

TESTIMONY OF  
THE FEDERALIST CEO AND CO-FOUNDER SEAN DAVIS

For the

UNITED STATES SENATE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

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SHUT YOUR APP: HOW UNCLE SAM JAWBONED BIG TECH INTO SILENCING  
AMERICANS

Chairman Cruz, Ranking Member Cantwell, and members of the committee, thank you for inviting me to testify on behalf of First Amendment speech and press rights and against authoritarian censorship designed to shut down the free speech rights of American citizens.

My name is Sean Davis, and I am the CEO and co-founder of The Federalist, a conservative digital media company focused on politics, culture, and religion. I am a Christian, a conservative, and a political commentator and reporter. I am also the victim of illegal and unconstitutional censorship by my government which was targeted at my publication, my publication, and me personally.

The First Amendment affirms and protects five God-given rights: free speech, religion, press, assembly, and petition. In my capacity as the publisher of a major national media outlet which produces news and opinion, an infringement on or abridgement of any one of those five rights can be cataclysmic.

Unfortunately, my publication, our writers, and I were all directly targeted for destruction by my own government, using my tax dollars. Even worse, much of the targeting was done in secret, by individuals and institutions who were desperate to hide their illegal and unconstitutional actions against us. This long-running conspiracy to deprive us of our God-given First Amendment rights is illegal, unconstitutional, and unconscionable. Sadly, many senators who sit on this committee either refused to condemn and fight these censorship efforts, or outright supported them.

In the summer of 2020, at the behest of foreign government-connected organizations, Google attempted to demonetize The Federalist for the apparent crime of criticizing American government response to and media coverage of COVID-19 and the violent Black Lives Matter (BLM) riots that raged throughout the country. The apparent article that triggered this outrageous attack on us and our First Amendment rights was entitled, "The Media Are Lying To You About Everything, Including The Riots."

This was all orchestrated secretly behind closed doors between a foreign NBC News cell and corrupt Google executives, despite the fact that we had broken zero rules. But that was only the beginning.

Unbeknownst to us at the time, a government department called the Cybersecurity and Infrastructure Security Agency (CISA) was also directing and funding censorship efforts against my colleagues and me because of our reporting on unprecedented new election laws rammed through ahead of the 2020 election. This agency is supposed to prevent attacks on American infrastructure, but at some point its leaders apparently decided that its real objective was to censor American citizens and journalists for criticizing their own government.

My colleagues and I were deliberately singled out for censorship because our own government decided our rights as citizens and members of the news media needed to be crushed. The agency and its partners used a ticketing system to flag and report social media posts that it wanted to be eliminated and funded efforts to badger and threaten tech companies, many of which had effective monopolies over online content, to delete social posts that the government and its partners found inconvenient.

For those who know me or follow me on social media, I can be opinionated and provocative. But in this particular case, it wasn't even one of my spicier tweets that attracted the ire of Orwellian government censors. In a tweet targeted for censorship, I posted a screenshot of and a link to a Pennsylvania Supreme Court decision which stated that mail-in ballots received after the election and containing no postmark still had to be presumed as cast on-time, and counted. Anyone who understands basic logic can see the problems with such a declaration: ballots cast and mailed long after the election, potentially even after preliminary results were known, would still have to be counted, creating huge incentives to flood the system with late, invalid ballots.

My tweet with the link to and screenshot of that Pennsylvania Supreme Court decision was censored by Twitter, and it was done so at the direct demand of a U.S. federal government-sponsored censorship consortium. Another one of my tweets, in which I alleged that the best evidence that the 2020 election was being rigged was the fact that tweets stating the election was being rigged were being censored, was censored. Another ticket demanding censorship of me stated, "[S]ame guy (sean davis) continues to post about this. has spread to thousands on [Facebook] because of Federalist article[.]"

According to JIRA ticket data obtained and release by the House Judiciary Committee, at least 21 separate tickets were submitted to censor Twitter posts from me. Several of those tickets also demanded censorship by Facebook.

Kafka-esque doesn't even begin to describe this madness.

My colleague Mollie Hemingway, who wrote a national best-selling and rigorously researched and fact-checked book about 2020 election shenanigans, was also censored by Twitter at the demand of the federal government and its partners. Multiple censorship tickets were submitted to shut down her social media presence. The most ridiculous example was a demand to censor a tweet from Mollie which contained a link to an article published by The Federalist. The headline of that article? "America won't trust elections until the voter fraud is investigated."

Imagine how deranged and authoritarian you must be to want to censor a post about how addressing voter fraud is key to ensuring election integrity.

Though we noticed and wrote about that censorship at the time, we had no idea that it was our own government which funded and targeted our speech for censorship, nor did we understand how often we had been targeted, both personally and institutionally. It was only through dogged investigation and oversight from people like Rep. Jim Jordan and then-Missouri Attorney General and now-Sen. Eric Schmitt that the depths of the government scheming against us even began to be plumbed.

