to point out any specific individual in Congress or either—any party, but rather make a point.

So Mr. Turley, a U.S. citizen speaking to Congress may be asked to testify under oath. We, the people on the other side of the table, are not under oath, nor are we under oath when we speak on the House floor. Have you—Mr. Turley, have you ever heard a Member of Congress use a congressional platform to say something that was not true?

Mr. TURLEY. Yes.

Mr. CURTIS. OK. I don't think that would take very many of us very long to answer. And here again, I am not referring, like, to a single party.

Likewise, have you ever heard a Member of Congress, while using their 5 minutes in a committee—committee time, worry more about getting on the news than addressing meaningful discussion?

Mr. TURLEY. Perish the thought, but yes.

Mr. CURTIS. Yes, OK. Is it fair to say that the words of congressmen—our hearings, our speeches, et cetera—are really, really good fodder for the cable network TVs, and that they spend hours of

their time talking about the lies and misrepresentations that some of our colleagues make in Congress?

Mr. TURLEY. Yes.

Mr. CURTIS. Yes. And in fact, so those of my colleagues who have expressed frustration with this hearing, I think this may be at the heart of it, is that this very hearing itself becomes fodder, right, for the cable network TVs to do what they do. And I want to point out that that is very frustrating.

When my colleagues say something that is not true, it is frustrating. When the media says something that is not accurate, it is frustrating. But there is this crazy thing called the First Amendment, right? And we have heard from the chairman in his opening remarks, this comment—Mr. Chairman, I tried to write down, I am paraphrasing—it is the responsibility of this committee to hold these institutions to a higher standard.

And I think Mr. Turley, that is the crux of a lot we are talking about today is, yes, it is frustrating. But that standard means that we have to deny the First Amendment. Am I seeing that right, or am I looking at that wrong?

Mr. TURLEY. No, you know, free speech has a cost. I mean, free speech has a cost because many of us in the free speech community end up defending people who we despise, grotesque people who say awful things. But we have to protect their ability to speak, so that we protect society as a whole. Because free speech does more than just allow individuals to speak, it protects us against abuses, against tyranny, against the ills that come from the lack of free speech.

Mr. CURTIS. I am also really troubled by this, like, who gets to be the judge. So it—on one hand, it feels like, well, the truth is the truth, right? But we have heard some of my colleagues bring up instances that—or perhaps mistakes, or rush to judgments and things like that. And somehow, that one source or one person could be the arbiter of truth and make that decision seems farfetched to me. Would you agree with that?

Mr. TURLEY. Yes, and that is precisely what we hoped to avoid, not just in the First Amendment but also embracing free speech values generally.

Mr. CURTIS. So, in just the little bit of time we have left, I would like to explore something with you, and that is if we go back to 2016, when Russia came in and used—I will use a specific here, and I know there is lots of generalities—the Facebook platform to spread misinformation, I found myself saying, like, “Who believes Facebook?” right? But apparently people do.

And so I guess my question to you is, How do we help educate people? How do we help people understand that they can’t just accept something at face value on—whether it is cable TV or Facebook?

Like, how do we get to that point, where we get people to be more thoughtful about the information they are consuming and believing?

Mr. TURLEY. This may be a generational issue. You know, I get up around 6:00 to blog, and my kids will get up to go to school—when they used to go to school—and they will often ask, “What are you writing on?” And I will tell them. And I was always surprised

when they would say, “But is that true?” So we were talking about a story, and they would say, “But is that true?”

When I grew up, if Walter Cronkite said something, it was true. You didn’t question it. My kids question everything. They question every source. They compare sources. They are a lot more savvy than people give them credit for. And I think that, unfortunately, that is the reality of the new media that we live in.

Mr. CURTIS. We are, regretfully, out of time. I wish we had more time to talk about the Walter Cronkite era, which I remember.

And I wish we had a whole hearing just on that, Mr. Chairman. I yield my time. Thank you.

Mr. DOYLE. I thank the gentleman.

Let’s see, the gentlelady from New York, Miss Rice, you are recognized for 5 minutes.

Miss RICE. Thank you. Thank you.

Ms. Urquiza, first, let me offer you my condolences, as everyone else has, for your profound loss.

In your written testimony you talked about how your father was in the Reserves. He was a Reserve Officer Training Corps, and had great reverence for the military and, in fact, had three brothers who served in the military himself, as he would have had he not been involved in a hunting accident. I mean, it is clear that he had a strong love of country and instilled in you the values of patriotism and the military’s role in keeping your—our freedom.

As someone who had great respect for military leaders, how—do you think that that had a particular effect or reason behind how he interpreted what President Trump, who was then our commander in chief, was saying about COVID-19, and whether it was safe, what steps he should take to make himself safe?

Ms. URQUIZA. Thanks for asking that, and that is exactly why I included that in my written testimony. My dad intended to go into the military, and every single one of his brothers were able to. He always respected every single President as the commander in chief. It was my father who taught me the duty of country.

We watched the History Channel together constantly, and he always brought home the point that, during times of crisis, it is important to listen to the person in charge. They are going to orient us toward safety. So absolutely, his orientation since he was 14 years old in ROTC was to listen to the President and act from there.

Miss RICE. Well, let me say that he—you are doing him very proud today, if I can call you Kristin, really. I mean, you are just an amazing woman.

And I think it is important to note that one in five of the insurrectionists who stormed the Capitol on January 6th were veterans. And, you know, in the military you are taught to follow orders. Like you said, you know, you do this for the good of the country to keep our democracy safe. And, unfortunately, I think this is also why many, you know, veterans and service members are particularly susceptible to disinformation and misinformation when it comes from our—especially when it comes from our commander in chief, and when it is disseminated so broadly and without verification, primarily on cable news. So thank you so much for being with us here today.

And Ms. O'Brien, you know, I remember the day like it was yesterday when I heard Kellyanne Conway being interviewed. And I don't know if she can get credit for coining the phrase "alternative facts," but I remember being stunned when she said those words. And, you know, I think it is so interesting. You know, you are talking—how you talk about truth decay.

So just a couple of things. I mean, how do you think that we got here? I know that is a really broad question, but how do you think that we got here?

And have you come across any, you know, stories or—about veterans or service members, and if their standards—you know, if being military actually affects their susceptibility to these kind—this kind of a call to arms, if you will.

Ms. O'BRIEN. Thank you. I have to note that the term "truth decay" was coined by Michael Rich of the Rand Corporation. So I want to be very clear that that was his idea, and also his book, as well, in its fourth reading.

I have not, and I have not actually been tracking if veterans are extra susceptible. And hearing what Kristin was saying, I think it raises some really interesting questions.

And yes, there is no question that you hear the word "alternative facts," and you think, why is this interview not being stopped right now? And why is this person being returned to a conversation, when they are telling you that they have a whole other set of facts? There is not a thing. Alternative facts are not a thing.

And so that was extremely disappointing to me. I have talked about it many times. I think it is a very good example of a media that has really failed to say there are not alternative facts. There are facts, and we can discuss facts. And if you want to talk about facts, you are welcome on this air. If you are going to lie, you are not welcome.

Miss RICE. Well, thank you so much for, as a journalist, you know, focusing on the facts, because I think that we have kind of lost our way when it comes to reporting facts, as opposed to opinion.

And I also just want to thank our colleague, Mr. Kinzinger, for his comments, because I do think that he is right, that it is incumbent upon us, as Members, to support facts and support other colleagues who actually talk about facts and focus on the facts. So I want to thank him for his comments.

And my time is up, and I yield back. Mr. Chairman, thank you.

Mr. DOYLE. I thank the gentlelady.

Let's see, my good buddy from Ohio, Mr. Johnson, you are recognized for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. You know, just 2 weeks ago, China's National Radio and Television Administration banned BBC World News from broadcasting in China because it found BBC's reports "seriously violate" broadcast guidelines, including—and I quote again—"the requirement that news should be truthful and fair, and not harm China's national interest."

So I have to say I am disappointed and seriously blown away by my House Democrat colleagues' letter to the broadcasters, pressuring them to remove conservative news channels from their networks, a letter that looks eerily similar to the statement released

by the CCP when it banned BBC. So this begs the question, Does the American Government have the authority to dictate what can and cannot be broadcast to the American people? I suggest it does not. But Democrats here on this committee seem to think that it should.

So, Professor Turley, I think you have alluded to this, maybe even you have answered it, but I want to get it one more time. Is it constitutional for Members of Congress to pressure private businesses to do what Congress cannot legally do itself?

Mr. TURLEY. Well, it is constitutional in the sense that it isn't expressly prohibited by the First Amendment. But it is an attack on free speech.

You know, we should be concerned when Members are trying to do indirectly what they cannot do directly. And this creates what is sometimes referred to as the Little Brother problem. You know, we do have a really good system in dealing with Big Brother and avoiding state media. But what we have seen in the last few years is that the use of private companies like Twitter and Facebook is far more damaging to free speech.

It is no accident that recently Vladimir Putin called out Twitter and Facebook and said, "You are endangering democratic institutions." This is one of most authoritarian figures in the world. He obviously cares nothing about democratic institutions, but he seemed to indicate an almost grudgingly respectful view that Twitter and these companies could achieve this level of control, something that exceeds his own abilities.

And we have to sort of grapple with this, of the impact. It is sort of like if we put all of our attention—if free speech is only confined to the First Amendment, it is like having a house with barriers and bolts on the front door, but all the windows and the back door are open.

Mr. JOHNSON. OK——

Mr. TURLEY. You give the appearance of free speech but not the reality or security.

Mr. JOHNSON. OK. Well, based on what I am hearing, Mr. Turley, from the other side of the aisle, if I didn't know better, I would think that Fox News or Newsmax issued a direct rallying call to storm the Capitol on January 6th. But all of us know nothing even close to that happened. In fact, all of the intelligence suggests that any planning for the riots occurred predominantly on social media, including on Facebook. Even Chairman Pallone this week sent a letter to Facebook demanding answers for their role in knowingly permitting extremism and disinformation to grow on their platform.

So, Professor Turley, what role does the lack of neutral journalism in mainstream media play in pushing people to social media platforms, where algorithms keep people hooked on incendiary content?

Mr. TURLEY. Well, I think this is what we touched on earlier, that the polls show that the respect for the media is at an all-time low. People just don't trust the media. And I can see why, because there are now these siloed echo chamber media outlets. They have a lot of false information. And so people go and search for it themselves, usually on social media.

But, you know, I think the solution is not to try to regulate through these private companies. If you look at Europe, you know, they have—they really plunged into speech controls and criminalization. It hasn't reduced extreme speech. It hasn't reduced extremist groups. They are flourishing. What it has done is actually reduced free speech.

Mr. JOHNSON. OK. Well, look, I fully support upholding the First Amendment, and I don't believe it is appropriate for Members of Congress to pressure private companies to stop airing things that they don't ideologically agree with.

However, there still lies the issue that media disinformation is a real problem, and especially when people look to those sources for the truth, for an unbiased and factual account of the news. How do you suggest networks curb disinformation and come in line with the First Amendment?

Mr. DOYLE. And please be brief, Mr. Turley, his time is up. So I will let you answer the question.

Mr. TURLEY. OK, thank you, Mr. Chairman.

Actually, I am hoping that the market will pressure some of these echo chambers to open up. I think people are going to grow uneasy and unwilling to use those media systems, and the market will pressure them to go back to being information-forcing networks.

Mr. JOHNSON. All right. Well, thank you. I yield back.

Thank you, Mr. Chairman.

Mr. DOYLE. The gentleman's time has expired. The Chair recognizes Ms. Craig for 5 minutes.

Ms. CRAIG. Thank you so much, Mr. Chairman. And thank you to all the witnesses for hanging in there. I know there are an awful lot of us on Energy and Commerce.

I am new to the committee, and I worked in med tech for over 20 years. But prior to that I was a journalism major in college, and I worked as a local newspaper for about—newspaper—worked for a local newspaper for about 4 years.

You know, when I think about 2 years ago, when I first won my seat in Congress, my district had somewhere in the neighborhood of the mid-teens in local newspapers still left. And as I sit here today, that has dwindled down over and over the course of the last couple of years. And it has really accelerated as a result of the pandemic.

Ms. O'Brien, in your testimony you mentioned the type of journalism done in our local newsrooms. There are watchdogs for local government, our community school boards, our police departments. That is the kind of journalism that I participated in all those years ago. Tell me a little bit more about what you see as the long-term effects on our democratic institutions when there are fewer and fewer news rooms doing this kind of coverage.

Ms. O'BRIEN. Yes, I think the long-term impacts are exactly what you would imagine. And what you are pointing out that happened in your community is seen around the country, right? There is the number, a lot, and then fewer, and then a handful, and then it really goes to nothing, and we are in the middle of all of a news desert, essentially.

And, of course, if you lose the watchdog that is actually sitting there and going to the board of ed meetings, and going to listen to what is happening at City Hall, and really taking notes, and following what is happening in the local community so that people in the community, regardless of where they sit, on what side of the aisle, people in the community can be educated and informed and know what is happening.

And also we have seen, as I mentioned in my written testimony, there is a link to keeping costs down when there is someone who is watching all the costs, and how things are being spent. It is hugely problematic. It is a terrible disservice to the community members, and you end up with a populace that is less educated and less informed.

At the same time, when people talk about free speech, though, I have to say I don't think there is this free speech requirement that you get to be on "Morning Joe," you know, and if you are not "Morning Joe," then somehow your free speech is being taken away from you. So I want to be clear that, while local news is in decline, where cable has tried to fill the gaps I don't think they do so very successfully, frankly.

Ms. CRAIG. Can I follow up with this question around media consolidation? You know, that has brought changes to the kind of reporting that is done in local newsrooms. You have seen a number of hedge funds start to buy up our newspapers across the country. How does it—how does the oversight work dwindle as consolidation starts to occur?

Ms. O'BRIEN. That is a great question. I could not possibly answer it for you, because I am not an expert in that.

Ms. CRAIG. Well, good answer. Local news organizations like the Hastings Gazette, which, you know, just closed—I want to go back, though, to just any of our witnesses today who—and talk a little bit about—we have sort of hammered the idea of what is the Federal Government's responsibility to death here this afternoon, but—and the First Amendment.

But say a little bit about what you believe the role of ethics in journalism is. Because I know, when I went to school, you know, it was hammered, objective reporting. It was hammered inside each one of us. Where do you think ethics in journalism needs to go at this point?

It is too common to see just articles and broadcasts that just don't have that level of objectivity. I know a lot of reporters, a lot of journalists who really do still strive for that, but we have lost our way a little bit on some of these broadcast channels.

Ms. O'BRIEN. I think, if there is one takeaway from this conversation today, it should be that, regardless of where you sit politically, that everyone should want to embrace facts, and people should not put people who are intentionally misleading the public, who are spewing lies and misinformation, on TV. That is the takeaway.

And I think, where ethics comes into play there, right, is that newsrooms and news organizations have to do better themselves. There is no role for Congress in monitoring that and regulating that. Absolutely not. But news organizations can do that. They can do better, and serve their public better. That is why you got into

the business those years ago, I got into the business all those years ago, and why most journalists do the work that they do.

Ms. CRAIG. Thank you so much.

And, Mr. Chairman, I will yield the remainder of my time back to you.

Mr. DOYLE. I want to thank Ms. Craig.

You are setting a good example for the more senior members of this committee.

Let's see, I don't see a Republican on camera, so Peter Welch, I am going to recognize you for 5 minutes.

Mr. WELCH. Thank you. I want to go back and follow up on what Mr. Johnson was asking in—and ask Professor Turley would you—first of all, I am totally for the free—for the First Amendment, so I just want that to be clear. We can't really regulate it.

