

May 21, 2025

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Request for Public Comment Regarding Technology Platform Censorship

Dear Commissioners,

Free Press writes in response to the Federal Trade Commission's ("FTC" or the "Commission") Request for Information on whether and how technology platforms deny or degrade users' access to services based on those users' speech or affiliations. Free Press is a nonpartisan, nonprofit media and technology advocacy organization. For over two decades, we have engaged in administrative agency proceedings such as this one, as well as litigation, congressional advocacy, research, and public education – all to champion equitable access to open channels of communication and diverse and independent ownership of media platforms.

Free Press submits this comment to highlight three key points. First and foremost, Commissioners Slaughter and Bedoya must not be barred from engaging in this or any work undertaken by the Federal Trade Commission for the remainder of their statutorily established terms as commissioners of the agency. Second, major technology platforms' content moderation practices can, and do, cause concrete harms. But third, and critically, the Commission's ability to regulate such practices is constrained, as it should and must be, by the Constitution and statutory considerations. Tech platforms have a First Amendment right to create and enforce their own content moderation policies, and government interference with those decisions creates a slippery slope to improper coercion and censorship.

**Commissioners Bedoya and Slaughter must not be barred from engaging in this or any work undertaken by the Federal Trade Commission**

As a critical threshold matter, Free Press notes that Commissioners Alvaro Bedoya and Rebecca Slaughter should be involved not only in this proceeding and any actions that flow from it, but in all ongoing matters at the Commission. Both were nominated for their roles by the President and duly confirmed by the Senate. Both still have time left in their statutorily established terms as FTC Commissioners.<sup>1</sup> And yet, both Commissioners have been unlawfully prohibited from carrying out

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<sup>1</sup> See 15 U.S.C. § 41.

their duties since March, with Chairman Ferguson’s public support and approval for their so-called firing.<sup>2</sup>

The absurdity of their current situation is highlighted by an action like this Request for Information, which is purportedly concerned with harms that consumers may suffer at the hands of large technology platforms. Commissioners Bedoya and Slaughter have both championed consumers’ rights and challenged the abuses of powerful technology companies, and both have deep expertise on these issues. To act under the guise of looking out for consumers, while hamstringing the Commission’s expertise to do so, underscores the emptiness of this gesture.

Preventing Commissioners Bedoya and Slaughter from engaging in the FTC’s ongoing work fundamentally undermines the integrity of the Commission as a whole, including the products of this and any other actions the agency might undertake while two Commissioners remain unlawfully barred from their offices.

### **Large technology platforms’ content moderation policies and practices can, and do, cause concrete harms**

Since the early internet days of online bulletin boards and forums, content moderation – or its absence – has generated controversy. Questions about platforms’ legal obligations towards and liabilities for user generated content quickly made their way from message boards to both state and federal courts,<sup>3</sup> motivating landmark legislation including Section 230 of the Communications Decency Act of 1996.

Whatever the legal framework for content moderation, in practical application platforms too often have prioritized scale – and correspondingly, profit – over the mounting record of harms to users<sup>4</sup> and over the workers tasked with moderating the influx of online content.<sup>5</sup> But even as platforms

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<sup>2</sup> Press Release, Andrew Ferguson, Chairman, Federal Trade Commission, FTC Chairman Andrew N. Ferguson Statement on Former Commissioners Slaughter and Bedoya (Mar. 19, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/03/ftc-chairman-andrew-n-ferguson-statement-former-commissioners-slaughter-bedoya>.

<sup>3</sup> See *Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, 1995 WL 323710 (N.Y. Sup. Ct. 1995); *Cubby, Inc. v. CompuServe, Inc.*, 776 F. Supp. 135 (S.D.N.Y. 1991).

<sup>4</sup> See, e.g., Amnesty Int’l, *The Social Atrocity: Meta and the Right to Remedy for the Rohingya* 26–49, 59–60 (2022), [https://www.amnestyusa.org/wp-content/uploads/2022/09/Updated-Final-Report\\_The-Social-Atrocity-\\_0609202259.pdf](https://www.amnestyusa.org/wp-content/uploads/2022/09/Updated-Final-Report_The-Social-Atrocity-_0609202259.pdf); Caroline Crystal, *Facebook, Telegram, and the Ongoing Struggle Against Online Hate Speech*, Carnegie Endowment for Int’l Peace (Sept. 7, 2023), <https://carnegieendowment.org/research/2023/09/facebook-telegram-and-the-ongoing-struggle-against-online-hate-speech>.

