

# We're fighting the Covid censors

When there is scientific disagreement or uncertainty, the government must never pretend there is consensus and certainty.

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On July 4, our Independence Day, Judge Terry Doughty **issued** a preliminary

injunction ordering the federal government to immediately cease contact with social media companies, which it had been urging to censor protected free speech. Evidence unearthed in the Missouri v. Biden case, in which we are co-plaintiffs, has revealed a vast federal enterprise dictating to social media companies who and what to censor. The Centers for Disease Control and Prevention (CDC), the Surgeon General's office, the National Institutes of Health, the FBI, the State Department, the Department of Homeland Security and the White House itself were all closely involved.

You can get a good sense of what ideas the government finds threatening from its priority list of what it does not want Americans to talk about freely: the pandemic, vaccines, wars, concerns about election fraud and Hunter Biden's laptop.

In the Missouri case, depositions of government officials and the discovery of email exchanges between the government and social media companies show an administration willing to threaten the use of its regulatory power to harm social media companies that do not comply with censorship demands.

Social media companies rely on Section 230 of the Communications Decency Act, which immunizes them against

defamation lawsuits that traditional media are subject to. It states, “No 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.” But unlike, for example, a phone company, they may still censor or decline to publish perfectly legal content protected under the First Amendment. For social media companies, losing this protection would threaten their multibillion-dollar business.

The companies understand what is at stake even if the threats are not explicit. But documents adduced in this case sometimes show explicit threats. For instance, at one point, White House communications director Kate Bedingfield announced that “the White House is assessing whether social-media platforms are legally liable for misinformation spread on their platforms, and examining how misinformation fits into the liability protection process by Section 230 of the Communication [sic] Decency Act.” The government’s message to social media companies was unmistakable: comply or else. Internal documents show company employees sometimes trying to push back on censorship demands but then capitulating.

The administration insists that without the power to censor social media, dangerous misinformation will spread unchecked. But the government also wanted social media companies to censor true information that cut against its policy goals. For instance, social media censored accurate health information like the fact that Covid recovery provides excellent natural immunity that is better than that developed from receiving the vaccines.

We both have personal experience of social media censorship. In October 2020, Francis Collins, the head of the National Institutes of Health, emailed then-director of the National Institute of Allergy and Infectious Diseases Anthony Fauci to organize a “devastating takedown” of the Great Barrington Declaration, a focused protection anti-lockdown public letter co-written by the two of us and Professor Sunetra Gupta of Oxford University.

Almost immediately, tech companies such as YouTube, Google, Reddit and Facebook censored mentions of the Declaration.

In 2020, Twitter blacklisted one of us (Dr. Kulldorff) for arguing that schools should re- open. He cited an excellent study that showed Sweden safely kept its schools and daycare open for children fifteen and under in the spring, with no Covid deaths among its 1.8 million school- aged children and no excess risk for teachers. In 2021, Twitter blacklisted the other (Dr. Bhattacharya) immediately after joining for posting a link to the Great Barrington Declaration.

Ironically, even the White House itself was caught by its censorship demands. At the administration's behest, Facebook implemented AI algorithms to suppress posts their computers deemed "antivax." When the CDC issued a "pause" on the distribution of the Johnson & Johnson Covid vaccine because it had identified an elevated level of strokes, the Facebook algorithms tagged the White House account as "antivax." The administration angrily ordered Facebook to stop censoring its speech while at the same time firing Dr. Kulldorff from a position as a CDC scientific advisor for arguing against the J&J "pause." Their apparent position: free speech for the government, but not for anyone opposing the government in whatever direction.

The July 4 ruling in Missouri v. Biden restored free speech in America for ten days. On July 14, the government appealed to the Fifth Circuit Court, leading to an administrative stay of the injunction. On August 10, in an oral argument, the government told the federal judges that it has a right to violate the First Amendment because there is an ongoing pandemic, including a right to censor the truth. At the time of writing the Fifth Circuit ruling is still pending, and due to its fundamental and significant implications regarding freedom of speech, the case may eventually end up at the Supreme Court.

Why were knowledgeable and outspoken scientists treated with censorship and contempt during the pandemic? The government's

smearing and censorship of scientific dissidents caused other scientists to self-censor. Its censorship enterprise created a public illusion that there was scientific consensus in favor of the government's policies, even though many epidemiologists and public health scientists disagreed with the unscientific and ill-fated lockdown strategy that contradicted ethical principles of public health.

When there is scientific disagreement or uncertainty, the government must never pretend there is consensus and certainty. Let us learn from this shameful episode that the truth should never be censored and that the solution to incorrect information is more speech, not less.

**By Jay Bhattacharya And Martin Kulldorff**