But Professor Turley, you said that you hoped the market would correct some of these extreme problems. And I believe the market created these extreme problems. And, you know, if you are a Newsmax or you are an MSNBC—I mean, pick your choice—right now you develop a market plan, you disseminate a point of view that appeals to the demographic, and then you get advertisers to support it, and it is reinforcing.

So I just want you to—I want to ask you whether, in fact, the market is a source of this dynamic that we are all experiencing.

Mr. TURLEY. Now, that is a fantastic question, and I agree with it. The market pressures, as we talked about earlier, did produce this echo chamber approach. We are not unique in that. You know, I just spoke to journalism students in Buenos Aires—

Mr. WELCH. OK, because—I am going to interrupt you, because I just want to keep going here. But I thank you for that.

Professor Bell, I want to ask you a couple of things. Local news is under immense pressure because the economic model to sustain them doesn't work. Yet local news is more needed than ever. In Vermont it is our local papers that are giving the day-to-day what is going on with COVID. We had a big storm, it was our local broadcasting, it was our local print that was really essential. But they don't have the revenue. They are needed more than ever, and they have no revenue model.

Yet news aggregators, including like Facebook, take what is published locally, which tends to be more trusted, and disseminate it but don't pay for the utilization. And, as we are seeing, that issue is being faced, I think right now, in Australia. Does it make sense to consider requiring some of those other platforms that use the locally produced content to pay for it?

Ms. BELL. I think that you need to consider all of these options. We will see how it plays out in Australia. Personally, I think tying the future of local news or national news to the patronage system of large technology companies is in itself fraught with certain problems.

Mr. WELCH. Tell me what we can do.

Ms. BELL. Well—

Mr. WELCH. We need local news. Local news is—

Ms. BELL. Right.

Mr. WELCH [continuing]. Trusted—

Ms. BELL. Perhaps a better idea is a version of the Australian tax, which is to all—the Australian Bargaining Code, which is that—hypothecate tax. You know, hypothecate tax——

Mr. WELCH. We ought to look at that.

Ms. BELL. Yes, I think——

Mr. WELCH. My view is—the question for us in Congress is to see local news as a public good.

Ms. BELL. Right.

Mr. WELCH. Something that helps democracy.

Ms. BELL. Yes.

Mr. WELCH. It may require some support.

The next question I have is what is the responsibility of any news organization when—in the halcyon days of Walter Cronkite, that news organization, even though it was in CBS, had significant independence on its editorial judgment. But if they published something that was a violation, was libelous, they were subject to litigation. And the question now is whether the protection in section 230 means that there is no accountability for the disseminators of information, because they are not “publishers.”

Professor Turley, is that something that has to be looked at?

Mr. TURLEY. I think it does. I don’t see how you can maintain the original model of the internet. I call myself an internet originalist, because originally these companies promised they would be content neutral, and therefore Congress gave them that protection. They are clearly not content neutral anymore. And so you have to reexamine whether they should be entitled to that immunity.

I really am saddened by the loss of content neutrality. I would like to keep 230 and go back to content neutrality.

Mr. WELCH. OK. I will just take my last couple of seconds to thank Ms. O’Brien and Ms. Urquiza. I hope I pronounced that.

But you both spoke—you spoke, Ms. O’Brien, of some norms and values that have to be incorporated, they can’t be—they have to be accepted.

And also, Ms. Urquiza, I think what you talked about with your dad is the power of media. It is still an authoritative voice for so many. And, you know, we should live in a world where we can trust what people are saying. So thank you for your advocacy in the memory of your father.

I yield back.

Mr. CÁRDENAS [presiding]. Thank you. Thank you. The Congressman yields back.

We have Buddy, Buddy Carter, your 5 minutes. You have the floor.

[Pause.]

Mr. CÁRDENAS. Unmute, Buddy.

Mr. CARTER. Thank you very much.

Mr. CÁRDENAS. OK.

Mr. CARTER. I apologize, I was on mute. Thank every one of you on the panel for being here. I appreciate it. I—and, you know, I am having some trouble here understanding exactly where we are going with this.

This is so important to me. I think this is one of the most important subject matters that we need to be discussing now in our

country, not just in Congress but in our country, and that is, you know, just disinformation, and how it has spread through the media. It is of extreme concern to me. I think of, you know, the examples like you can't pick up a left-wing publication or a left-leaning, if you will, publication without it saying unfounded claims by the President, by President Trump, of election fraud. I mean, it says that.

Yet I am from the State of Georgia, and I think back to 2018, and I think back to the gubernatorial race that we had in 2018, and I think back to, specifically, on a November 11, 2018, segment with Joy Reid, where she expressed allegations that the election had somehow been manipulated to ensure Stacey Abrams wouldn't—or would lose. And yet, you know, when you hear about that, you never hear about unfounded claims that there was voter suppression during that time. I think the left-leaning media accepts the fact that that was not a fair election. Yet in the State of Georgia we understand it was a fair election.

Another example: November 15th of 2018, CNN's "Inside Politics" alluded to allegations of concerns with the electoral outcome in the gubernatorial race. Yet that panel didn't push back on fraud allegations at all.

Mr. TURLEY. To me these are clear examples of double standards within the effort to address disinformation. And it is very clear that this issue isn't—it isn't just limited to a single party, a single ideology, or anything. Have there been any repercussions, Mr. Turley, or actions taken by these networks, CNN and MSNBC, to your knowledge, to address the spread of misinformation?

Mr. TURLEY. No. As I said in my testimony, I personally called out networks on false legal stories. Chuck Todd said something about a Michigan case against the Governor, ruling against the Governor, that was manifestly untrue. That was not correct. I have seen commentators make arguments about [audio malfunction].

They were rejected not just by the Supreme Court, but unanimously by the Supreme Court.

So the problem is that everyone is very select in their rage. The important thing is they are rageful, they are addicted to this rage, but they are very selective. And once you go down this path of saying that we are going to try to take some people off the air or get these companies to bar opposing voices, you find yourself on this slippery slope. And there may come a day where you are on the wrong side of that censorship.

Mr. CARTER. You know, before I became a Member of Congress—and even still, I am a pharmacist by trade and by profession, and I was a nursing home consultant pharmacist. And that is why what happened in New York I find so appalling and so upsetting and so disturbing. Yet we know that CNN had a ban on Chris Cuomo covering his brother, the Governor of New York, for over 7 years. Yet they lifted that ban. And, during the months of March and June, Chris Cuomo had his brother on the show nine times, nine times to discuss the COVID response—and also, I am sure, to boost ratings. I am sure he wouldn't have had him on to hurt ratings. I am sure he had him on to help ratings.

And yet now we find that the Governor of New York was lying—not spreading misinformation—he was lying, covering up about

deaths in nursing homes. And yes, that is offensive to me, because I worked in nursing homes for so long, and I know what impact—and I knew whenever he made that executive order to send COVID-infected patients into nursing homes, what impact it was going to have.

What—Mr. Turley, I want to just ask you: What can we do to prevent situations like this from happening?

Mr. TURLEY. Well, this is one area where I may disagree with Ms. O'Brien in the sense that, even if the Governor is giving false information, I would still want him interviewed. I mean, that is part of the point. If we believe that somebody is wrong, it is better to have the interview. It is better to force that into the open, and let people make their own decisions.

And in Cuomo's case, it would be great to interview him, even if he is repeating things people think is false. But it is the diversity of our media that allows these to be brought to the surface. If you start to direct your cable companies to get rid of those networks you don't believe or listen to, then you will have fewer of these stories called out.

Mr. CÁRDENAS. The gentleman's time has expired.

Mr. CARTER. OK, I yield back. Thank you.

Mr. CÁRDENAS. Thank you for yielding back. Next we have Congresswoman Fletcher.

You have the floor for 5 minutes.

Mrs. FLETCHER. Thank you so much, Mr. Cárdenas. I am glad to be here for this important hearing today. And I want to thank all of the witnesses for taking the time to testify. I appreciate the time you spent with us today.

And to Ms. Urquiza, the photo that you shared of what I assume was your Facetime with your father on your written testimony, it is just—it is heartbreaking. And I just want to thank you for sharing your pain with us in the hope that we will use it to make progress. And that is the purpose of today's hearing.

I have heard some comments from some of my colleagues today and claims that this is an effort to silence people with whom some Members simply disagree. I don't think that is why we are here.

We have a problem with the proliferation of disinformation and extremism in this country. That is what we are here to discuss today. And that is something we have seen right here in this Capitol in this year. That is something that should concern everyone here, and every American.

We have covered a lot of ground today, and I join my colleagues in recognizing the importance of local news reporting. And I want to ask a couple of questions about that. But in my home in Houston, for the last week our local reporters have been sharing information on true matters of life and death, like where to get drinkable water. It does a great service, especially when so many of the reporters that I talked to didn't have power or water themselves.

So, Ms. O'Brien, the question that I wanted to start with is one to you about, you know, my understanding, with both a sister and a dad who have been journalists in their careers, that journalists are held to certain ethical standards in reporting that includes, among other things, verifying facts from multiple sources before news is considered fit to print, or air, or publish. And can you walk

us through some of what those standards are, and the process for traditional journalists in reporting a story?

And maybe that is something we should be thinking about as we consider this conversation about disinformation. That would be helpful.

Ms. O'BRIEN. I would be happy to. And I can only give you, from my point of view and from the work that I have done. I wouldn't presume to speak for other journalists.

But you are absolutely right, and I am sure those journalists in your hometown are doing the best that they can under very dire circumstances. And there is a tremendous pressure to get as much information out as fast as possible, which is going to mean some stuff is wrong. And so that—those standards shift sometimes in breaking news. In covering Hurricane Katrina, for example, we worked with a lot of local reporters, tremendous pressure. Many of them were homeless themselves.

But generally speaking, right, you are supposed to stick to all the basic tenets of basic journalism, do reportage. And then, if you are going to use sources, you have to get multiple verified sources. And then, probably most importantly, you have to bring that back either to your editor or your executive producer, if you are working in television, and talk to them about these sources. If they are unnamed, here is who they are. Because your editor or your executive producer actually needs to know that they are independent, and that they are verified, and that they don't have a stake in the way the story is being told. I am not a big fan of using quotes from people that are not attributed, because I think it is often overdone, and I think it becomes very problematic.

So—and I think, really, most of the reporters I have ever worked with in local news—I was a local reporter in San Francisco, I worked as a producer in Boston—or in network news, or in cable news, they are all doing the best that they can, given the pressures that they are under. What I would like to see are people who come back and say, "Where did we get that wrong?"

In Hurricane Katrina we made mistakes, and we came back and said, "You know what? Here are some of the things we got wrong," and what were those systems that allowed us to get it wrong, so that next time we don't make the same mistakes, we get it right? And I think Congress does not have a role in figuring that out. But the news organizations should want to be better, because I think that that is going to make audiences trust them more.

Mrs. FLETCHER. Thank you, Ms. O'Brien. And I want to follow up on your last comment with Professor Bell about the role of government here, because I think both Ms. O'Brien and you have referenced earlier today the sort of positive versus negative role of the government around this question. And so much of the conversation has been focused around—framed in the context of the First Amendment concerns.

But what positive things do you think Congress can and should do when facing this disinformation right now? What are some positive things you think we should be doing?

Ms. BELL. Well, I think they should be—I think Congress can help, first of all, create incentives for new ownership structures in local news markets. I think that you can review whether or not you

want to rethink what public broadcasting is in the digital age, and how to keep that independent and robust.

I think that you can really sort of work with civil society organizations to think about what the best mitigating strategies are. And I think you can apply some pressure, hopefully, to the platform companies to allow much greater auditing of some of the data about the stories that circulate, and access to that. Just don't let them know so much about public—you know, what our public life is without us really having any insight into it.

Mrs. FLETCHER. Thank you, Professor Bell. I have exceeded my time, so I yield back.

Thank you, Mr. Cárdenas.

Mr. CÁRDENAS. The gentlewoman yields back. Ms. Clarke, you were having issues with your camera. Are you there?

[No response.]

Mr. CÁRDENAS. OK. I don't hear anything, so we will go to Mrs. Dingell, who has the floor for 5 minutes.

Mrs. DINGELL. Thank you, Mr. Chairman. Thank you to all of the witnesses. And the good thing about seeing me means you are almost at the end.

But having said that—and I know that many people have made this comment, but media remains a crucial tool, particularly during this pandemic, to access to vital information. And while they provide critical services, our increased isolation and consumption of media has given rise to this surge of disinformation that we have been talking about all afternoon. News sources have amplified debunked or false claims, elevated conspiracy theories, and preyed on the divisions in this country. And I am truthfully just very worried about what has happened to the fear and hatred that is dividing this country.

Misinformation and deliberate disinformation have consequences, and we have lived through those consequences. We experienced it firsthand here at the Capitol on January 6. We saw it over the last year in various denials of the seriousness of COVID-19. And we talked—I am so sorry for the loss of any family member. I do understand. I too have lost family because of COVID. Or even—how did wearing a mask become so political?

This issue has serious implications for the security of our communities and, quite frankly, the preservation of our democracy. And it is happening on both sides. It is not Democrats, Republicans. It is happening in America to everybody.

So, as highlighted during today's hearing, media outlets are incentivized to report provocative, reactionary stories. My concern lies in that sensational content or media intended to elicit an emotional or, quite frankly, a violent reaction—I have had people try to do things—I am a Michigan girl. We know about people that do that. It not only continues to divide us, but it is desensitizing people that—it continues to—the continued exposure normalizes hateful rhetoric. It normalizes calls for violence. It legitimizes these conspiracy theories and incentivizes companies to do it more.

Ms. Bell, should the American people be concerned that continued exposure to more provocative reactionary content normalizes these ideas and events and could lead to the acceptance, normalization, and even support of more extreme content?

Ms. BELL. Yes, I think they should. And we see how algorithms—recommendation algorithms that work, particularly on search engines and social media, can actually lead to people being shown more of—reinforcing content which, when it is political speech, can be moving into more extreme and eventually kind of violent areas.

So social media companies have been addressing that. And I think that this is where norms and social practices are really important, that we recognize that there is a problem. There has to be will among the political—the media elite and the technology elite to actually kind of do the right thing, as it were. So, you know, it is—but it is a real danger. You know, we have seen there is a real danger.

Mrs. DINGELL. Thank you.

Ms. O'Brien, should the American people similarly be concerned that an increased acceptance of this content will incentivize news outlets to provide more of this type of content?

Ms. O'BRIEN. There is a reason that the phrase "If it bleeds, it leads" is a phrase that everybody who has ever worked in local news can roll up. And, as a person who has spent a lot of time in local news, you kind of know what is going to be your top story, right?

And also, by the way, it is inexpensive to cover. It is easy to shoot. It is very fast, right? So there is a financial element that makes the pressure more to cover news that is over-the-top, violent rhetoric.

And also, it engages people, right? I mean, part of, I think, the debate, when it becomes very visceral and very emotional, it is good—you know, what we would call good TV. It is good drama. It drags people in. It makes them feel a certain way. The worst thing that could happen is that someone is watching and feels absolutely nothing about what you are putting on the air. As a producer, that would be extremely problematic.

So, yes, obviously, I think the point about this idea of we have to figure out how to get people to do their best, you know, and sort of appeal to all the better angels who could potentially be involved in a solution is a very, very good point by Professor Bell. And I think the public should be concerned. I don't think that any of this is a surprise.

Mrs. DINGELL. I am out of time. I had a lot more. Thank you.