<sup>5</sup> See, e.g., Sonia Kgomo, *I was a content moderator for Facebook. I saw the real cost of outsourcing digital labour*, *The Guardian* (Feb. 12, 2025), <https://www.theguardian.com/commentisfree/2025/feb/12/moderator-facebook-real-cost-outsourcing-digital-labour>; Zoe Kleinman, *‘I was moderating hundreds of horrific and traumatising videos’*, *BBC* (Nov. 10, 2024), <https://www.bbc.com/news/articles/crr9q2jz7y0o>.

began to scale, it became clear that content moderation infrastructure (often referred to as “trust and safety”) was critical to facilitating sustained engagement and expression online. Every major platform – and plenty of smaller ones – recognized that without *some* content moderation, their products would be overrun by bots, spam, scams,<sup>6</sup> and other potentially objectionable content for the online communities they reach. And platforms may not always recognize the impacts of their policies and implementation choices. Yet many people are discouraged from speaking and participating online entirely due to targeted harassment, hate speech, and threats of violence that platforms routinely miss or fail to remove in line with their own community standards and terms of service.<sup>7</sup>

Platforms’ efforts to moderate content have been inconsistent and imperfect. For years, Free Press has engaged in advocacy regarding tech platforms’ content moderation policies and enforcement actions.<sup>8</sup> We have produced original research tracking companies’ policy commitments and subsequent rollbacks, their varying investment and disinvestment in content moderation infrastructure, and other related issues.<sup>9</sup> Free Press has also encouraged companies to bolster their content moderation policies around hate speech, incitement to violence, and harassment in order to facilitate greater access to online spaces for all.

Research has shown that the most severe forms of online harassment, including sexual harassment and threats of physical violence, continue to increase across platforms.<sup>10</sup> Research has also consistently shown that women, people of color, and LGBTQ+ people face disproportionately high rates of online harassment and abuse, while also being uniquely at-risk for having platforms take their content down.<sup>11</sup> These kinds of behaviors actively discourage such individuals, who are targeted by threats to which platforms do not consistently attend, from speaking and interacting

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<sup>6</sup> See Manuela López Restrepo, *How the porn bots took over Twitter*, NPR (Mar. 7, 2024), <https://www.npr.org/2024/03/07/1235784919/twitter-x-bots-social-media-clon-musk>.

<sup>7</sup> Danielle Keats Citron & Jonathon Penney, *Empowering Speech by Moderating It*, Dædalus, Summer 2024, at 34–35, [https://www.amacad.org/sites/default/files/publication/downloads/daedalus\\_su24\\_03\\_citron\\_penney.pdf](https://www.amacad.org/sites/default/files/publication/downloads/daedalus_su24_03_citron_penney.pdf); Viktorya Vilk & Elodie Vialle, *No Excuse for Abuse*, PEN America (Mar. 31, 2021), <https://pen.org/report/no-excuse-for-abuse>.

<sup>8</sup> See, e.g., *Media & Platform Accountability*, Free Press, <https://www.freepress.net/issues/media-platform-accountability> (last visited May 20, 2025).

<sup>9</sup> See, e.g., Nora Benavidez, *Big Tech Backslide*, Free Press (Dec. 2023), <https://www.freepress.net/big-tech-backslide-how-social-media-rollbacks-endanger-democracy-ahead-2024-elections>.

<sup>10</sup> Emily A. Vogels, *The State of Online Harassment*, Pew Rsch. Ctr. (Jan. 13, 2021), <https://www.pewresearch.org/internet/2021/01/13/the-state-of-online-harassment>.