Again, the censorship didn't stop there, and it didn't remain contained within CISA. We were also targeted for outright bankruptcy and destruction by the U.S. State Department and its Global Engagement Center (GEC). Despite the fact that GEC was explicitly prohibited by both the U.S. Constitution via the First Amendment and by the very statute which created and authorized the agency from targeting domestic speech, it nonetheless sought to drive us out of business by funding, developing, and distributing technologies and tools to reduce our reach, by bullying advertisers into blacklisting us and many other conservative outlets, and by coercing Big Tech companies like Facebook, Twitter, and Google to throttle access to our content. In essence, our own government secretly and without any due process charged us with thoughtcrimes, convicted us, and sentenced The Federalist to death.

We survived, but just barely.

Once the censorship-industrial complex injected its lies into the bloodstream of the body politic, the effects became endemic and permanent. To this day, we are still dealing with the effects of their blatantly illegal and unconstitutional censorship efforts. Although we sued in federal court nearly two years ago, we are still awaiting relief. Although the President and Vice President of the United States admitted that these illegal censorship efforts were undertaken, we are still awaiting relief. And although the U.S. Secretary of State himself, whose agency targeted The Federalist, plainly admitted in our very pages that the State Department did exactly what we alleged, we are still awaiting relief. Some members of this committee have supported our efforts to vindicate our rights. Many, however, haven't said a word in our defense, a fact which suggests that defenses of media millionaires like Jimmy Kimmel are based more on partisanship than any sort of actual belief in free speech.

And it is worth noting that unlike Mr. Kimmel, who is employed and distributed by a broadcaster who is required to abide by well-known rules as a condition of operating a monopoly on publicly owned airwaves—rules that were drafted and enacted by this very legislative body—my colleagues and I are independent journalists who operate online, far outside the regulatory purview of the Federal Communications Commission (FCC). FCC rules and regulations, which radio and television broadcasters like Mr. Kimmel are required to obey, do not apply to us. It also takes real chutzpah, in the aftermath of the assassination of Charlie Kirk—who was brutally murdered while peacefully debating a college student about transgender ideology—to try and make Jimmy Kimmel a free speech martyr just to cynically change the subject from yet another example of left-wing violence designed to permanently silence not just speech, but its speakers.

As we noted in our complaint against the State Department, we are the victims of one of the most audacious, manipulative, secretive, and gravest abuses of First Amendment rights by the federal government in American history.

I have no doubt today that we will hear words like “disinformation,” “misinformation,” and “malinformation” thrown around by politicians desperate to create a pretext for censoring speech and speakers they don’t like. Make no mistake: these types of labels exist entirely to justify illegal and unconstitutional violations of the First Amendment rights of every American.

Americans are allowed to say ridiculous things on the Internet. They are allowed to post things you don’t think are true. They are allowed to publish things that are mean. They are allowed to be hateful. Politicians and government officials do not have the authority to bootstrap their way to censorship by baselessly throwing a “Russian disinformation” label on every post or news article they don’t like. In fact, the more a particular politician dislikes a particular political statement, the more it is protected by the First Amendment. We don’t really need laws to protect popular speech. It is the unpopular speech, the speech that criticizes government, that is most desperately in need of protection.

It also is imperative that everyone lives under the exact same speech regime. A legal regime in which one party or one side of the political spectrum has free speech, while another is subjected to speech controls, is an abomination, and one that should not be tolerated. It is absurd to watch the government crack down on accurate reporting, like that of the New York Post, which was censored for reporting on Hunter Biden’s laptop, and then watch publications that repeatedly published falsehood after falsehood not just escape scrutiny, but receive lucrative journalism prizes and rewards for their nonsense.

I would prefer that everyone live under a legal regime that treasures and protects free speech and freedom of the press. In fact, I have fought for that for years. But I will not abide a system that illegally cracks down on conservative media while doing nothing to stem left-wing lies. Everyone should live under the same set of rules.

The best antidote to speech you don’t like is more speech. That is why the Founding Fathers drafted the Constitution and the Bill of Rights. They understood that a government could not purport to represent its people if it prohibited their rights to speech, assembly, religion, press, and petition. It is time to return to a world where we can say what we wish without fear of being censored, or deplatformed, or shot dead.

If you woke up two weeks ago and suddenly decided you care about free speech, I invite you to prove it. I invite you to demonstrate to the world that your commitment to free speech is principled, rather than an attempt to change the subject because one of your famous millionaire friends on television received 1/1,000,000,000<sup>th</sup> of the treatment that conservatives have been subjected to for years. I invite you to condemn the nakedly illegal and unconstitutional censorship efforts of the last 5 years. I invite you to apologize for any past support of censorship. I invite you to finally stand up for speech you don’t like from people you don’t like. And I invite you to condemn any and all violence meant to permanently silence speech, and speakers, even if you hate them.

Prove your commitment to the First Amendment is real by finally admitting to the censorship schemes many of you cheered, and working to make sure nothing like that ever happens again.