Mr. CÁRDENAS. The gentlewoman yields back. At this moment in time I do not see any other Members on the screen who haven't spoken yet, Republican or Democrat. If somebody is to speak who hasn't spoken, the Members—OK, seeing and hearing none, we will commence the closing of this committee hearing.

And I will start by thanking our witnesses, and thank you so much for being here today and giving us your information and offering to be part of this hearing. We really appreciate your participation.

And also I remind the Members that, pursuant to committee rules, they have 10 business days to submit additional questions for the record to be answered by the witnesses who have appeared. I also ask that the witnesses please respond as promptly as possible to any questions or inquiries asking more information of you.

Also, a housekeeping matter: We do, in fact, insert all the letters of testimony that have been—or would be part of this hearing. And also we are, in fact, accepting the request to have documents and letters submitted for the—that have been requested to submit for the record.

Without objection, so ordered.

[The information appears at the conclusion of the hearing.¹]

And with that, at this time, the committee is adjourned. Thank you all very, very much to come together on this so important issue.

And also, a point of personal privilege. Before everybody got on, I saw a beautiful comment back and forth in catching up between Ms. O'Brien and Mr. Turley. You wouldn't think so, if you just assumed that they don't get along or appreciate and respect each other. But it was really beautiful——

Ms. O'BRIEN. Turley has been a guest on my shows many times.

Mr. TURLEY. That is true. That is very true. Thank you.

Ms. O'BRIEN. Thank you, we appreciate it——

Mr. CÁRDENAS. Thank you all very, very much.

Mr. DOYLE [presiding]. Tony, I just want to also thank all the witnesses. We have run back and forth for votes, but we appreciate all of the witnesses appearing today. And I—you have been a great benefit to the committee. And we thank you, and hope to see you again soon.

So stay safe, everyone.

Ms. O'BRIEN. Thank you. Thank you.

Mr. CÁRDENAS. Thank you.

Mr. DOYLE. The meeting is adjourned.

[Whereupon, at 3:48 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

¹One set of letters has been retained in committee files and is available at <https://docs.house.gov/meetings/IF/IF16/20210224/111229/HHRG-117-IF16-20210224-SD002.pdf>.



February 23, 2021

Hon. Mike Doyle
Chairman
Subcommittee on Communications and Technology
U.S. House of Representatives
270 Cannon HOB
Washington, DC 20515

Hon. Robert E. Latta
Ranking Member
Subcommittee on Communications and Technology
U.S. House of Representatives
2467 Rayburn HOB
Washington, DC 20515

Dear Chairman Doyle, Ranking Member Latta, and the Members of the House Subcommittee on Communications and Technology,

My name is Brenda Victoria Castillo, and I have the honor of serving as President and CEO of the National Hispanic Media Coalition (NHMC). NHMC is a 35 year old civil rights organization founded to combat hate targeting the Latinx community in the media. I strongly believe that the ways in which Latinx are portrayed, characterized, and reported on have a direct effect on the ways in which we are treated in this world. Hate in the media—all forms of media—leads to hate in real life.

In 2018, four in ten Latinx experienced discrimination in the last year, such as being criticized for speaking Spanish or being told to go back to their home country.¹ Hate crimes targeting Latinx are at an all time high, and have been steadily increasing since 2016.² While dehumanization and discrimination against Latinx has starkly risen in recent years due to the influence of Donald

¹ Mark Hugo Lopez, et. al, "More Latinos Have Serious Concerns About Their Place in America Under Trump", *Latinos and Discrimination*, Pew Research Center (rel. Oct. 25, 2018), <https://www.pewresearch.org/hispanic/2018/10/25/latinos-and-discrimination/>.

² 2019 Hate Crime Statistics Report, Federal Bureau of Investigation, <https://ucr.fbi.gov/hate-crime/2019/topic-pages/incidents-and-offenses>.



Trump, hate and violence targeting the Latinx community is not a new phenomenon in this country.

For centuries Latinx have been murdered at the hands of white supremacy. In 1857, 40 Mexican American Ox Cart drivers were murdered by racist white Texans.³ In 1877, a mob of 100 white men captured five Mexican men in Bakersfield, California, held a mock trial, and hung them.⁴ In 1915, Texas Rangers slaughtered dozens of Latinx in what is known as *La Matanza*.⁵ In 1931, nearly 1.8 million people were targets of a campaign to force relocation of Latinx, marked by the Raid at La Placita.⁶ The list of these historical events of violence, which are largely unknown and *not* included in history curriculums, go on and on.

Most recently, a white supremacist drove across the state of Texas, from Dallas to El Paso, to open fire in a Walmart, hoping to kill “as many Mexicans as possible”⁷ to stop the “invasion”.⁸ Where did this motivation to mass murder come from? We know that Donald Trump took out over 2,000 ads calling for the end of the “invasion” on Facebook.⁹ However, we *also* now know that in 2019 alone, Fox News made over 70 on-air references to an invasion of migrants, aired at least 55 clips of Trump calling the surge of migrants an invasion, made 24 references to an invasion on Fox & Friends, Fox & Friends First, and Fox & Friends Weekend, combined, and allowed four Republican Members of Congress to spew invasion rhetoric on their new platform.¹⁰ In El Paso on August 3, 2019, white supremacy, armed with radicalization by the

³ Texas Cart War, Wikipedia, https://en.wikipedia.org/wiki/Texas_Cart_War.

⁴ William D. Carrigan and Clive Webb, “The Lynching of Persons of Mexican Origin or Descent in the United States, 1848 to 1928”, *Journal of Social History*, Vol. 37, No. 2 (Winter, 2003), pp. 411-438, https://www.sjsu.edu/people/ruma.chopra/courses/H170_MW9am_S12/s1/B2_Lynching_Mexicans.pdf.

⁵ Matanza of 1915, Refusing to Forget, <https://refusingtoforget.org/historical-markers/matanza-of-1915/>.

⁶ Feb. 26, 1931: La Placita Raid, Zinn Education Project, <https://www.zinnproject.org/news/tdih/la-placita-raid/>.

⁷ Dani Anguiano, “It’s worse than ever’: how Latinos are changing their lives in Trump’s America”, *The Guardian*, Oct. 7, 2019, <https://www.theguardian.com/us-news/2019/oct/06/latinos-trump-hate-crimes-el-paso>.

⁸ David K. Li, “I’m the shooter’: Accused El Paso gunman told police he was targeting Mexicans”, *NBC News*, Aug. 9, 2019, <https://www.nbcnews.com/news/us-news/i-m-shooter-accused-el-paso-gunman-told-police-he-n1040901>.

⁹ Julia Carrie Wong, Trump referred to immigrant ‘invasion’ in 2,000 Facebook ads, analysis reveals, *The Guardian*, Aug. 5, 2019, <https://www.theguardian.com/us-news/2019/aug/05/trump-internet-facebook-ads-racism-immigrant-invasion>.

¹⁰ Lis Power, Fox News’ “invasion” rhetoric by the numbers, *Media Matters*, Aug. 6, 2019, <https://www.mediamatters.org/fox-news/fox-news-invasion-rhetoric-numbers>.



far-right media, massacred 23 people, injured dozens more, and scarred an entire community with hate.

Fox News is not the sole keeper of this issue, but it is perhaps the most far-reaching. With constant dehumanization, discriminatory, and racist rhetoric in their programming, it is massively upsetting that Fox News has retained its five year long position as the most watched basic cable network, and had its highest ratings ever in 2020.¹¹ Other “news” networks like Newsmax, One America News Network (OANN), and networks owned by known far-right messenger, the Sinclair Broadcasting Group, are on the rise as they join in on anti-Latinx and anti-immigrant programming.

It is unnerving that a broadcaster might be fined by the Federal Communications Commission (FCC) for airing the F-word on primetime, but face little to no consequences when airing hate and extremism that enables white supremacy, spreads false information, helps incite an insurrection, and ultimately takes lives. Media is one of the most powerful institutions of influence in this country, and until the media is held accountable for the role it plays in the dissemination of hate and violence, equity and justice will remain out of reach for the Latinx community.

Yours in the Movement,

Brenda Victoria Castillo
President & CEO
National Hispanic Media Coalition

¹¹ Tommy Beer, “Fox News Viewership Plummet: First Time Behind CNN And MSNBC In Two Decades”, Forbes, Jan. 16, 2021, <https://www.forbes.com/sites/tommybeer/2021/01/16/fox-news-viewership-plummet-first-time-behind-cnn-and-msnbc-in-two-decades/?sh=242aa7f53422>.

The FCC's Authority to Interpret Section 230 of the Communications Act

October 21, 2020 - 10:30 am

By [Thomas M. Johnson Jr.](#) | FCC General Counsel

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman's decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC's legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC's rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia—*AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013)—confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to "prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act."

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act's provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the "Communications Decency Act of 1996." Among other provisions, this Title included Section 509, named "Online family empowerment." Consistent with Section 1(b), Congress instructed in Section 509 that "Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230." Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." It further provides that "[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected." The term "interactive computer service" is defined "as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions." That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC's Interpretive Authority

The Supreme Court has twice considered whether the FCC's general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision "means what it says: The FCC has rulemaking authority to carry out the 'provisions of [the 1934] Act.'" The Court explained that "the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act" shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the

Commission's rulemaking authority "[o]f course . . . extends to the subsequently added portions of the Act." From these authorities, a simple conclusion follows: Because Section 230 is among the "subsequently added portions of the Act," it is subject to the FCC's Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission's authority to do so. *City of Arlington*, for example, upheld the Commission's use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a "reasonable period of time." The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was "jurisdictional" and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because "Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority."

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that "have the effect of prohibiting" telecommunications service. Citing *City of Arlington*, the court said that "[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC's reasonable interpretations."

Concerning the Commission's interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action "voluntarily taken in good faith" to restrict access to material? What constitutes material that can be excluded as "otherwise objectionable"? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court's landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that "Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency."

Response to Common Objections

In response to the U.S. Department of Commerce's petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC's authority to clarify the statute.

Others, reading Section 201(b)—as well as *Iowa Utilities Board* and *City of Arlington*—narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron* Step Zero,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court’s conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC’s Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)’s general grant of rulemaking authority. Congress specifically instructed—in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996—that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts—such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission’s authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission’s issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230's legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) "means what it says"—the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress's intent to "preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that "we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet." And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration's onerous "net neutrality" rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating "net neutrality" rules for social media companies, much less (as some critics have claimed) a "Fairness Doctrine" for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law—the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c)—which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the "authoritative interpreter" of ambiguous provisions in statutes like the Communications Act that it administers, and nothing "preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes." Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have "relied on policy and purpose arguments to grant sweeping protection to Internet platforms" under Section 230 that "departed from the most natural reading of the text." Leaving such constructions unchallenged could, in Justice Thomas's words, "have serious consequences," like exempting Internet companies from a broad array of civil claims, even if that is not "what the law demands." Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency's role as "authoritative interpreter" may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC's legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934—including amendments—and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

Tags:

<https://thehill.com/blogs/congress-blog/politics/540093-broadcasters-combat-misinformation-with-a-focus-on-the-facts>

The Hill

Broadcasters combat misinformation with a focus on the facts

BY GORDON H. SMITH, OPINION CONTRIBUTOR — 02/23/21 03:00 PM EST

“A lie can travel halfway around the world while the truth is still putting on its shoes.”

This quotation — often misattributed to Mark Twain, ironically — about the never-ending struggle to distinguish between fact and fiction is perhaps more relevant today than at any other time in human history.

In today’s world, we are blessed with more sources of news and information than ever before — all at the touch of our fingers. Yet, this same blessing allows a lie to travel around the world in the blink of an eye, even as the truth is unfolding, with the potential for wide-ranging consequences. A single lie can shape elections and governments or influence financial markets and spark social movements.

This week, the House Energy and Commerce Subcommittee on Communications and Technology is continuing its series of hearings on how misinformation and disinformation — the lies of the 21st century — have impacted recent events in our nation. As lawmakers explore this issue, they should be mindful of the vital role radio and television broadcasters play in our communities by exposing lies, uncovering the truth and reporting the facts.

As Americans’ most-trusted source for news, local radio and television stations and broadcast networks understand their responsibility to deliver reliable, fact-based journalism and have invested in their news operations to better serve their audiences’ changing needs. In recent years, to combat misinformation online, broadcasters such as [Univision](#) have offered training for journalists to help them identify false information on social networks, while others such as [NBC News](#) and [Graham Media](#) have created specialized news teams that focus on exposing fake stories.

Broadcasters have also bolstered their fact-checking operations or partnered with other news organizations to verify political claims made by candidates, campaigns and outside groups seeking to boost their preferred electoral choices. Examples of broadcasters’ expanded fact-checking enterprises include:

- [TEGNA’s roll-out of Verify](#), a standalone vertical offering expertise from the company’s 49 newsrooms across the country;

- Hearst Television's partnership with FactCheck.org, allowing the broadcaster to feature fact-checking stories on 34 television stations and two radio stations;
- Scripps' creation of "Electionland," a series produced through a partnership with ProPublica to investigate issues related to election security and voting concerns; and
- Univision and Telemundo's collaboration with FactChat, which provides fact-checking stories translated into Spanish for the broadcasters' audiences.

Broadcasters' work over the past 12 months has also, time and again, highlighted their invaluable role in providing a trustworthy accounting of history.

Last summer, as demonstrations for racial justice and equity broke out across the country, broadcasters were there to bear witness, even at the risk of their own safety. Broadcast journalists interviewed protestors so they could voice their grievances and demands. They documented wrongdoing by law enforcement officials and demonstrators alike to provide accountability. Local radio and television stations held town halls and promoted dialogue about racial issues facing our communities and the nation. Millions of Americans turned to their local broadcasters to watch the demonstrations and receive greater context about what was happening.

Local TV and radio stations and broadcast networks also provided exemplary reporting of the Jan. 6 attack on the U.S. Capitol Building, painting a vivid picture of the assault on our democracy. Journalists inside and outside the Capitol detailed the violence, despite facing harassment, bullying and threats to their safety. Broadcasters conducted live interviews with members of Congress while they took cover during the siege, allowing them to provide eyewitness testimony of the events as they unfolded.

Broadcasters across the country have also done incredible work throughout the COVID-19 pandemic to keep Americans informed, healthy and safe. In the early days of the pandemic, radio and television stations held virtual town halls, interviewed experts and broadcast special reports to explain the deadly impact of coronavirus. They provided airtime for educators and created special programming for students at home. Broadcast journalists have risked their own health to go inside hospitals to show the devastating impact of the virus and investigated health care issues affecting local communities' response to the pandemic. Now, as vaccines are being deployed, broadcasters are dispelling myths about inoculation, educating the public about its benefits and publicizing mass vaccination events.

Broadcasters believe that combating misinformation and disinformation, which can erode trust in our institutions and cause real-world harms, is a necessary and noble pursuit. As lawmakers explore ensuring Americans have access to accurate information, they would be well-served to remember that reliability, trustworthiness and an adherence to the truth have been the calling cards of our industry.

Gordon Smith has been president and CEO of the National Association of Broadcasters since 2009. He is a former two-term Republican U.S. senator from Oregon.

