

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Committee on Small Business

FROM: Committee Majority Staff

DATE: June 18, 2024

RE: Full Committee Hearing Titled: “Under the Microscope: Examining the Censorship-Industrial Complex and its Impact on American Small Businesses”

On **Wednesday, June 26, 2024, at 10:00 AM ET**, the Committee on Small Business will hold a hearing titled “**Under the Microscope: Examining the Censorship-Industrial Complex and its Impact on American Small Businesses.**” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the impacts the Censorship-Industrial Complex is having on American small businesses, including on their revenue streams, as a result of their speech.

I. Witnesses

- **Ms. Jenin Younes**, Litigation Counsel, New Civil Liberties Alliance
- **Mr. Benjamin Weingarten**, Investigative Journalist & Columnist, RealClearInvestigations & RealClearPolitics
- **Ms. Carrie Sheffield**, Senior Policy Analyst, Independent Women’s Forum
- **Dr. Mary Anne Franks**, Eugene L. & Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law, George Washington Law School

II. Background

The House Committee on Small Business (Committee) is investigating the Federal government’s funding of companies who interfere with American small businesses’ ability to compete online because of their lawful speech.¹ The online marketplace is essential for generating revenue in the

¹ Constitutional protection does not turn on upon the truth, popularity, or social utility of the ideas and beliefs which are offered, *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 271-72, 84 S. Ct. 710, 721 (1964). The government is prohibited from imposing viewpoint-based censorship restrictions, *Police Dep’t v. Mosley*, 408 U.S. 92, 95 (1972).

modern economy. Small businesses and creators use social media platforms to grow their audience and earn revenue from advertising, sponsorships, and promoting their products. Entrepreneurs use online marketplace platforms to sell their products. News and media outlets have largely moved away from print in favor of web articles, allowing small independent news outlets to leverage this change as they rise to fill the gap left by the public's declining trust in legacy media. It is the expectation that these businesses be able to compete without improper government interference. However, it is now clear that the Federal government is creating an uneven playing field, picking winners and losers based upon their adherence to establishment narratives.

Using a “whole of society approach,” an intricate web of so-called “fact checking” organizations, think-tanks, Big Tech, universities, wealthy foundations, and government agencies work together to push one narrative and remove others, at the expense of fact. This collaboration of over 400 organizations has become known as the “Censorship-Industrial Complex” (CIC).² In their own words, these entities come together to “fill the gap of things the government cannot do themselves.”³ This is censorship by-proxy; the government may not leverage third parties to bypass the First Amendment.⁴ Rather than letting the public decide who to trust and which businesses survive, as is supposed to be the American way, the government and its partners have appointed themselves as arbiters of truth.

The Federal government has repeatedly funded CIC organizations who aim to deplete the online revenue of businesses expressing disfavored speech. Opposition to the establishment narrative is eliminated by labeling businesses as purveyors of mis-, dis-, or malinformation. This mainly occurs through three general mechanisms: (1) facilitating censorship of businesses' posts and accounts on social media websites, thereby eliminating reach to customers and revenue from social media monetization; (2) interfering with businesses' ability to sell their products on marketplace platforms; and (3) interfering with the ability of a business to earn advertising revenue and other income streams by diminishing said businesses' reputation and, in the case of media outlets, their circulation.

Companies such as the Global Disinformation Index (GDI) and NewsGuard label news and media outlets as purveyors of disinformation, attack their credibility using politicized metrics, and purposely interfere with advertising and other revenue streams. Using select studies to support their determinations of fact, these companies push partisan narratives and seek to interfere with the operations of businesses opposing those positions. The Department of Defense (DOD) used taxpayer dollars from the Small Business Innovation & Research program (SBIR) to license NewsGuard's product, outsourcing DOD's perception of fact and allowing NewsGuard to then use that money to further develop its work.⁵ GDI has also received Federal funding, and companies who built their products using GDI's methodology continue to receive taxpayer dollars.⁶

² Susan Schmidt, et al., *Report on the Censorship-Industrial Complex: The Top 50 Organizations to Know*, RACKET NEWS (May 10, 2023). <https://www.racket.news/p/report-on-the-censorship-industrial-74b>.

³ Matt Taibbi, *Stanford, The Virality Project, and the Censorship of “True Stories”*, SUBSTACK (Mar. 17, 2023).

⁴ *Norwood v. Harrison*, 413 U.S. 455, 465 (1973), “It is also axiomatic that a state may not induce, encourage or promote private persons to accomplish what it is constitutionally forbidden to accomplish.”

⁵ January 2021 Social Impact Report, NewsGuard, 37 (Jan. 21, 2022).

⁶ On file with the Committee.

Businesses have lost millions in revenue as a result. Some report earning only two – six percent of the advertising revenue expected for media outlets with audiences of their size.⁷ Others have had to undergo changes in business operations and downsizing. American’s own taxpayer dollars are being weaponized against their ability to make a living.

III. Conclusion

Disinformation designation turns on who decides what is truth and often involves issues subject to intense debate. Information framed as true or false is often done so on a political, rather than an unbiased, factual basis. Inaccurately painting a narrative as disinformation for partisan gain has become a dangerous recurring theme, often done under the guise of safety. While actual false information certainly can inflict harm, the solution should not be to censor it, but to combat it with correct information. Open dialogue is necessary to resolve complex issues. The elimination of dissenting voices is not the solution; using it as such does more harm than the problem itself.

Interference in businesses’ ability to compete online because they oppose the government’s preferred narrative must not be allowed to continue. The Federal government should be working to prevent consolidations of power around specific ideological viewpoints, not encourage it. The government certainly should not be permitted to use taxpayer dollars to do so.

⁷ Freddie Sayers, *Inside the disinformation industry: A government-sponsored agency is censoring journalism*, UNHERD (Apr. 17, 2024).