<sup>11</sup> *Creating safe digital spaces free of trolls, doxing, and hate speech*, U.N. Women (Nov. 13, 2023), <https://www.unwomen.org/en/news-stories/explainer/2023/11/creating-safe-digital-spaces-free-of-trolls-doxing-and-hate-speech>; Ángel Díaz & Laura Hecht-Felella, *Double Standards in Social Media Content Moderation*, Brennan Ctr. for Just. (Aug. 4, 2021), <https://www.brennancenter.org/our-work/research-reports/double-standards-social-media-content-moderation>.

with others online in both their personal and their professional capacities.<sup>12</sup> Meanwhile, major tech platforms like Meta are actively rolling back many of their platforms' own existing protections, including prohibitions on targeted harassment.<sup>13</sup> This January, Meta eliminated its policies prohibiting dehumanizing rhetoric, like referring to racial and ethnic groups as “filth” and to women and gender nonconforming people as objects, despite experts' research linking such rhetoric to physical violence against its target.<sup>14</sup>

Our 2024 report *Big Tech Backslide* documented how the largest technology platforms systematically deprioritized content moderation and other trust and safety functions ahead of the 2024 election cycle in the United States and abroad.<sup>15</sup> This research found that widespread layoffs at companies including Meta, Twitter (X), and YouTube have impacted critical teams including trust and safety over the past two years in particular. It also found that platforms were continuing to treat VIP account holders, like Donald Trump, preferentially – applying existing policies to them less stringently and enforcing against their violations less consistently or not at all. Arbitrary policy enforcement can even stoop to the level of personal grudges held by platform executives. For example, since acquiring Twitter (and re-naming it X), Elon Musk has compiled a long track record of suspending journalists who had reported on Musk and his companies,<sup>16</sup> and has also reportedly demonetized Musk's conservative critics.<sup>17</sup>

Free Press has consistently pushed a range of tech platforms – from dominant players to newer entrants – to commit to not only better content moderation policies but also more consistent and

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<sup>12</sup> Int'l Ctr. for Journalists, *The Chilling: A global study of online violence against women journalists*, (Julie Posetti & Nabeelah Shabbir eds., 2022), [https://www.icfj.org/sites/default/files/2023-02/ICFJ%20Unesco\\_TheChilling\\_OnlineViolence.pdf](https://www.icfj.org/sites/default/files/2023-02/ICFJ%20Unesco_TheChilling_OnlineViolence.pdf); Dhanaraj Thakur & DeVan Hankerson Madrigal, *An Unrepresentative Democracy: How Disinformation and Online Abuse Hinder Women of Color Political Candidates in the United States*, Ctr. for Democracy & Tech. (Oct. 27, 2022), <https://cdt.org/insights/an-unrepresentative-democracy-how-disinformation-and-online-abuse-hinder-women-of-color-political-candidates-in-the-united-states>.

<sup>13</sup> Justin Hendrix, *Transcript: Mark Zuckerberg Announces Major Changes to Meta's Content Moderation Policies and Operations*, Tech Policy Press (Jan. 7, 2025), <https://www.techpolicy.press/transcript-mark-zuckerberg-announces-major-changes-to-metas-content-moderation-policies-and-operations>.

<sup>14</sup> Ina Fried, *Meta's new policies open gate to hate*, Axios (Jan. 9, 2025), <https://www.axios.com/2025/01/09/meta-moderation-transgender-women-hate>; *2025 Social Media Safety Index*, GLAAD (Spring 2025), <https://glaad.org/smsi/lgbtq-social-media-safety-program>.

<sup>15</sup> Benavidez, *supra* note 9.

<sup>16</sup> Mark Joyella, *Elon Musk Accused of 'Silencing His Critics' As X Suspends Journalists*, Forbes (Jan. 9, 2024), <https://www.forbes.com/sites/markjoyella/2024/01/09/elon-musk-silencing-his-critics-as-journalists-are-suspended-by-x>.

<sup>17</sup> David Ingram, *Elon Musk accused of censoring conservatives on X who disagree with him about immigration*, NBC News (Dec. 27, 2024), <https://www.nbcnews.com/tech/social-media/elon-musk-accused-censoring-laura-loomer-maga-republicans-x-rcna185569>.

transparent content moderation practices.<sup>18</sup> Like companies' privacy policies, many large tech platforms' content moderation policies have become more convoluted over time – difficult to track, hard to parse, and lacking clarity.<sup>19</sup> At the same time, major companies' disinvestment in content moderation infrastructure means fewer resources dedicated to mechanisms like appeals processes via which users can challenge content removals and account restrictions.