FRANK PALLONE, JR., NEW JERSEY
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CATHY McMORRIS RODGERS, WASHINGTON
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ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

February 24, 2021

The Honorable Jessica Rosenworcel
Acting Chairwoman
Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

Dear Acting Chairwoman Rosenworcel:

We write to urge you to defend free speech and freedom of the press and unequivocally denounce recent efforts by House Democrats to threaten fundamental American liberties protected under the First Amendment. A free and independent press is a foundational principle in the United States.¹ As the Acting Chairwoman of the Federal Communications Commission (FCC), you play a critical role in advancing the public interest and are obligated to encourage national policies that “seek to promote the policies and purposes of [the Communications Act] favoring diversity of media, voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.”²

As Acting Chairwoman of the Commission, it is incumbent upon you to use your position to preserve and protect our fundamental freedoms that are protected by the First Amendment. You can, and must, denounce any attempts by government officials to use their power to threaten a free press at such an important time in our Nation’s history.

This is not an unreasonable or difficult request. At your 2011 confirmation hearing, you stated, “I do not support returning the Fairness Doctrine.”³ In 2017 at your re-confirmation hearing, you again stated that commitment: “I believe that however well intended, a new, government-based requirement on such platforms could result in an updated version of the Fairness Doctrine. Because I believe that policy had a chilling effect on speech, I would not

¹ U.S. Const., amend. I.

² 47 U.S.C. 257(b)

³ Statement of Jessica Rosenworcel, hearing entitled, “Nominations of Jessica Rosenworcel and Ajit Pai to the Federal Communications Commission,” Senate Committee on Commerce, Science, and Transportation. Nov. 30, 2011. Available at: <https://www.govinfo.gov/content/pkg/CHRG-112shrg75046/html/CHRG-112shrg75046.htm>

Letter to the Honorable Jessica Rosenworcel
Page 2

support such an approach.”⁴ The only thing that has changed since then is now Democrats are in control, and apparently intend to sacrifice a free press to drive a politically favorable narrative to retain that control. Based on your clear public statements on this very issue, we expect you to guard against Democrats’ use of their newfound power or we risk seeing a lasting blow to press freedom.

House Democrats’ recent actions directly contradict their prior stance on the importance of protecting broadcasters and opposing government-sanctioned censorship. Just last year, Chairmen Pallone and Doyle sent a letter to the FCC stating that it “has a duty to provide clear guidance to broadcasters and the public that threats by politicians about protected speech will not influence the agency or broadcaster licenses.”⁵ Unfortunately, now that Democrats control Congress and the Executive, House Democrats apparently no longer agree. Recently, House Democrats sent a letter to 12 Multichannel Video Programming Distributors (MVPDs) disguised as “oversight” but clearly designed to pressure these companies to block certain conservative media outlets.⁶

Your own words on this matter sum it up best: “Governments that threaten to chill speech can discipline private sector actors without changes in law ever becoming necessary.”⁷ House Democrats’ recent actions are troubling, and directly contradict your long-standing public view not to resurrect the Fairness Doctrine.⁸ Given our need to protect free speech, viewpoint diversity, and reliable journalism during the global COVID-19 pandemic, we ask you to stay true to your beliefs in the face of blatant attacks on our fundamental principles.

We demand you stand on the side of free-speech and an independent press and publicly express your opposition to reinstating the Fairness Doctrine immediately. We also request that you denounce the recent attacks on the First Amendment by House Democrats and provide us a written response outlining in detail the steps you will take to uphold your prior commitments to free speech and a free press and how you intend to protect these principles. At one point, House Democrats used to care about upholding the First Amendment.⁹ As the Acting Chairwoman of the FCC, we expect you to lead and make clear to all Americans that you stand for a free press.

If you have any questions, please contact Kate O’Connor or Evan Viau of the Committee staff at (202) 225-3641. Thank you for your attention to this important matter.

⁴ Response to Questions for the Record to Sen. Roy Blunt from Jessica Rosenworcel. Available at: <https://www.commerce.senate.gov/services/files/EAD11B13-F8B3-41EC-A358-79BE8FEB18F4>

⁵ Letter from Chairman Pallone and Chairman Doyle to FCC Chairman Ajit Pai, April 2, 2020. Available at: https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/FCC.4.2.2020.%20Letter%20to%20FCC%20re.%20Trump%20license%20renewal.CAT_.pdf

⁶ Letters from Rep. Eshoo and Rep. McNerney to Alphabet, Altice, Amazon, Apple, AT&T, Charter, Comcast, Cox, Dish, Hulu, Roku, and Verizon. Sent February 22, 2021. Available at: <https://eshoo.house.gov/sites/eshoo.house.gov/files/Eshoo-McNerney-TV-Misinfo%20Letters-2.22.21.pdf>

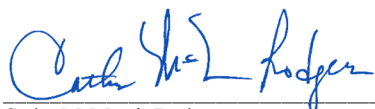
⁷ Statement of Hon. Jessica Rosenworcel, July 27, 2020. Available at: <https://docs.fcc.gov/public/attachments/DOC-365755A1.pdf>

⁸ “In re: Complaint of Syracuse Peace Council against Television Station WTVH, Syracuse, New York,” Memorandum Opinion and Order. (2 FCC Rd Vol. 17; FCC 87-266). ReI. Aug. 6, 1987.

⁹ <https://www.facebook.com/RepAnnaEshoo/posts/after-six-days-of-silence-fcc-chairman-pai-finally-addressed-the-reckless-comment/10155842977929228/>

Letter to the Honorable Jessica Rosenworcel
Page 3

Sincerely,



Cathy McMorris Rodgers
Republican Leader
Committee on Energy and Commerce



Bob Latta
Republican Leader
Subcommittee on Communications and
Technology



Brett Guthrie
Member of Congress



Gus M. Bilirakis
Member of Congress



Bill Johnson
Member of Congress



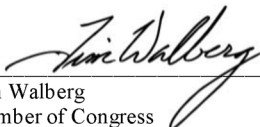
Billy Long
Member of Congress



Markwayne Mullin
Member of Congress



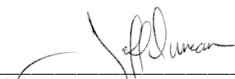
Richard Hudson
Member of Congress



Tim Walberg
Member of Congress



Earl L. "Buddy" Carter
Member of Congress



Jeff Duncan
Member of Congress



John Curtis
Member of Congress



Debbie Lesko
Member of Congress



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

February 24, 2021

Mr. John T. Stankey, CEO
AT&T, Inc.
208 South Akard Street
Dallas, Texas 75202

Dear Mr. Stankey,

On Monday, two Democratic members of the House Energy and Commerce Subcommittee on Communications and Technology from California overstepped their authority as members of Congress by sending a letter to your company and 11 other cable, satellite, and streaming companies to pressure the industry to engage in dangerous, anticompetitive, and collusive censorship of conservative daily news programming.

I write to you as a State Attorney General charged with enforcing the antitrust laws of West Virginia and as a public official duty-bound to oppose any collusive and anticompetitive conduct which may arise in my state as a result of that letter.

The unfortunate letter which you received contains highly intrusive information requests, thinly-veiled threats, and a plea that companies consider cutting off access of millions of Americans to three conservative news channels that these members dislike.

I urge you to consider your response to their letter very carefully and not bow down to their approach.

The two Representatives ask nothing less than for you and other companies to reincarnate the Hollywood blacklist, this time wielded by content conveyors and aimed at conservative voices.

Our nation is a large and diverse country, full of well-intentioned people, with varying backgrounds, interests, and perspectives on policy and with differing views about the right direction for the future. The last thing our country needs is more private censorship at the behest of political partisans who are seeking to muzzle political discourse.

The First Amendment safeguards against the government simply punishing speech or outlets that it disagrees with. The thinly-veiled threats from these two Representatives are no doubt empty,

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

since they lack legal power to enforce their views, but such grandstanding is still inappropriate and carries grave consequences for our republic.

If you cast conservatives and all Americans thirsting for diverse viewpoints off of your company's platforms, rest assured the result will not be a boon to the bottom line.

Your company can likely ill afford the luxury of losing the many millions of customers who will turn elsewhere if they feel your company no longer respects and wishes to serve them. And, indeed, the unavoidable result will be self-defeating of the purpose these members claim to serve, as customers will turn to even more decentralized and undoubtedly less moderate sources of news, political commentary, and opinions.

Acceding to the desires of Representatives Eshoo and McNerney is not just bad for America and awful for your company's business—to the extent that they call for collusive, coordinated, and anticompetitive behavior, they are soliciting potentially illegal activities under federal and state antitrust laws. As a State Attorney General, I can assure you that West Virginia and other States will not hesitate to investigate whether the deplatforming of the type your company is being urged to undertake involves any violations of antitrust laws.

In particular, I cannot conceive of how any one company facing competition from others in this market could afford to unilaterally deplatform conservative programming without immediately suffering a tremendous market disadvantage against its competitors, as a large number of customers would promptly switch providers. Accordingly, the only way for this scheme to succeed would be for there to be coordinated and collusive activity amongst competitors. Such coordination and collusion would likely run afoul of antitrust laws. Indeed, this is precisely an area in which the antitrust laws benefit consumers, and they must accordingly be stridently enforced in this context.

My colleagues and I will not allow collusive anticompetitive activities to run wild, especially when the consequences mean that millions of Americans are deprived of diverse political content they wish to enjoy—content that lies at the heart of political discourse in America. Every station cannot be nor should be CNN or MSNBC.

For these reasons, I respectfully urge you to work closely with your counsel to ensure your company complies fully with all federal and state antitrust laws as you review the contents of this letter.

I am disheartened that I have had to write you on this matter. These Representatives are playing a very dangerous game. I strongly urge you to play no part of it.

Sincerely,



Patrick Morrisey
West Virginia Attorney General



The political effort to limit free speech attacks our own values

BY JONATHAN TURLEY, OPINION CONTRIBUTOR — 02/24/21 11:00 AM EST
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

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OPINION — 17M 25S AGO

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INTERNATIONAL — 19M 48S AGO

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NEWS — 22M 24S AGO



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English essayist Samuel Johnson wrote that “when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.” I thought of Johnson’s words in preparing to appear before a House committee exploring limitations on free speech, including a campaign by some Democratic members and activists to remove networks like Fox News from cable carriers. As someone who just came over to Fox News as a legal analyst from CBS and the BBC, the hearing concentrated my mind “wonderfully” on the future of free speech and the free press.

Increasingly, free speech in the United States is described as a danger that needs to be controlled, as opposed to the very value that defines us as a people. While I am viewed as a “free speech purist” by many, I maintain what once was a mainstream view of free speech. I believe free speech is the greatest protection against bad speech. That view is, admittedly, under fire and may even be a minority view today. But history has shown that public or private censorship does not produce better speech. It only produces more censorship and more controlled speech.

There is no disagreement that we face a torrent of false, hateful, extremist speech on social media and in other public forums. This speech is not without cost: It fuels those filled with rage, victimizes the gullible, and alienates the marginal in our society. It is a scourge, but not a new one.

The Constitution was written not only for times like these — it was written during times like these. Politics has always been something of a blood

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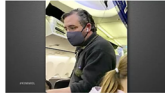


The other scandal of the Capitol riot



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The political effort to limit free speech attacks our own values | TheHill

sport, literally. At the start of our Republic, the Republicans and Federalists were not trying to "cancel" one another in the contemporary sense; they were trying to kill each other in the actual sense, through measures like the Alien and Sedition Acts. There also were rampant false conspiracy theories about alliances with Great Britain, France, Spain, and other foreign powers. Newspapers and pamphleteers were highly biased and partisan.

Members of Congress are now pushing for public and private censorship on the internet and in other forums. They are being joined by an unprecedented alliance of academics, writers and activists calling for everything from [censorship](#) to [incarceration](#) to [blacklists](#). For example, an article published in The Atlantic by Harvard law professor Jack Goldsmith and University of Arizona law professor Andrew Keane Woods [called for Chinese-style censorship](#) of the internet, stating that "in the great debate of the past two decades about freedom versus control of the network, China was largely right and the United States was largely wrong."

Much of the effort by politicians and activists has been directed at using Big Tech to censor or bar opposing viewpoints, seeking to achieve indirectly what cannot be achieved directly in curtailing free speech. Congress could never engage in this type of raw content discrimination between news organizations under the First Amendment.

However, it can use its influence on private companies to limit free speech. The move makes obvious sense if the desire is to shape and control opinion — the essence of state-controlled media. Controlling speech on certain platforms is meaningless if citizens can still hear opposing views from other sources. You must not only control the narrative but also eliminate alternatives to it.

The most extreme effort was made plain this week as some in Congress sought to pressure companies like AT&T to reconsider whether viewers should be allowed to watch Fox News and other networks. In a recent letter to cable carriers like AT&T, House Democrats Anna Eshoo and Jerry McNerney of California appeared to mirror calls from activists to drop such networks from their lineups. The members stressed that "not all TV news sources are the same" and called these companies to account for their role in allowing such "dissemination."

The letter solely targeted those networks that the members and their constituents do not like or likely watch, a list of every major television channel viewed as conservative leaning. If the cable carriers were to yield to such pressure, there would be no major television outlet offering a substantial alternative to the coverage of networks like CNN and MSNBC. Tens of millions of viewers would be forced to watch those channels, or watch nothing at all. The limitation or elimination of conservative networks clearly would work to the advantage of Democrats — an obvious conflict of interest laid bare not only by the demand but the inclusion of only networks with large conservative audiences.

Democrats are pushing for cable carriers to explain their "moral" criteria for allowing tens of millions of viewers access to Fox News and other targeted networks. The answer should begin with the obvious principles of free speech and a free press, which are not even referenced in the Eshoo-McNerney letter. Instead, the companies are asked if they will impose a morality judgment on news coverage and, ultimately, public access.

2/24/2021

The political effort to limit free speech attacks our own values | TheHill

This country went through a long and troubling period of morality codes used to bar speakers or censor material that barred atheists, feminists, and others from espousing their viewpoints in newspapers, books, and movies. Indeed, there was a time when the Democratic Party fought such morality rules, in defense of free speech.

**Florida state senator proposes making assault on a media member a...
House panel to dive into misinformation debate**

Those seeking free-speech limits often speak of speech like it is a swimming pool that must be monitored and carefully controlled for purity and safety. I view speech more as a rolling ocean, dangerous but also majestic and inspiring, its immense size allowing for a natural balance. Free speech allows false ideas to be challenged in the open, rather than forcing dissenting viewpoints beneath the surface.

I do not believe today's activists will succeed in removing the most-watched cable news channel in 2020 from the airways. But, then again, I did not think social media sites — given legal immunity in exchange for being content-neutral — would ever censor viewpoints. The measures being discussed in Congress have the potential to defeat us all. It is surprisingly easy to convince a free people to give up their freedoms, and exceedingly difficult to regain those freedoms once they are lost.

Jonathan Turley is the Shapiro Professor of Public Interest Law at George Washington University. You can find his updates online @JonathanTurley.

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848

*Congress of the United States
House of Representatives
Washington, D.C. 20515*

*Anna G. Eshoo
Eighteenth District
California*

October 16, 2017

The Honorable Ajit Pai, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Michael O'Rielly, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Brendan Carr, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Pai and Commissioners O'Rielly and Carr,

I'm writing to urge you to publicly reject the President's comments on October 11th suggesting the broadcast license of the National Broadcasting Company (NBC) "must be challenged, and if appropriate, revoked."

These comments are not only reckless and ill-informed, they directly violate the basic freedoms of speech and press that are enshrined in the First Amendment of the Constitution of the United States. As Chairman and Commissioners of the Federal Communications Commission (FCC), you took an oath to support and defend our Constitution. Yet it has been five days since the President delivered these indefensible remarks and you have failed to publicly reject them. The American people deserve to know that this attack on the Constitution will not be carried out by the FCC.

