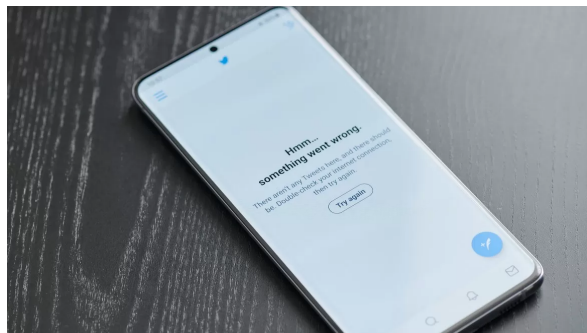


CENSORSHIP

Twitter Files Reveal Politicians, Officials Evading the Constitution's Restrictions

People in power lean on private businesses to impose authoritarian policies forbidden to the government.

J.D. TUCCILLE | 1.2.2023 7:00 AM



(Dimarik16 / Dreamstime.com)

In recent years, social media firms, financial institutions, and hosting platforms have denied services to disfavored customers, sometimes for political reasons. The response from many quarters (myself included) has been that people have free association rights and can generally do business as they please.

But what if these outfits are private-ish, enacting policy on behalf of politicians to spare them pushback or allow for end-runs around constitutional protections? They do so out of ideological agreement, fear of government retaliation, or a mix of both. That messy scenario is what the Twitter Files reveal of the relationship between the social media giant and federal officials. It's a glimpse of a bigger problem.

"The United States government pressured Twitter to elevate certain content and suppress other content about COVID-19 and the pandemic," wrote David Zweig of *The Free Press*, who joined Matt Taibbi, Michael Shellenberger, and *Free Press* founder Bari Weiss in revealing Twitter's collaboration with the state at the request of new owner Elon Musk. "Internal emails that I viewed at Twitter showed that both the Trump and Biden administrations directly pressed Twitter executives to moderate the platform's content according to their wishes."

The FBI and the Department of Homeland Security also leaned on the platform to suppress what officials considered election-related "misinformation." The files revealed internal disputes over what crossed the line, with decisions based on judgment calls. The employment of former feds and what *The Dispatch's* David French terms "an ideological monoculture" ensured that such decisions generally deferred to authority, especially after the Biden administration took office.

But Twitter isn't a special case. In 2021, President Joe Biden accused Facebook of "killing people" by allowing discussion of government-disfavored ideas about COVID-19 response. "White House Press Secretary Jen Psaki singled out a dozen specific anti-vaccine Facebook accounts and called on the platform to ban them," *Reason's* Robby Soave noted at the time.

Accusations of homicide by a president who commands regulatory authority aren't subtle. Whatever corporate executives think of those in power, they may consider it wise to do for government what is forbidden to the state.

"In America, government censorship is limited by the First Amendment," Will Duffield noted in a Cato Institute report about what he terms "jawboning." "Nevertheless, seizing upon the relationship between platforms and speakers, government officials increasingly demand that platforms refrain from publishing disfavored speech. They threaten platforms with punitive legislation, antitrust investigations, and prosecution. Government officials can use informal pressure—bullying, threatening, and cajoling—to sway the decisions of private platforms and limit the publication of disfavored speech."

Few countries have America's strong protections for free speech, but their governments still find it cheap and efficient to deputize private businesses as proxy censors. The European Union's Digital Services Act (DSA) sets penalties for online platforms that fail to suppress speech the government doesn't like.

"The DSA does not strike the right balance between countering genuine online harms and safeguarding free speech," Jacob Mchangama, executive director of Copenhagen's Justitia think tank, warned in April of 2022. "It will most likely result in a shrinking space for online expression, as social media companies are incentivized to delete massive amounts of perfectly legal content."

Companies doing business in China inevitably find themselves conscripted as arms of state authority.

"One of Hong Kong's last remaining pro-democracy activist groups has had its account with online payments processor PayPal terminated," *Voice of America* reported in October. "The League of Social Democrats says that PayPal, a multinational financial technology company headquartered in California and Nebraska, sent an email stating it can no longer provide its services to the activist group."

Then again, PayPal may not require much pressure to politicize its business. In October, amidst an uproar, the company backed off a plan to fine customers for "misinformation." But UCLA Law's Eugene Volokh pointed out that its remaining arbitrary policies regarding acceptable speech remain "a good reason to think twice about using PayPal."

Free speech is dear to Americans, but it's not the only constitutionally protected right that politicians and their allies want to bypass. Earlier this year, Amalgamated Bank, a labor-union owned outfit with explicit ideological leanings, touted its efforts to track firearms purchases:

"Amalgamated Bank announced that its application to the International Standards Organization for a new merchant category code (MCC) for gun and ammunition stores was approved. This code is the key to creating new tools that all financial institutions must now use to begin detecting and reporting suspicious activity associated with gun trafficking and mass shootings to the Financial Crimes Enforcement Network, the government agency charged with safeguarding the financial system from illicit use."

Unbound by the Second Amendment this [avowedly anti-gun institution](#) not only pursues goals forbidden to politicians but also tries to force others to comply. There's no reason it stops there.

"Some executives in private discussions have flagged concerns that it could lead to the creation of more codes that could be used to crack down on controversial businesses such as abortion providers," *The Wall Street Journal* [reported](#).

Other examples aren't so dramatic. I recently asked the manager of a Phoenix apartment complex about its ban on backed-in parking. She told me the company partners with the police as a "safe" property and that the parking requirement is a condition of participation. Arizona has only rear license plates, so nose-in parking makes it easier for patrol cars to drive through and scan plates. Do the owners want to stay on the good side of authorities by being cooperative? Of course.

All of which means that the Twitter Files expose the larger problem of government, constrained in its own actions, turning to private proxies to impose authoritarianism. Some proxies are willing and driven by ideological agreement, and that's their right. But the regulatory state gives officials enormous leverage over private firms and makes it harder to launch competitors that adhere to different values. Unsurprisingly, politicians [want to restrict payment systems](#) that can be used without the permission of government officials and their allies.

The regulatory state has long been criticized for impeding innovation and raising barriers to entry. But it's also a weapon for imposing authoritarianism in defiance of restrictions on the power of officials. That's yet another reason for rejecting an expansive government, and perhaps the best of all.

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