These are not the only failures endemic to large platforms' content moderation efforts (or lack thereof). Large tech platforms demonstrate dramatic and persistent discrepancies in their investments in moderating English language vs. non-English language content.<sup>20</sup> This is despite many platforms having a number of non-English speakers far in excess of their English speaking (and specifically U.S.-based) users.<sup>21</sup> Companies' prioritization of profit over robust content moderation has long extended to their ad marketplaces as well, with platforms from TikTok to X failing to flag or remove violent hate speech targeting women, as just one example.<sup>22</sup>

Many of these failures have been documented through the diligent work of researchers in both academia and civil society. But increasingly, major tech platforms have been rolling back access to the data necessary for independent researchers to even conduct this work in a systematic and rigorous way. Even more egregious, some tech platforms have been targeting researchers with lawsuits and other threats of legal action – a favorite strategy of X's Elon Musk.<sup>23</sup> At the same time, a stream of congressional subpoenas targeting researchers whose work involves monitoring online information campaigns has helped fuel harassment that has left people fearing for their safety if they speak publicly about their research.<sup>24</sup>

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<sup>18</sup> Free Press, *Empty Promises: Inside Big Tech's Weak Effort to Fight Hate and Lies in 2022* (Oct. 2022), [https://www.freepress.net/sites/default/files/2022-10/empty\\_promises\\_inside\\_big\\_techs\\_weak\\_effort\\_to\\_fight\\_hate\\_and\\_lies\\_in\\_2022\\_free\\_press\\_final.pdf](https://www.freepress.net/sites/default/files/2022-10/empty_promises_inside_big_techs_weak_effort_to_fight_hate_and_lies_in_2022_free_press_final.pdf).

<sup>19</sup> David Lazarus, *Want to read a tech company's user agreements? Got 90 minutes to spare?*, L.A. Times (Aug. 24, 2021), <https://www.latimes.com/business/story/2021-08-24/column-consumer-contracts>.

<sup>20</sup> Marwa Fatafta, *Facebook is bad at moderating in English. In Arabic, it's a disaster*, Rest of World (Nov. 18, 2021), <https://restofworld.org/2021/facebook-is-bad-at-moderating-in-english-in-arabic-its-a-disaster>.

<sup>21</sup> Farhana Shahid, *Colonialism in Content Moderation Research: The Struggles of Scholars in the Majority World*, Ctr. for Democracy & Tech. (Aug. 26, 2024), <https://cdt.org/insights/colonialism-in-content-moderation-research-the-struggles-of-scholars-in-the-majority-world>.

<sup>22</sup> “*Female stupidity at its best. They all need to die.*”: Violent and sexualized hate speech targeting women approved for publication by social media platforms, Global Witness (Dec. 7, 2023), <https://globalwitness.org/en/campaigns/digital-threats/violent-and-sexualised-hate-speech-targeting-women-approved-for-publication-by-social-media-platforms>.

<sup>23</sup> See Bobby Allyn, *Judge dismisses Elon Musk's suit against hate speech researchers*, NPR (Mar. 25, 2024), <https://www.npr.org/2024/03/25/1239549276/elon-musk-lawsuit-hate-speech-researchers>.

<sup>24</sup> Naomi Nix & Joseph Menn, *These academics studied falsehoods spread by Trump. Now the GOP wants answers*, Wash. Post (June 6, 2023), <https://www.washingtonpost.com/technology/2023/06/06/disinformation-researchers-congress-jim-jordan>.

## **Tech platforms have a First Amendment right to create and enforce content moderation policies**

Nevertheless, whether tech platforms' content moderation infrastructures are adequate to mitigate harassment, scams, incitement to violence, and other harms is a separate question from whether they can lawfully moderate user-generated content on their platforms in the first place.

The answer to the latter question is straightforward. The Supreme Court has noted that platforms' content moderation decisions are “exactly the kind of editorial judgments this Court has previously held to receive First Amendment protection.”<sup>25</sup> As a result, any government interference with companies' creation, publication, and enforcement of content moderation policies must clear the incredibly high bar established by First Amendment precedent, and not itself constitute government censorship in the name of combating anecdotal and legally dubious claims of corporate “censorship.”