The President's comments also directly violate the FCC's regulation of broadcast television licensees, which states unequivocally that "[t]he First Amendment, as well as Section 326 of the Communications Act, prohibits the Commission from censoring broadcast material and from interfering with freedom of expression in broadcasting."

I call on you to uphold your oath of office to our Constitution and the First Amendment by publicly rejecting any efforts or suggestions to the contrary. Silence is not an option when it comes to your oath or mine.

Most gratefully,

A handwritten signature in blue ink, reading "Anna G. Eshoo". The signature is fluid and cursive, with a large initial "A" and a long horizontal stroke at the end.

Anna G. Eshoo
Member of Congress

cc: The Honorable Mignon Clyburn, Commissioner, Federal Communications
Commission
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications
Commission

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

GREG WALDEN, OREGON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

April 2, 2020

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai:

We write to urge the Federal Communications Commission (FCC) to reassure broadcasters that the FCC will not revoke licenses for airing legally protected speech. Consistent with the Constitution and the Communications Act, the FCC must refrain from censoring or interfering with broadcasters' discretion to air legally protected content.¹

As we are sure you are aware, on March 25, President Trump's campaign sent letters to certain broadcasters regarding the airing of an advertisement critical of the President's response to the coronavirus pandemic.² In the letter to broadcasters, the Trump campaign wrote that continuing to air the advertisement "could put [the] station's license in jeopardy."³ Such threats against broadcasters are contrary to the law.⁴ At a time when autocratic governments around the world are using the coronavirus pandemic as an excuse to suppress press freedoms,⁵ we must reaffirm – not undermine – America's commitment to a free press.

¹ See 47 U.S.C. §326; U.S. CONST., amend. I.

² Letter from Alex W. Cannon, Esq., Special Counsel, Donald J. Trump for President, Inc. (March 25, 2020); assets.donaldjtrump.com/2017/web/hero_images/Redacted_PUSA_Letter.pdf.

³ *Id.*

⁴ 47 U.S.C. §326; U.S. CONST., amend. I.

⁵ See Sara Fisher, *Coronavirus is being used to suppress press freedoms globally*, Axios (Mar. 31, 2020) (www.axios.com/coronavirus-press-freedom-e11cd2d3-c1c3-4b67-b985-102c882a223d.html).

The Honorable Ajit V. Pai
 April 2, 2020
 Page 2

By remaining silent, the FCC sends a disturbing signal that it sanctions these threats and that broadcaster licenses could be in jeopardy. Section 326 of the Communications Act and the First Amendment to the Constitution prohibit the FCC from interfering with the programming decisions of licensees to air legally protected content.⁶ As a result, the FCC itself has recognized that it cannot second guess the judgment of broadcasters.⁷ Broadcasters also are afforded broad discretion regarding the airing of advertisements.⁸

Unfortunately, this is not the first time President Trump has threatened a broadcaster's license in response to coverage with which he disagrees.⁹ On October 11, 2017, the President threatened the licenses of broadcasters because he disagreed with their news coverage. Citing the First Amendment, you appropriately assured broadcasters and the public that the FCC could not revoke a broadcaster's license based on the content of the broadcaster's programming.¹⁰

We believe the FCC has a duty to provide clear guidance to broadcasters and the public that threats by politicians about protected speech will not influence the agency or broadcaster licenses. To stay silent could undermine the First Amendment and the Communications Act. Therefore, we ask that you once again stand firm on your commitment to adhere to constitutional and statutory law. I appreciate your attention to this important matter. Should you have any questions, please contact Gerald Leverich of the Committee staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
 Chairman



Mike Doyle
 Chairman
 Subcommittee on Communications
 and Technology

⁶ *Id.*

⁷ Federal Communications Commission, *The Public and Broadcasting* (www.fcc.gov/media/radio/public-and-broadcasting).

⁸ *Id.*

⁹ Luis Gomez, *Trump calls to 'challenge' NBC's license. FCC responds: 'Not how it works'*, San Diego Union-Tribune (Oct. 11 2017) (www.sandiegouniontribune.com/opinion/the-conversation/sd-could-trump-revoke-nbc-license-after-nuclear-arsenal-report-20171011-htmlstory.html).

¹⁰ Brian Fung, *FCC chair on Trump's NBC tweet: 'The FCC will stand for the First Amendment'*, Washington Post (Oct. 17, 2017) (www.washingtonpost.com/news/the-switch/wp/2017/10/17/trumps-fcc-chair-has-finally-addressed-the-nbc-license-issue/).



METRO-EAST NEWS

Hodgkinson letters: 'I have never said life sucks, only the policies of the Republicans'

NEWS-DEMOCRAT

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Belleville, IL Congressional gunman letters to the editor | Belleville News-Democrat



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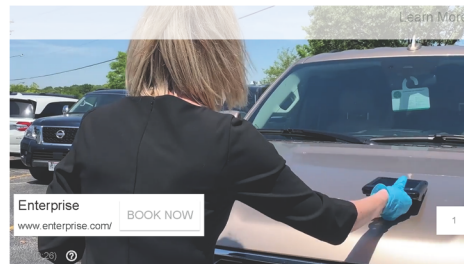
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James Hodgkinson, the Belleville man who was killed after police say he shot at congressmen and aides during practice for a congressional baseball game Wednesday, wrote a number of letters to the editor of the Belleville News-Democrat.

In them, he often railed against Republicans and tax policies, and at least once advocated for legalizing marijuana.

Following are the letters:

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Sept. 12, 2012

THE PATH OUT OF OUR DEFICIT

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The best book I've read in a while is "Aftershock" by Robert B. Reich. He explains that the lowering of taxes on the richest Americans was a major cause of the Great Depression. He also states that it is a major cause of the Great Recession, which

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2/18

2/24/2021

Belleville, IL Congressional gunman letters to the editor | Belleville News-Democrat

He states that the year before the stock market crash of 1929 and the Great Recession were both peaks of the incomes of the top 1 percent at more than 23 percent of the total income of the country. President Franklin D. Roosevelt and his Federal Reserve chairman, Marriner Eccles, brought us out of the Great Depression by raising taxes on the rich.

During the 1920s three Republican presidents lowered tax rates leading up to the Great Depression. In 1931 we had 23 tax brackets from 1.5 percent for incomes up to \$59,000 adjusted for inflation (which covered more than half of total population) to 25 percent for income over \$1,476,000.

In 1932 we had 55 tax brackets from 4 percent for incomes up to \$65,500 up to the 42nd tax bracket of 50 percent, which was equal to the top income of the previous year. Then the added tax brackets kicked in. Fifty-one percent to 56 percent were brackets increasing by approximately 1 percent for every \$40,000. Brackets 57 percent to 60 percent were for income increases of approximately \$1 million. Brackets 61 percent to 63 percent were for income increases of approximately \$4 million, topping out at 63 percent for income over \$16,378,000. Now that is what we need today.

Aug. 28, 2012

Mother Baltimore

A bi-weekly conversation about how we're covering race and identity in the Metro East, direct to your inbox on Friday afternoon.

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AN IDEA WORTH REPEATING

Letter writer Roddy Riggs reminds me of Rush Limbaugh and Bill O'Reilly, but I'm sure he doesn't bring in the millions of dollars those two do. They speak their lies and hatred and misdirection to anyone who will listen.

If I seem to be a broken record, it is because of the simple facts that need to be understood by everyone of voting age. I just want to let everyone know that income inequality was a factor in the causes of the Great Depression as well as the greed of Secretary of Treasury Andrew Mellon under the Republican Presidents Harding, Coolidge and Hoover.

Mellon was the third richest man in the country. This millionaire persuaded the presidents and Congress to lower the top marginal tax rates, from 73 percent to 58 percent, to 50 percent, to 46 percent, to 25 percent and finally 24 percent in 1929, the

year of the stock market crash and the start of the Great Depression.

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We need to bring our country out of today's recession by raising the number of tax brackets from six to 20 or more and the top marginal rate of 35 percent on \$380,000 to 60 percent on \$20 million or more. In 1938 we had 33 brackets from 4 percent for most of the country to 79 percent for income over \$79 million.

I believe anything near these rates would be fair and balanced. In rebuttal: I have never said "life sucks," only the policies of the Republicans.

Aug. 17, 2012

INCOME INEQUALITY IS RISKY

The right-wing writer Dennis Rodenhofer has twice enough hate to go around since he is beside himself to cut down my sources of the causes of the Great Depression.

I named the economists of the Austrian School Economics, and they are Waddill Catchings and William Trufant Foster. He can't believe anything on Wikipedia, so I followed up with Waddill Catchings' biography on tradingstocks.net to get that site's opinion. They are identical.

The income inequality was a major cause of the Great Depression, in that the production of the country was full blast but the common worker couldn't afford to buy the same goods that they were producing.

If Rodenhofer doesn't see this as a major reason for the causes of the Great Depression, he has his head in the sand.

I don't believe all of the messages on Fox News but I still think they get some of it right. Change channels to MSNBC and get a better, balanced opinion.

As for my loving President Obama, I say when people look at the other side, the choice is obvious. I don't want a president who won't even keep his money in American banks. I don't want a president who will lower taxes on the rich and raise them on the other 99 percent.

I don't want a president who wants to lower the number of tax brackets when everyone with a brain knows we need more tax brackets in order to reach all classes of income.

2/24/2021

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One of my favorite TV shows is "The Rachel Maddow Show" on MSNBC.

On a recent show she stated that 17 very rich men are supplying the Republican Party with more than 60 percent of their campaign contributions.

These men are trying to buy our country. You know they expect something for all this money. That something is that Mitt Romney and a Republican Congress won't raise their taxes. We all know that the rich don't pay enough taxes.

In response to letter writer Roddy D. Riggs calling me ignorant and making up facts, I say: Look up "Causes of the Great Depression," on Wikipedia. Income inequality is on the list. This theory was held by economists Waddill Catchings, William Trufant, Rexford Tugwell, Adolph Berle and John Kenneth Galbraith and influenced Franklin D. Roosevelt.

It held that the economy produced more goods than consumers could purchase because the consumers didn't have enough income. In the productive 1920s, the mechanization of industry caused layoffs and unemployment started a steady rise but the rich got richer.

If the rich paid their fair share of taxes today, we wouldn't be in this predicament. We need to vote all Republicans out of Congress. We need to demand Congress add 10 or more brackets to the existing tax code. We need 20 brackets to \$20 million, and a 60 percent top marginal rate.

We can get our country back if we all vote the right way.

July 8, 2012

OBAMA'S FOR U.S. WORKERS

I can't believe how many people are upset with our president. You'd think that the world was full of rich millionaires. Why else would these people talk badly about a guy who has their best interest at heart?

I read the other day about a man blaming President Barack Obama for food stamp recipients going up from 26 million to 46 million. Anyone with a knowledge of the facts would know that this is because of former President George W. Bush, and his ruining our economy. He got us into two wars that we couldn't afford and gave all his rich friends tax breaks.

If people would check the causes of the Great Depression, they would find that income inequality was one of the major causes. Because of this fact, President Franklin Roosevelt and Congress raised taxes back up to what they were before the Republican Presidents Warren Harding and Calvin Coolidge and tax cuts of 1921, 1924 and 1926, leading to the Great Depression.

If we don't want another Great Depression, we should re-elect the man who is working for the working man. President Ronald Reagan's "trickle down" policy did not work, and never will.

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Let's vote all Republicans out of Congress, and get this country back on track. We need 10 more tax brackets for income over \$1 million, \$2 million, \$3 million, \$4 million and \$10 million.

April 18, 2012

MAYBE NEXT TAX DAY

I'm still convinced that the major change that we all need to push for is a change in the federal tax code. We need more brackets to reach all classes of people.

We need a much higher bracket that actually reaches into the rich and super-rich incomes. I wish everyone would check out taxfoundation.org, so they could see for themselves and not just believe me as to how the leaders of the past reached all classes of income. They would like you to think that there is a lower class, middle class, and upper class. This is just not so.

In 1938 we had 33 tax brackets to reach all classes of income. These brackets ranged from 4 percent for income up to \$64,000 (adjusted for inflation), all the way up to 79 percent for income over \$79 million.

If we had anything close to the way our great leaders of the past set up the tax code, we could eliminate 90 percent of the country's problems, pay down the debt and get the country back in the black in no time.

The income inequality of the 1920s was a major contributor of the Great Depression, and if we don't raise the tax brackets to reach the rich we will never get out of this Great Recession.

I would wish all people under an annual income of \$1 million to get behind the 99 percent, and back the push for tax reform. My motto is: "Tax em like 1938."

God bless the 99 percent.

Jan. 29, 2012

NEWS OVERTOOK OPINION

Letter writer Edward Nowak should understand that when I stated that the House Republicans were blocking what the Senate had passed, that is exactly what they were doing. I simply didn't get around to canceling my opinion after dropping it off to the Belleville News-Democrat before they published it. Nowak should know the letters may not get published for a week or more after submission.

It wasn't until three or four days later when the House Republicans saw the mistake they had made was going hurt them that they voted to pass a two-month extension.

I wonder what rock he was under when the "party of no" was voting the first time, before they changed their mind. By the way, I'm an independent also. Long live Bernie Sanders.

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I believe to stimulate the economy, it is time to legalize or at least decriminalize marijuana use.

Also to fund the government deficit I hope the Obama administration raises the income tax rate for the rich to 70 percent or more. If a person has an annual income of more than \$10 million, he should be proud to be an American and proud to live in a country that would allow this kind of income, and proud to pay his fair share of taxes.

Jan. 20, 2012

TAXES IN PERSPECTIVE

In the 1920s President Coolidge's Secretary of Treasury Andrew Mellon cut taxes across the board. In 1921 we had 56 tax brackets from 4 percent to 73 percent.

By 1925 Mellon and Coolidge lowered the brackets to 23 and the top marginal rate to 25 percent, with a bottom bracket of 1.5 percent. Still the top rate of 25 percent was more than 16 times the bottom rate of 1.5 percent.

Lowering the rates across the board started a decline in revenue for the government, and the only reason that revenue finally went up in 1928 was the stock market bubble and the IRS coming after tax evaders. Because of this second fact, the rich were slightly more honest on filing taxes.

By 1929 the richest 1 percent owned 40 percent of the nation's wealth; the bottom 93 percent experienced a 4 percent drop in income over the decade.

Many economic professors state one of the main reasons for the Great Depression was this imbalance of income. Sound familiar?

President Kennedy cut taxes from 90 percent to 70 percent, which is higher than the 60 percent I advocate. We now have a measly six brackets topping out at \$379,000.

We need to get back to the Kennedy era rates that letter writer Roddy Riggs advocates, when we had 25 brackets from 14 percent to 70 percent and a top marginal rate of \$1,424,600.

Dec. 28, 2011

GREEDY INSTEAD OF GRAND

There's a new version of what GOP stands for. It's not the Grand Old Party anymore. It's the Greedy One Percenters.

This latest show of power in the House by the GOP would have cost the average family more than \$1,000 in taxes next year. The Republican-controlled House wanted the average worker to pay \$1,000 more per year, but they wouldn't even consider that their millionaire and billionaire friends contribute a higher rate of income tax.

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percent for many years. President Reagan dropped the top rate from 70 to 50 percent, which started the slow decline of the American middle class.

I wish everyone could see how by changing the tax code, more than 95 percent of this country's problems could be solved.

We need to vote all Republicans out of office. Let's work to get this country back. Let's all push for 20 brackets to \$20 million with a top marginal rate of 60 percent.

Dec. 13, 2011

JUST LOOKING FOR TAX FAIRNESS

News-Democrat letter writer Roddy D. Riggs must be one of the one percenters. He doesn't want the rich to pay anymore taxes than they have to, being that their wealth is going to trickle down to us commoners any day now.

I have never advocated a 90 percent top marginal rate, as he states. I merely stated that the tax code has been 94 percent for the top marginal rate for the years 1945 and 1946 and dropped to 91 percent for the 18 years following, from 1946 to 1963. I also want to add that every one of these years we had more than 20 brackets.

How can anyone revere Calvin Coolidge by mentioning the "Roaring '20s" when it was 1929 when the Great Depression started, just five or six years after he lowered the tax rate.

I believe in 20 brackets to \$20 million, with a top marginal rate of 60 percent. This is an average of the first 78 years. Our great leaders of the past knew how to balance the budget and pay the bills without borrowing from China.

Capital gains are an income, and as such should be taxed like any other income. It's income whether you break your back for it, or simply push buttons on a keyboard to make it.

Republicans are always crying about the poor not paying income tax. I say start at 3 percent for earnings of zero to \$20,000, and go up in 3 percent increments to 60 percent for income of more than \$20 million. Now that is a fair tax code.

Nov. 29, 2011

GO AHEAD, TAX THE RICH

The no-tax pledge that Grover Norquist had the majority of Republican congressmen sign is an un-American joke. On "Meet The Press" he used the analogy of the government as Lucy moving the football when Charlie Brown was attempting to kick it, saying that if the rich would pay their fair share, the government would only use the funds for entitlements for the poor, and not pay down the national debt.

I believe the comparison should be to the "Little Rascals" and their "women haters club." Everyone can see through this farce.

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government can't pay its bills. This means that China owns more of our country every day.

The rich have been given a free ride for more than 30 years. Following the Great Depression and two world wars, we had more than 40 tax brackets and a top marginal rate of more than 90 percent.

I believe it's time for the 99 percent to demand that our Republican congressmen tax the rich like our great leaders of the past. Let's take back our country.

We need 20 brackets to \$20 million and a top rate of 60 percent.

Oct. 9, 2011

IN FAIRNESS, TAX THE RICH

I love seeing the protesters in New York, Boston and other big cities get their voices heard. This should have happened sooner.

The media say they aren't organized with specific voice or agenda, but the agenda is clear to me. They are tired of our do-nothing Congress doing nothing while our country is going down the tubes.

If the media needs specifics, how about this: Change the tax code to tax the rich at a higher rate than the working man. Twenty brackets to \$20 million, with a top marginal rate of 60 percent or more. Remove the corporate tax loopholes. Raise the capital gains tax to equal that of any other income. Change the import tax to better balance the imports and exports, even if it means paying a little more for goods coming in from China and other countries.

I've heard that we tax incoming goods from China at 2.5 percent, while China taxes goods coming from ours at 25 percent. I believe we should narrow that margin.

The leaders of the past knew how to create work and jobs. They knew how to take care of all of our citizens, not just the top 1 percent who donated to their re-election. They had at times more than 40 tax brackets and a top marginal rate of more than 80 percent.

They knew what had to be done to get this country moving, and they didn't let partisanship get in the way.

July 8, 2011

TRY THESE TAX BRACKETS

I don't know why the Democrats don't propose a specific change to the tax laws to get the ball rolling. Maybe they don't care about the working man either.

The whole country knows that the only way out of this mess is to go back to the way they did it in the "good old days." In the 1930s, '40s, '50s, '60s, and '70s we had more than 20 brackets and the top marginal rate was more than 80 percent.

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I believe that the six existing brackets are a good start, and they simply need to be extended to include the millionaires and billionaires. These six brackets top out at \$375,000, which is still middle class - upper middle class, but still middle class. They need to add six more to tax the millionaires.

I propose adding: \$375,000-\$500,000 at 38 percent; \$500,000-\$1 million at 40 percent; \$1 million to \$2 million at 42 percent; \$2 million to \$3 million at 44 percent; \$3 million to \$4 million at 46 percent and everything earned over \$4 million to be taxed at 48 percent. This is simple and straightforward. I think someone needs to propose it in Congress.

Let's get this country back in the black. We don't need to borrow from China when there is a very simple solution. Vote all Republicans out of office and add six more brackets to the existing six.

May 25, 2011

USE 55 TAX BRACKETS, NOT SIX

IT IS A shame that Democrats won't attack the Republicans over the minuscule and lopsided tax system with only six brackets, ranging from 10 percent to 35 percent. It looks like the super rich have bought their vote as well. This recession was started years ago when congressmen found out they could make money by accepting money from the super rich in the form of donations, by simply changing the tax laws and putting more of the burden on the working man.

You see, we have always had a progressive tax system. In fact, in 1932 we had 55 brackets ranging from 4 percent to 63 percent. Everyone paid 4 percent for the first \$4,000 income, which would amount to more than \$50,000 today. The top marginal tax bracket was 63 percent for all income of more than \$1 million, which would amount to more than \$12 million today. Now I think everyone would like to see the rich and the super rich taxed at a higher rate.

The argument today is taking away the Bush tax cuts or not, which would add only 4 percent to the top marginal rate. The argument should be to rewrite the tax laws as they were in 1932. We need 55 brackets ranging from 4 percent to 63 percent. Anyone can look up the history of federal income tax rates on the Internet. Check it out.

These guys are cheating everyone in this country while telling us all the time that they are broke when it is the super rich with all the money.

April 30, 2011

TAX PROPOSAL FALLS FLAT

I have to give my rebuttal to your editorial on April 23. I don't believe that this "flat tax" that you are a proponent of is worth a damn.

In the first place, we have always had a progressive tax system. Our past tax laws

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Our politicians wrote the tax code to tax the little guy at 1 percent or 2 percent for his little bit of income, tax each bracket at a little higher rate, and tax the millionaires at the same 1 or 2 percent for their first few thousand, 3 percent or 4 percent for their next few thousand, and so on, until they reached the top marginal rate of 60 or 70 percent on all money earned over \$10 million. This is the only fair way to tax.

We need to get back to the good old days. We need 20 brackets to \$10 million.

The multimillionaires who own this newspaper would like the multitude of lower income earners to back them when anyone knowing the tax laws of the past would see right through this charade.

Don't slap in the face our great leaders of the past by letting this idea of the super rich (flat tax) get a second thought.

March 4, 2011

THE RICH CAN SAVE U.S.

I truly believe that all the members of Congress, Democrats and Republicans, know that the only way to straighten out this country's problems is to tax the rich just like they did for the first 60 years of the income tax era. From 1918 to 1978 there was never a year that had fewer than 23 tax brackets, and most topped out at \$1 million for the top marginal rate.

They are all aware of how the top marginal rate used to be more than 70 percent and even reached 91 percent for any money earned over 1,000 times the national average. The top marginal rate came down under President Reagan's first term, from 70 percent to 50 percent. Everyone in power said it was for the good of the country. They all knew that it was for the good of the rich.

Today Congress has put so much burden on the middle working class by lowering the top marginal rate to 35 percent and only \$375,000 that we are in a recession and on the verge of a depression. This is just not American.

We, the people, need to demand that Congress rewrite the tax laws to 20 brackets to \$10 million and a top rate of at least 60 percent. This is the one and only way to bring us out of this mess.

Let's get back to the good ol' days, when our representatives had a backbone and a conscience.

Jan. 16, 2011

PROGRESSIVE TAX NEEDED

The state of Illinois should have gone with a progressive tax system as the 34 other states that have adopted such. If our state would realize that if you let low-income and middle-income people retain a little more of their earnings, it would stimulate

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The take-home pay of someone earning \$50 a day differs enormously of that of someone earning \$5,000 a day. Because of this, our state should have a progressive tax system. If they would simply charge 3 percent for the first \$200,000, 4 percent for the next \$200,000, and 5 percent for all earnings over \$400,000, our state could get back into the black without adding to the recession and stagnating growth.

Our state government should try a little harder at helping the working people.

Oct. 26, 2010

WASTE BEGAN WITH THE GOP

Glenn McCoy draws editorial cartoons of wasteful government spending. Too bad he wasn't as quick to make fun of the administration when the Bush/Cheney administration was in office.

They sent us into wars in countries that we didn't need to be in (they should have gone after Osama bin Laden and a few of his cronies only). They lowered taxes for all their rich base multi-millionaire friends, and left office leaving this country in nearly double the debt that it had when they came to power.

Since 1978, Democratic presidents have kept the national debt in check or only let it raise by 4.2 percent. Since 1978, Republican presidents have raised the national debt by 36.4 percent.

We have always has a "progressive tax system" that was "fair and balanced," to use their own words, but they (Congress) have progressively put the burden on the middle working class by changing the laws every few years to lower the tax burden on the super rich.

We need to get back to the good old days when there were more than 16 brackets to \$3.4 million. This simple move would solve more than 90 percent of our country's problems - first by balancing the budget, second by giving the government money to put people to work.

Did you know that in 1981, when the beloved Ronald Reagan was president, we had 16 tax brackets spanning from 0 percent to 70 percent, and if adjusted for inflation, would today be 0 percent tax for up to \$54,000 income up to 70 percent tax for income over \$3.4 million.

It kind of makes you mad to see how crooked our politicians really are.

Aug. 29, 2010

TAX AND PROSPER

Letter writer Paul Mohme is completely wrong. Warren Harding and Calvin Coolidge led us into the Great Depression when they lowered the top marginal tax rate to 25 percent from 1925 through 1930. Herbert Hoover came after these "clowns."

All three of these presidents had a secretary of treasury named Andrew Mellon. This

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Hoover had to struggle to solve the fiscal problems created by the two presidents and secretary of treasury before him. This is similar to the problems we are facing today after Republican presidents gave all their rich friends tax cuts, and the Obama administration is left holding the bag.

The two-party system is arguing over 35 percent or 39 percent as the top marginal rate when in fact they should restructure the whole system. We should extend the tax brackets from six to 12 and extend the top marginal rate from a mere \$357,000 to \$12 million.

This country was always prosperous after a few years of taxing the guy making \$1 million a year at a higher rate than the guy earning only \$357,000. Anyone earning \$12 million a year should be taxed at a higher rate on that last \$2 million than the guy earning \$10 million a year.

Restructure and extend the system to bring this great country back to greatness. "12 brackets to \$12 million."

Aug. 26, 2010

PROGRESSIVE TAX BEST

A simple solution to Illinois' fiscal problems is creating a progressive tax system like other states. I suggest 3 percent for income up to \$1 million, 3.5 percent on the next \$1 million, and 4 percent for all income over \$2 million. This simple solution would be the easiest and fairest solution for all the state problems

May 14, 2010

MORE BRACKETS NEEDED

Letter writer Roddy D. Riggs missed my point completely. Although he did whine about not taxing the rich any higher or they might leave the country, my answer to him is that they have already outsourced many jobs and keep their money in offshore accounts. What difference could this really make?

Whenever we were at war in the past, our government had enough sense to raise taxes across the board to pay for the war. The main difference was that there were a lot more tax brackets to raise. For most of those years there was more than 23 tax brackets.

We have always had a progressive tax system, but now it tops out at \$357,000 and only six brackets. It should extend with at least 12 brackets to \$12 million.

I don't envy the rich; I despise the way they have bought our politicians and twisted our laws to their benefit. In the past, government taxed according to ability to pay. While most of the country works hard to earn \$100 to \$400 a day, many people make \$100,000 to millions a day. By changing the income tax brackets to 12 brackets and to \$12 million, we will be less dependent on China, help offset the bonus policies of many corporations, create more jobs, lower the crime rate, help the economy, and

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LOOK AT BRACKETS

I read recently that the current jobless rate is 12.6 percent, which is the highest since 1984 when the rate was 13.1 percent. That is the year Ronald Reagan was president.

I don't ever again want to hear how great a president he was. All he did was give tax breaks to the rich and put the rest of the country (or at least 13.1 percent) out of work. To think the Republican Party can call this man their idol is un-American. It's all about the money.

The Obama administration should bring back the tax laws as they were for most of the years they have been in existence since 1913. There were more than 23 tax brackets most of those years, sometimes more than 50, ranging from 0 percent if you earned less than \$4,000 to more than 70, 80, or even 90 percent if you earned more than \$5 million.

From 1982 to 1986, the top bracket was 50 percent. Since 1987 the top bracket has been below 40 percent. This hurts this country more than anything.

"You can't squeeze blood out of a turnip," so my grandma used to say. If this country needs money, and we all know it does, the politicians have to change the tax brackets back to the standards we had in "the good ole days."

I recommend a national movement get started to "12 brackets to \$12 million." Get the ball rolling by calling our congressmen and telling them that we want the tax laws changed.

Jan. 24, 2009

MONEY-MAKING IDEAS

I believe to stimulate the economy, it is time to legalize or at least decriminalize marijuana use.

Also to fund the government deficit I hope the Obama administration raises the income tax rate for the rich to 70 percent or more. If a person has an annual income of more than \$10 million, he should be proud to be an American and proud to live in a country that would allow this kind of income, and proud to pay his fair share of taxes.

July 12, 2008

TRAITOR DEFINED

I believe that anyone who increases his wealth in time of war is a war profiteer, and as such should be brought up on such charges. I also believe this includes President Bush, Vice President Cheney, most of their cabinet, all the people of Halliburton and anyone in the oil business. These people should pay for the crime of war profiteering and being traitors to their country.

March 25, 2008

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I wish John Kerry would have won the 2004 election. I could afford \$3.50 for a bottle of catsup; I just can't afford \$3.50 for a gallon of gas.

March 16, 2008

TAX THE RICH PLEASE

In response to Gerard Luebbers' comments that we shouldn't raise taxes on the rich, I must give my opposing viewpoint.

If Luebbers would check our federal income tax history, he would find that during and following both world wars, our tax rates went up to bring the country back. These rates went up slightly for the bottom bracket and dramatically for the top bracket.

By my calculations; for 1918 through 1923 and 1940 through 1950, the average tax for the bottom bracket was less than 12.5 percent, while the average tax for the top bracket was more than 80 percent. This is precisely what needs to be done now. We need to lower the tax on the lower brackets and raise it on the upper brackets.

The inequality of the tax system started in the late 1980s with the Reagan administration. They raised the lower bracket from 11 percent to 15 percent, while lowering the upper bracket from 50 percent to 38 percent. The "Trickle Down Policy" started by the Reagan administration didn't work. It merely set up a chance for our jobs to be shipped overseas to factories in Third World countries.

Give the rich a break on their taxes and they invested in other countries. It trickled down to the \$1 an hour worker in India and China.

This country is in need of a major change in more ways than one, but let's start with the federal income tax rates.



Alexandria Police Chief Michael Brown briefs the press on the on-going investigation of the shooting at the GOP baseball practice early this morning in Alexandria, Va. . A witness recounts the scene where

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LOCAL

Belleville residents react to Alexandria, Va., shooting

JUNE 14, 2017 11:55 AM



1 of 2

James Hodgkinson of Belleville protests outside of the United States Post Office in Downtown Belleville in this file photo. Hodgkinson is part of the "99%" team drawing attention to the disproportionate amount of money and political power the top 1 percent of Americans have acquired. Also protesting outside of the post office where members of the Communications Workers of America Local 4217 they were drawing attention to the low percentage of taxes paid by AT&T. DERIK HOLTSMANN *DERIK HOLTSMANN/BND*

[COMMENTS](#)

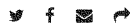
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Illinois announces new federal funding to feed low-income students

BY SARAH MANSUR

FEBRUARY 24, 2021 08:00 AM



New funding will cover free or reduced-cost lunch for an additional 200,000 school children in Illinois.