Tech platforms' ability to engage in content moderation is further protected – and explicitly encouraged – by Section 230. Section 230 applies not only to what platforms keep up, in the form of the protection against treatment as a publisher of third-party content; but also to platforms' decisions to remove violative content they find to be objectionable.<sup>26</sup> While the contours of Section 230 continue to yield new judicial opinions and stoke congressional debate, this concise legal provision paved the way in the United States for social media platforms like Facebook and the comment sections of all sorts of other sites, such as those of local news outlets.<sup>27</sup> As noted above, research demonstrates that an absence of content moderation actually can chill free expression by allowing for unchecked harassment and abuse of individual people or entire groups.<sup>28</sup> Section 230 encourages and facilitates this kind of content moderation, despite some pundits' completely erroneous belief that “interactive computer services” under the law must not moderate or express preferences.

Because of these legal protections, tech platforms have engaged in a wide range of content moderation practices that have changed over time – sometimes in response to users' concerns, other times at the whim of corporate executives. Both public opinion and, relatedly, economic

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<sup>25</sup> *Moody v. NetChoice, LLC*, 603 U.S. 707, 718 (2024); Press Release, *Internet Speech Cases Turn on Procedural Grounds as the Supreme Court Articulates Strong First Amendment Protections for Content Moderation*, Free Press (July 1, 2024), <https://www.freepress.net/news/internet-speech-cases-turn-procedural-grounds-supreme-court-articulates-strong-first-amendment>.

<sup>26</sup> Press Release, *Free Press Action's Matt Wood Testifies That Section 230 Is Necessary and Any Fixes Must Strike the Right Balance*, Free Press (Dec. 1, 2021), <https://www.freepress.net/news/free-press-actions-matt-wood-testifies-section-230-necessary-and-any-fixes-must-strike-right>.

<sup>27</sup> Stephen Engelberg, *Twenty-Six Words Created the Internet. What Will It Take to Save It?*, ProPublica (Feb. 9, 2021), <https://www.propublica.org/article/nsu-section-230>.

<sup>28</sup> See *supra* note 7.

incentives play a key role in shaping these decisions.<sup>29</sup> Large platforms want more user traffic, and users consistently report that they do not want to see violent, hateful, or fake content.<sup>30</sup> Some platforms rely on in-house trust and safety teams, some outsource this work to contractors, and some rely on users themselves to moderate others' content. Diverse platforms, ranging from Reddit to Facebook, rely on a mix of all three. Some platforms have been created or grown in popularity due to dissatisfaction with the content moderation policies and practices of other platforms.<sup>31</sup>

Free Press has pushed – and continues to push – tech platforms to adopt content moderation policies and practices that are more robust, transparent, and responsive to the interests of users, and also protective of content moderation workers. Yet we also recognize that government intervention in these decisions is unwise and unlawful the further any action the Commission may undertake here travels down a slippery slope to censorship.

Respectfully submitted,

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<sup>29</sup> Pinar Yildirim & Z. John Zhang, *How Social Media Firms Moderate Their Content*, Knowledge at Wharton (Jan. 24, 2022), <https://knowledge.wharton.upenn.edu/article/social-media-firms-moderate-content>.

<sup>30</sup> See Free Press, *2024 Poll: Americans' Views on Media, Technology & Democracy 2* (May 2024), [https://www.freepress.net/sites/default/files/2024-07/free\\_press\\_2024\\_national\\_poll\\_highlights\\_final\\_version.pdf](https://www.freepress.net/sites/default/files/2024-07/free_press_2024_national_poll_highlights_final_version.pdf); Yannis Theocharis et al., Content Moderation Lab at TUM Think Tank, *Content Warning: Public Attitudes on Content Moderation and Freedom of Expression* (2025), <https://osf.io/s3kcw>; Michelle Amazeen, *Americans Expect Social Media Content Moderation*, Bos. Univ. (Jan. 28, 2025), <https://www.bu.edu/articles/2025/americans-expect-social-media-content-moderation>.

<sup>31</sup> Verge Staff, *The hunt for the next Twitter: all the news about alternative social media platforms*, The Verge, <https://www.theverge.com/23686584/twitter-alternative-social-media-platforms-mastodon-bluesky-activitypub-protocol> (last accessed May 20, 2025).