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February 24, 2021

<p>The Honorable Frank Pallone, Jr. Chairman U.S. House of Representatives Committee on Energy and Commerce 2125 Rayburn House Office Building Washington, DC 20515</p>	<p>The Honorable Cathy McMorris Rodgers Ranking Member U.S. House of Representatives Committee on Energy and Commerce 2322A Rayburn House Office Building Washington, DC 20515</p>
<p>The Honorable Michael Doyle Chairman Subcommittee on Communications and Technology 2125 Rayburn House Office Building Washington, DC 20515</p>	<p>The Honorable Robert Latta Ranking Member Subcommittee on Communications and Technology 2322A Rayburn House Office Building Washington, DC 20515</p>

Dear Chairmen Pallone and Doyle and Ranking Members Rodgers and Latta:

On September 16, 1998, I started the news and opinion website Newsmax. That site grew to include Newsmax Magazine, and more than a dozen health and financial newsletters. On June 16, 2014, Newsmax launched its flagship cable TV channel, Newsmax TV, which has grown to become 4th highest-rated cable news channel. Newsmax TV is available through all major cable operators and most OTT platforms. More than 100 million U.S. households have access to Newsmax TV, and more than 40 million Americans view Newsmax TV or visit Newsmax.com each month. And according to Nielsen data, approximately 30% of Newsmax TV viewers are Democrats, and another 30% are independents.

As both CEO and Editor & Chief, I am proud of the content Newsmax produces and fiercely protective of our First Amendment right to publish it through all our various media channels. As this Committee undertakes the slippery slope of deciding what speech is acceptable and what speech is not, it should be guided by the words of former Supreme Court Justice Hugo Black: "[The First Amendment] rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society."

With that in mind, I want to respectfully address some disinformation circulated by Members of this Committee in a recent letter to pay-TV operators and streaming technology companies. Newsmax *never* called the breach of the Capitol "a sort of romantic idea." The claim was made on Newsmax by a Touro College law professor and prominent liberal, Thane Rosenbaum, who was describing the rally *before* any violence or illegal

activity had taken place at the Capitol. The letter's assertion to the contrary is deliberately misleading and intended to contribute to a false narrative about Newsmax's balanced coverage of the election and events on January 6th. In general, Newsmax reported fairly and accurately on allegations and claims made by both sides during the recent election contest. Newsmax called the election for President Joe Biden as soon as the states had certified their election results. Further, Newsmax forcefully and repeatedly used its airwaves to condemn the insurrection at the Capitol on January 6th. Below are some representative on-air quotes made by Newsmax's hosts during the course of the attack:

"We certainly hope that this does not get more violent, than we have already seen it..."
Tom Basile, host of "America Right Now"

"They are not supposed to be there, and we certainly don't condone that.... Hopefully, some of these folks will end up getting arrested, and we will know who they are.... Going through a police barricade, or overrunning a police line, is also something that is ... not to be encouraged"
Tom Basile, host of "America Right Now,"

"And let's be quite clear here: we condemn the violence, we condemn it. Alright? The people who did illegal things must be arrested."
Greg Kelly, host of "Greg Kelly Reports"

"The images that I've seen this afternoon at the Captiol, frankly disgust me...violence has no place in our society. Destruction of public property has no place, disrespecting law enforcement is not acceptable.... This is un-American, this is not what we do. We are better than this and we must denounce this."
Sean Spicer, host of "Spicer & Co."

As this Committee – the oldest in Congress – proceeds with the important work of the Nation, I would respectfully ask that its Members re-commit themselves to upholding the principle of freedom of the press embodied in the First Amendment. Thank you for your consideration.

Sincerely,



Christopher Ruddy
CEO
Newsmax Media, Inc.

Subcommittee on Communications and Technology
Hearing on
“Fanning the Flames: Disinformation and Extremism in the Media”
February 24, 2021

Ms. Soledad O’Brien, Anchor, Matter of Fact

The Honorable Anna G. Eshoo (D-CA)

1. You testified that you oppose Congress forcing editorial decisions in newsrooms, and I agree with you. Are there any actions Congress could take to encourage the advancement of journalistic ethics among journalists or the development of a market that demands ethics?

RESPONSE:

At the heart of America’s misinformation problem is the death of local journalism. Around 1,800 communities in the US have been left without a local news outlet, creating so-called “news deserts.” The decline of local journalism has directly led to increased polarization, less cross-party voting, increased government corruption, and increased government waste. People are less informed about almost all aspects of daily life including economics, politics, education, the environment, and more.

There are many proposals out there, including Rebuild Local News, that explore ways that the government can revitalize local news without impacting editorial decisions. Some of those ways include tax credits, small business credits for buy advertising, support for public broadcasting, making it easier for nonprofit newsrooms to get and keep tax-exempt status. There are so many ideas that are out there. Without endorsing any one of them, I urge you to explore and examine them and give them your ear. The decline of reporting is affecting us all and congress can play a vital role in supporting a long tradition in this country of having a journalistic community that covers our important institutions and communities.

The Honorable Yvette Clarke (D-NY)

1. In your testimony, you stated that “...Local news is the heartbeat of American Journalism.”

For several decades, Black-owned newspapers and magazines like the New York Amsterdam News, Chicago Defender, Ebony and Jet Magazines from Johnson Publishing and other periodicals played a critical role in Black communities across the nation as trusted news source, employing numerous Black journalists. Today, most media outlets with primarily Black audiences are no longer Black-owned and the media industry continues to be white and male dominated.

Do you believe that communities of color have been disproportionately impacted by misinformation and disinformation campaigns as locally-owned and minority-owned periodicals have shuttered?

RESPONSE:

I can point to the US Senate Intelligence Committee's report on Russian disinformation in the 2016 campaign to answer your question. The Committee found that "no single group of Americans was targeted by IRA [Internet Research Agency] information operatives more than African-Americans", including operating a "Blacktivist" Facebook page which generated 11.2 million engagements, maintaining five of its top ten Instagram accounts to focus on "African-American issues and audiences", and its YouTube page where 96% of the content "was targeted at racial issues and police brutality" ('Russian Active Measures Campaigns and Interference in the 2016 U.S. Election', Vol 2, pg 6 - 7)

So we know, affirmatively, that African-Americans are disproportionately targeted by disinformation campaigns.

In the broader context of reviving local news, the government needs to be cognizant of the specific barriers that are present for Black and Brown journalists and news entrepreneurs. We could help overcome these barriers by deploying the technical guidance and education to nonprofit news organizations. Congress could also consider leveraging existing programs that help minority owned businesses by specifically targeting minority owned media organizations that operate in communities with large populations of people of color.

More good reporting has the power to directly counteract disinformation and misinformation campaigns aimed at the African-American community (as outlined in the Senate Committee report) by having dedicated journalists who can respond to community-concerns, and gain trust within their own communities.

According to Pew Research in 2019, 33% of Black Americans place "a lot of trust" in the information they receive from local news, more than Hispanic (28%) and White (27%). Only 23% of Black Americans placed the same level of trust in information from national news. So, investing in local news outlets will have an immediate impact on disrupting the impact of disinformation and misinformation in communities of color.

Subcommittee on Communications and Technology
Hearing on
“Fanning the Flames: Disinformation and Extremism in the Media”
February 24, 2021

Ms. Jonathan Turley, The George Washington University Law School

The Honorable Robert Latta (R-OH)

1. Professor Turley, I would like to submit the following questions on behalf of my colleague, Representative Lesko of Arizona:

In a recent opinion article dated February 14, 2021, you wrote that some members of Congress were, “fueling the politics of division” in the aftermath of President Trump’s impeachment trial. The Majority has suggested that expressing conservative views is the equivalent of engaging in disinformation.

- a. You wrote in your written testimony that we are living through a period similar to the Red Scare. Why do you think recent calls to take conservative-leaning news programs off the air are problematic for free speech in America?

RESPONSE:

The most dangerous aspect of the current anti-free speech movement is the coalition of corporate, media, and political powers. Censorship (or what Sen. Blumenthal euphemistically calls “robust content modification”) is now a celebrated cause among academics, reporters, and members of Congress. Even blacklisting has come into vogue with calls for the barring of books and authors alike due to their political views. As bad as the anti-free speech movement has become, systems of censorship are only truly effective if there are no alternatives to approved viewpoints or sources. If citizens are able to obtain uncensored news or viewpoints, the effort to control debate or frame public discourse is lost. Indeed, as evident in the [recent public spat between “PBS NewsHour” correspondent Yamiche Alcindor and Washington Post Jennifer Rubin](#), liberal journalists can be condemned if they stray even slightly from a common narrative.

What is most striking in comparison to the anti-free speech efforts of the 1950s is that the current movement is being propelled from the left, including voices in Hollywood where countless movies have been made (legitimately) demonizing the blacklisting of writers, actors, and artists. Now that conservative figures are being targeted, censoring and cancelling viewpoints has become a cause célèbre. Now, rather than being denounced as “communists” or threats to democracy by spreading “propaganda,” targeted individuals are denounced as “fascists” or threats to democracy by spreading “disinformation.” It is the same underlying impulse to control the speech of others – a scourge that rests like a dormant virus in our body politic and manifests itself like a fever in times of great social or political unrest.

- b. Do you think that a desire by some in Congress to engage in censorship of opposing views fuels mistrust in our institutions?

RESPONSE:

One of the greatest dangers arising out of this anti-free speech movement is the involvement of members of Congress. The success of the movement is due to the use of major corporations like Twitter, Facebook, and Google to achieve indirectly what the government cannot do directly. By pushing for greater censorship (or “robust content modification”), members send a not-so-subtle message to these corporations of their expectations. These comments and letters also serve as an implied threat that the failure to silence opposing political viewpoints could expose these companies or their executives to greater legislative or regulatory actions. The result can be a type of “commandeering” where companies are pressured to maintain a private system of censorship that shapes the accepted “truth” or facts by declaring opposing views as “misinformation” or “disinformation.”

Indeed, the [recent move by Facebook](#) offers a chilling example of the implications of this alliance of corporate and political power. Facebook removed an interview with Trump and his daughter-in-law Lara Trump, not for the content of the interview but the mere voice of Trump. Trump officials were sent an e-mail from a Facebook employee, warning that any content posted on Facebook and Instagram “in the voice of President Trump is not currently allowed on our platforms (including new posts with President Trump speaking).” The effort seems not to correct content but to eradicate figures who are declared persona non grata by corporate fiat.

The Honorable Michael C. Burgess, M.D. (R-TX)

1. Professor Turley, we talked a lot during our hearing about the importance of encouraging more speech in order to combat disinformation. In 1978, Alexander Solzhenitsyn gave the commencement speech at Harvard University where he opined on the moral shortcomings of a purely legalistic society. He specifically discussed the role of the media in such a society, stating:

“Enormous freedom exists for the press, but not for the readership because newspapers mostly develop stress and emphasis to those opinions which do not too openly contradict their own and the general trend.”

He goes on to describe the necessary posturing of the press based on what is fashionable.

“Because instant and credible information has to be given, it becomes necessary to resort to guesswork, rumors, and suppositions to fill in the voids, and none of them will ever be rectified...How many hasty, immature, superficial, and misleading judgments are expressed every day, confusing readers, without any verification.”

Finally, he summarizes the threat of an unrestrained press in a purely legalistic society.

“Hastiness and superficiality are the psychic disease of the 20th century and more than anywhere else is this disease reflected in the press. Such as it is, however, the press has become the greatest power within the Western countries, more powerful than the legislative power, the executive, and the judiciary. And one would then like to ask: By what law has it been elected and to whom is it responsible?”

We have seen over the last couple of years the power wielded by an unelected media. They have concentrated their focus on a few prominent positions, shutting out the voices and perspectives of the unfashionable – to borrow Mr. Solzhenitsyn’s term. The remedy is not to push government mandates and controls onto existing media, but to incentivize diversity of thought and prominence of disenfranchised contributors to the national dialogue. We should also encourage journalistic integrity by removing barriers to entry for local news and local broadcasters, which Republicans have tried to do for decades.

- a. Mr. Turley, can you talk about how promoting local journalism can help combat disinformation?

RESPONSE:

Local journalism offers a major counterbalance to increasing control of a few media and Internet companies over political discourse and speech in the United States. They represent an alternative source for news and viewpoints even if national media is quickly becoming a virtual echo chamber. These small stations and newspapers not only offer a needed outlet for local news but greater diversity in viewpoints on the news. Citizens are more likely to be heard in such local media outlets in expressing their own viewpoints. The failure of major media figures to fight bias and advocacy in news coverage only magnifies the importance of these local media outlets.

- b. What role do competition and anti-collusion laws play in protecting free speech on traditional media sources?

RESPONSE:

As noted earlier, members of Congress are seeking to achieve indirectly through these corporations what they could not achieve directly through legislation. Various members have threatened legislative or regulatory actions if these companies do not ramp up private censorship efforts. Conversely, banning or limiting viewpoints has been met with open approval and support from many in Congress. The result is a type of “commandeering,” an analogous problem to states being commandeered by Congress through spending conditions. In the federalism area, such commandeering has led to the constitutional scrutiny of legislative provisions in cases like

*New York v. United States*¹ and *Printz v. U.S.*². However, like speech limits by private companies, commandeering is generally treated as outside of the governance of the First Amendment. Yet, the purpose is the same. Congress can use the possibility of legislative benefits or penalties to exert indirect controls over private companies. The degree of coordination between government and corporate figures could force greater scrutiny of these legal and constitutional concerns. This private system of censorship is making a mockery of our constitutional system as political figures pressure corporate figures to silence their political opponents. If the Constitution is to be more than a Potemkin village, Congress will have to act to protect free speech from both governmental and corporate systems of censorship.

¹ [505 U.S. 144, 161 \(1992\)](#) ("Congress cannot "simply 'commandeer the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program.'").

² [521 U.S. 898, 935 \(1997\)](#) ("The Federal Government may neither issue directives requiring the States to address particular problems, not command the States' officers . . . to administer or enforce a federal regulatory program. It matters not whether policymaking is involved...").

Attachment—Additional Questions for the Record

**Subcommittee on Communications and Technology
Hearing on
“Fanning the Flames: Disinformation and Extremism in the Media”
February 24, 2021**

Ms. Kristin Urquiza, Co-founder, Marked By COVID

The Honorable Yvette Clarke (D-NY)

1. Let me begin by giving my condolences to you and your family on the loss of your father. COVID-19 has now taken the lives of more than half a million Americans and we continue to mourn their loss.

There have been significant racial disparities in COVID-19 cases and death in communities nationwide. We are now seeing the dangers of misinformation manifest as vaccine hesitancy in communities of color, who are statistically more at risk of contracting the virus.

As you stated in your speech at the 2020 Democratic National Convention, your father’s “only preexisting condition was trusting Donald Trump.”

As we chart the path forward toward health and recovery, how can we begin to restore trust in elected officials for communities of color?

RESPONSE:

This is such an important question, Representative Clarke. Communities of color have been left behind in this pandemic. Not only have we suffered and lost the most, but we’re also still seeing communities of color left behind during the vaccination campaign.

Take for example how this pandemic has impacted my childhood neighborhood of Maryvale in Phoenix, Arizona where my Dad lived and my Mom still lives. When my Mom and Dad were sick with COVID in June 2020 people in this neighborhood of 70%+ Latino and 30%+ immigrants were waiting in lines for 13 hours to receive a COVID test. Right now that same neighborhood is seeing only a 14% vaccination rate versus the state rate of 40% (for one dose) and a whopping 77% vaccination rate in the affluent and white neighborhood of Scottsdale.

We’ve seen that we can address hesitancy by breaking down the barriers of access, education, and familiarity. When a person who is trusted has had the treatment and “lived to tell the tale” that helps erode away hesitancy. However, we haven’t broken down the barrier of access.

COVID has exposed so much that many of us have already known: that there are deep inequities in our society that are propped up by rules that favor the haves versus the have not. With our country headed in the direction of majority people of color in just a couple of decades, we must address these disparities now if we are to live up to our ideals as well as ensure our national security.

The way to build that trust is to start investing in these communities and leaders in these communities now, to listen to them, and to make sure they have real representation in the decisions that impact their lives. That means having groups like Marked By COVID, a victim and survivor's advocacy organization that I co-founded after losing my Dad, at the decision-making table. People need to see the government working for them, and then they can start to trust the government. In my childhood neighborhood of Maryvale, I'm not sure they have seen that the Biden Administration (or "government") is working for them. Under Trump, they couldn't get tested and under Biden, they aren't getting vaccinated.

This will take a significant investment from the government to meet people where they are at but it's an investment we can no longer afford not to make if we are truly going to be a nation that is governed for the people and by the people.

Attachment—Additional Questions for the Record

**Subcommittee on Communications and Technology
Hearing on
“Fanning the Flames: Disinformation and Extremism in the Media”
February 24, 2021**

Ms. Emily Bell, Leonard Tow Professor of Journalism, Columbia University

The Honorable Anna G. Eshoo (D-CA)

1. You testified that you oppose Congress forcing editorial decisions in newsrooms, and I agree with you. Are there any actions Congress could take to encourage the advancement of journalistic ethics among journalists or the development of a market that demands ethics?

Answer: I believe there are ways in which Congress can formally and informally encourage a more ethical behaviour among journalists and newsrooms.

Concrete policies can advance ethical behaviours within newsrooms and from journalists by creating alternative incentive structures and requirements for access to funding. If there were Federally supported schemes for newsrooms, be it emergency funding, a long term national endowment for journalism support, or even a negotiated settlement between platform companies and providers of journalism, then there would be an opportunity to create standards as a pre-condition of funding. Requiring newsrooms to disclose funding, maintain a conflict of interest register, maintain a corrections policy, maintain appropriate levels and diversity of staffing are all simple steps in eligibility for contestable funding that foster higher quality reporting. Any reform of public media funding can also take into account new types of ethical encouragement. Equally where government advertising dollars are available, similar standards ought to apply.

Informally, Congress itself, through its members and messaging can set the tone for ethical behaviour in press and government relations. Congress has in its power the means by which the press is credentialed for access to briefings, for instance. A code of conduct for members of Congress which acknowledges that derogatory remarks and harassment of journalists are in themselves violating the spirit of the First Amendment if not the letter, would be a start in the right direction.

2. Many have commented that the right-wing and left-wing media systems in the U.S. are asymmetric in their susceptibility to misinformation.
- Do you agree with this assessment?

Answer: Evidence in our research supports the assertion that more misinformation spreads through right leaning sources than left leaning sources, although I would stress that strict quantification is to some extent a matter of interpretation, for instance is the asymmetry because more misleading articles are produced or because they travel further? MIT Professor Sinan Aral produced some evidence to support the common assertion that right leaning sources of misinformation gain far more traction than left leaning sources of misinformation <https://www.wired.com/story/right-wing-fake-news-more-engagement-facebook/>. Other surveys align with this. However the unique context of President Donald Trump's administration and its frequent departure from accepted norms of truth telling needs to be taken into consideration before making more historic assertions. I would add that platforms could be far more helpful than they are currently in keeping open research APIs and making far more data - and executives - available to provide insight and accountability into how misinformation originates, propagates and leads to different actions.

- What are the implications of this for Covid-19 and elections misinformation?

Answer: As with my answer above, this is something we need to observe over a longer period of time and over different administrations. If it holds as a theory, and two political constituencies believe entirely different things, it is likely to lead to real world harms, either through sectarian conflict and violence, or through citizens acting against their own interests, both as individuals and collectively as a society. We have seen a correlation if not causation in the United States between high degrees of misinformation and civil unrest over the result of the election, and high levels of infection and death as a result of COVID. However in the latter case the picture is far less clear than for instance in the case of alleged and disproven voter fraud. We know from other parts of the world, such as the Ebola outbreaks in Africa, that trusted local information can literally save lives, and deliberate misinformation can cost lives.

- How does this view compare to other countries with a culture of a free press?

Answer : It is noticeable that countries with democratically elected officials who adopt the rhetoric and practices of authoritarian and anti-free press regimes are remarkably similar whether on the right or the left. Russia, China, India, Brazil, Mexico, even Great Britain, are examples of where leaders across the political spectrum have adopted a style of populist authoritarianism which often seeks to invert the truth and discredit journalism. Other countries with a more supportive attitude towards the free press, such as the Nordic countries, are helped by having different cultural and political histories, more social cohesion and more protected markets. I would say progressive attitudes to media support and regulation and increased scrutiny of platforms is a hallmark of pro-free press countries. Countries which are actively developing public interest policies in relation to support of the free press - Canada, France, Australia - again, are doing so across the political spectrum. One lesson to take from this phase of development of our communications policies and infrastructure is that deregulation and over regulation (suppression) of the media both arrive at the same place - a difficult environment for good faith public interest journalism to thrive, and a recession from

democratic norms. We are entering a phase where striking the right balance in freedom, incentive and regulation is critical in making “constitutive choices” in how we want our democracy to work, and what role communication institutions and infrastructure plays in that democracy.

3. As I asked another witness, I welcome your opinion on the fact that Newsmax, One America News Network, and Fox News all use ‘news’ in their name, and as another member pointed out, this dynamic also exists for left-leaning outlets like Cable News Network (CNN) and others.
 - a. How do you define the word “news”?

Answer: There are many definitions of “news”, but I would say it is the communication of events of interest to the public where recency is a key parameter. If I was explaining it to an averagely intelligent 4th grader, I would say news is the media which tells you what is going on in the world right now. Within that broad definition I would say they are embedded assumptions of accuracy and recency. Something which is untrue cannot by definition be news, and something which happened last year is old news.

- b. How do you think a reasonable viewer interprets the word “news” when they see it on-screen during what the channel actually considers opinion or entertainment?

Answer: Most viewers of a ‘news’ channel would expect to see a summary of stories which are thought to be important enough to be featured on the television. But ‘importance’ depends on the audience, so “news” on an entertainment channel, features entertainment stories. On main cable news channels, Fox, CNN and NBC regular viewers would expect to see both the dissemination of news items but also the discussion and contextualization of those items, which can count as opinion. Discussion of stories, whilst opinionated, can fall under the broad banner of “news” but it is essentially opinion. Research into readership in online sources demonstrates however, that in our current news environment, information about sourcing, or fact and opinion is often lost or erased, or simply not noticed.

- c. Are there industry norms about conflating the word “news” with opinion?

Answer: There are broad historical norms about separating the personal views of reporters from the reporting of stories or on the practice of providing context and commentary on stories which is filed under “opinion”. These norms for instance often dictate that “opinion” in newspaper architecture was kept physically, authoritatively, editorially and philosophically separate from news reporting in the same organisation. I believe though that this distinction between “news” and “opinion” is one which is decreasingly discernible to many casual viewers. In cable formats it is not unexpected that you have opinionated broadcasters such as Tucker Carlson on Fox, or Rachel Maddow on CNBC. However the presentation of their opinion when abstracted on social media can lose all definition and context which separates news and opinion. There are no remaining broadcasting rules to prevent the abuse of this, unlike in other countries. In the UK for instance channels such as Fox News regularly attracted large fines for breaching the requirements of news broadcasting standards which require balanced reporting. However, these types of regulatory norms in other countries are also under pressure. Opinion and discussion of news is compelling to viewers and cheaper to produce than reporting. Strong emotion drives engagement which is the underlying metric of both the advertising and the subscription models for news.

4. For social media, we often discuss the role of platforms in disseminating harmful misinformation. Cable, satellite, and streaming services similarly disseminate misinformation aired on various channels, yet they've experienced very little scrutiny.
- a. In your opinion, what ethical and moral responsibility do cable, satellite, and streaming services have for airing channels that repeatedly air deadly misinformation?

Answer: I would say that news channels have historically had a great deal of scrutiny applied to their practices, far more than platforms, although platforms are now more in the eye of the storm. The disinformation available on channels such as Fox News or OANN is not new, but the ability to amplify, discuss and share the talking points of these channels is radically different. We too often separate those elements, as though this is a binary proposition. Social media platforms are not responsible for the output of broadcast news, but they have shaped the editorial processes of those channels too, "what works on social" is an overriding concern in many newsrooms.

The channels in question have not responded to the scrutiny applied to them, or been compelled to do so, as there is no financial or regulatory pressure to make them behave otherwise. The enormous revenues attracted by divisive and often misleading media are far better business than the lower audiences and uneconomic business of providing careful reporting and refusing to indulge in the "keyfabe" of cable (a useful term for the mock fighting of professional wrestling). As long as the preeminent business model for broadcasting is ratings, and there are no countervailing rules or restrictions, and little shame on the part of advertisers, then the extremism and triviality of news will continue. The cultural tenor of the United States is often expressed in terms of conflict, re-engineering key institutions away from this pattern of behaviour

- b. What responsibility do they have to our democracy?

Answer: In my view journalism is powerful in supporting democracy by performing any of three functions; when it provides citizens with frequent and reliable information to help self-governance, when it provides an accountability mechanism against the abuse of power, and when it constructs a reliable and complete record of events. If a news channel is deliberately or recklessly misleading the public for financial or political gain, when it is enabling and covering up for powerful actors rather than providing accountability, and when it erases or distorts the record then this is not, in my opinion, journalism or useful to democracy. It is propaganda and disinformation aimed at disempowering citizens and overturning democracy. One of our challenges is defining which actors and behaviours in news align with this description. I would say that for instance the Russian channel RT falls into this category. The problem is that all channels provide a mix of content. Joseph Goebbels invented the concept of "60/40" principle in propaganda, namely that a publication or channel which is reliable 60 percent of the time, uses the remaining 40 per cent of time to inject propaganda. This is a principle that worked in Nazi Germany and is still being applied by disinformation campaigns today. The conflation of so many systems of manipulation into one architecture that also supports vital democratic exchange and new, improved ways of allowing self-expression- that of targeted digital marketing has handed us an crisis of definition and transparency.

- c. Do you have a view on whether cable, satellite and streaming services have or should have any legal liability for deadly misinformation aired on channels they host?

Answer: I would hesitate to impose liabilities beyond those that exist in current law, although it is I think imperative to understand that our current situation rests partly on inadequate regulation. It is interesting to me that even under the First Amendment, regulators in the US have found different ways to protect companies from harmful speech (SEC rules on disclosures, announcements and market moving information being one example) and to protect wealthy businesses from harmful speech through libel laws. It is supremely ironic that the only effective action taken against TV channels for repeatedly suggesting the election was stolen is that of the libel suits from Dominion who manufactured the voting machines. Citizens, the electorate, have no such avenues of redress. The First Amendment is a crucially important part of the constitution of the United States, and has within it freedoms which are being rapidly eroded elsewhere. However, the harmful acts of amplifying, promoting and circulating deadly information in a reckless manner do require Congress, in my opinion, to think of pro-free press remedies which nevertheless give citizens a reasonable expectation that key institutions enjoying access to their attention are complying with at least basic professional standards.

The Honorable Lori Trahan (D-MA)

1. Research from the Tow Center for Digital Journalism shows there is a growing number of sites impersonating local news publications.¹ These “publications” are filled with algorithmically generated content using publicly available data, sprinkled in with often misleading content that resembles a political ad.

- a. Can you describe the role dark money is playing in the media ecosystem today?

Answer: In my opinion dark money is playing an increasingly significant role, particularly in local journalism. Although the “networks” we study, including Metric Media, are still relatively small in audience if extremely prolific in output (over a million and a half stories produced during the 2020 election cycle), they are a type of new model we see with increasing frequency. What this means is that narratives such as ‘voter fraud’ can be developed through thousands of headlines, washing through social media feeds or changing search algorithms. Individual lobbyists, special interest groups and PACs can “pay to play” in placing themes, campaigns and narratives through the guise of local news without adequate disclosure to the reader. At the start of the 2020 election cycle, this type of operation was relatively rare. By the end of 2020 we saw not only a growth in networks such as Metric Media, the Star network and Courier Newsroom, but a rash of smaller independent “news” entities with the same strategy and business models, often appearing from lobbying groups or think tanks. It is too early to know exactly how these types of outlet are influencing the population, and our research will track this over the long term, but we do know that this is fast becoming a variant model of local news with capacity to flood the zone against more transparent models.

- b. Are there particular campaign finance reform measures that could address the challenges associated with identifying politically funded content from traditional journalism?

Answer: This is a difficult area. We have seen how influential media from politically motivated owners can be, even when they do not fall under campaign finance rules. There is a debate to be had over whether an entity such as Metric Media is significantly different from for instance Sinclair Broadcasting. However, rules requiring both more transparency of funding and ownership, rules regarding the labeling and archiving of political advertising (campaigns and articles that are directly paid for by clients, both political and corporate) could significantly help track the influence and growth of the sector. At the moment it is very difficult to identify the links and funding sources of many networks.

2. You and your colleague Sara Sheridan recently published a blog post titled “Google and Facebook have a News Labeling Problem.”²

- a. Can you describe the challenges your Center faces when studying the way Google, Facebook and other online platforms label news content?

Answer: We have noted through our research that platforms are struggling to adequately recognise and label different types of content particularly as news sources. The architecture and taxonomy of social platforms and search has favored a very broad approach to defining “news”, hence the automatic filtering on Google can be very inconsistent, and Facebook’s self-certification process means that practically any entity, from brands to political advocacy campaigns, can label themselves as ‘media/news’ companies. For instance we found that in

researching the Metric Media network, Google news would label some of their titles as “news source” but not others. Google is unable to explain this type of inconsistency, or why it’s Google News algorithm applies the label “news source” to the Epoch Times, which is a rampant distributor of false news and disinformation. Even where there is a desire to clearly label the output of state-funded propaganda operations such as RT, we note that the application of labels across platforms can be very inconsistent. The platforms have been historically very reluctant to limit the definition of “news”, although we anticipate this changing in the wake of 2020.

- b. What improvements can online platforms make to their news APIs and transparency reporting efforts?

Answer: We really welcome the small steps made by platforms to increase transparency around the type of content they carry, particularly the Facebook political advertising archive. However the data and access given to even accredited academic is really very limited. APIs are also regularly degraded or changed which can derail research efforts. Scraping is outlawed under the CFAA. There is no reason whatsoever for instance that Facebook could not give access through an API to all entities labeled “media/news”. It would not compromise personal data or privacy, it would enable researchers to identify when and how titles are added to the site. There is no commercial benefit to Facebook in opening such APIs, and until legislation is passed requiring a level of access to auditors or researchers, it is unlikely this will change.

¹ Priyanjana Bengani, *As election looms, a network of mysterious ‘pink slime’ local news outlets nearly triples in size*, Columbia Journalism Review (Aug. 2020) (www.cjr.org/analysis/as-election-looms-a-network-of-mysterious-pink-slime-local-news-outlets-nearly-triples-in-size.php).

² Emily Bell and Sara Sheridan, *Google and Facebook Have a News Labeling Problem*, Columbia Journalism Review (Oct. 2020) (www.cjr.org/analysis/google-and-facebook-have-a-news-labeling-problem.php).