Twitter Thread by Alec Stapp



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Big week for tech platforms & free speech!

- Twitter & FB banned Trump
- Apple & Google banned Parler
- Amazon kicked Parler off AWS
- Stripe stopped handling payments for Trump campaign

I just wrote a 4,000 word piece on these issues.

Here's a thread with my 10 takeaways...



1. Contrary to what many people have been claiming, no, Big Tech is not more powerful than the government.

The government can tax you, imprison you, and kill you. It can even nationalize private companies.

Tech companies can delete your free account.

1. Is Big Tech more powerful than the government?

Austen Allred, the founder and CEO of Lambda School, tweeted, “Twitter, Facebook, Apple and Google, especially when acting in concert, are much more powerful than the government.” This claim doesn’t hold up to any level of scrutiny. The government has the power to tax you, imprison you, and kill you; the tech companies can delete your free account. Some conservatives have even argued the government should “nationalize Facebook and Twitter to preserve free speech,” the mere possibility of which should tell you who’s more powerful.



Journalist Michael Tracey said that Big Tech is “more powerful than most if not all nation states”, which seems absurd considering nine nation states have *nuclear weapons*. He also claimed that you “cannot create an ‘alternative’ ... at this point” which is directly contradicted by the fact that TikTok went from zero to nearly a billion users in just the last few years.

2. Trump may be banned from Facebook and Twitter, but he’s still the president of the United States and he has not been silenced.

As @ModeledBehavior reminded us, only 22% of adults use Twitter. (And only 10% are daily active users).

Twitter is not real life.

2. Has President Trump been silenced by Twitter and Facebook?

Trump has been permanently banned from Twitter and suspended from Facebook for at least two weeks. Obviously, his ability to speak directly to his audiences on those platforms has been greatly diminished. But that doesn't mean he has been silenced or censored. A recent Reuters article asked "How will Trump get his message out without social media?" In short: The same way that every president did prior to 2008. What communications and media networks existed back then? Newspapers, magazines, broadcast TV, cable TV, radio, podcasts, email, text messages, and the open web.

Twitter is not real life. As economist Adam Ozimek said, "Only 22% of adults use Twitter. In contrast almost every house has a TV. The idea that there is some monopoly over access to the public here is really not compelling. Maybe you spend too much time on Twitter if you think that." Furthermore, only about 10% of Americans are daily active users of Twitter. So that means if you check Twitter at least once a day, then you're more "online" than 90% of Americans. Active Twitter users likely overrate its importance in the average person's life relative to newspapers, talk radio, broadcast TV, and cable TV.

It's also important to remember that Trump's words haven't been banned from the platform, only his personal accounts. If the president gives a public speech, or if the White House issues a press release, thousands of journalists will still cover and broadcast his words, in tweets and Facebook posts of their own. For example, on Wednesday, the White House released a statement from Trump urging "NO violence, NO lawbreaking, and NO vandalism of any kind." The statement was immediately shared on Twitter by reporters and sent out via text message to the Trump Campaign's subscribers.

Twitter and Facebook suspending Trump's account is significant, there is no denying that. But the president of the United States can still communicate with the public.

3. Banning right-wing extremists or those who incite violence is not a slippery slope toward an Orwellian dystopia, and it's certainly not a civil rights issue (contrary to what @willchamberlain might claim).

Every platform bans some users for speech issues, including Parler.

3. Is deplatforming extremists a civil rights issue?

Some conservatives have tried to argue that if liberals think a baker should be required to bake a cake for a gay wedding, then Amazon should be required to provide cloud hosting for Parler and Twitter shouldn't be allowed to ban Trump. However, these cases are not similar. The case of the baker and the gay wedding was controversial because it involved the collision of two protected characteristics: religious beliefs (of the baker) and sexual orientation (the gay couple).



In the cases of Parler and Trump, they were not deplatformed for belonging to a protected class or because of an immutable characteristic — they were deplatformed for inciting violence and insurrection. Repeated antisocial behavior is a perfectly legitimate basis for a platform to remove a user (or for a company to cease doing business with a counterparty). The question is not "should Amazon be allowed to discriminate against conservatives" but actually "should Amazon be required to do business with groups hell-bent on breaking the law."

4. Repealing Section 230 would not solve any of these issues (and might make them worse).

People who claim "this is why we need to repeal 230" are lying to you (or severely misinformed).

Follow experts like @jkosseff & @mmasnick to learn what Section 230 actually says and does.

4. Would repealing Section 230 prevent Big Tech from deplatforming users they disagree with?

There continues to be lots of misinformation regarding Section 230 of the Communications Decency Act. Many Republican elected officials and conservative activists argue that recent events show why we need to repeal Section 230, which provides platforms and other interactive computer services immunity for the content users post. This argument relies on an intentional misrepresentation of the statute and the relevant case law. Here is the key part of Section 230 — "the 26 words that created the internet", as Jeff Kosseff put it:

> 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.

Prior to Section 230, if a platform tried to moderate content (say by taking down hate speech or incitements to violence), then the platform owner became liable for *all* the content that remained on the platform. This created perverse incentives. Platform owners basically faced two choices: (1) Engage in zero moderation to retain immunity — and watch the platform get overrun by Nazis or (2) Engage in maximum moderation to avoid getting sued for libel or other harmful content. Section 230 fixed this incentive problem by granting immunity to platform providers for users' speech, thus enabling the platforms to engage in reasonable levels of content moderation.

5. Those who say that Twitter is being inconsistent in enforcing its policies are right!

But that doesn't mean Twitter should leave Trump and other extremists alone.

Twitter should ban both Trump *and* the Supreme Leader of Iran from its platform (and CCP propaganda).

5. Is Twitter consistently enforcing its terms of service?

Whenever Twitter deplatforms a prominent right-wing figure, conservatives and others concerned with censorship accuse the platform of being biased because it leaves up similarly violent or misleading information from authoritarian rulers in Iran and China. FCC Chairman Ajit Pai called out a few tweets from Ayatollah Khamenei, the Supreme Leader of Iran, last May:



6. It would be silly for Europe to leave the American-led internet over concerns about the suppression of speech.

The EU values free speech way less than we do!

They have laws on privacy, hate speech, copyright, etc that prioritize other values over speech.

6. Does Europe repress speech less than the US now?

There is also renewed debate about whether there should be one unified internet, or whether a splinternet is a better approach, with each nation governing its own internet.



While a further splintering of the internet seems almost inevitable at this point, it would be strange if Europe splits apart over concerns about repression of speech in the US, as Bruno Maçães speculated. The EU has many current (or proposed) laws that repress speech much more than in the US, including:

- Privacy laws (Art. 17 GDPR)
- Hate speech laws (Framework Decision 2008/913/JHA)
- Copyright laws (Directive 2019/790)
- Data localization requirements (Schrems II)
- Proposed anti-terrorism laws ("Preventing the dissemination of terrorist content online")
- Proposed platform gatekeeper regulation (Digital Services Act and Digital Markets Act)

That's to say nothing of how the US compares to authoritarian countries such as Russia or China. As Garry Kasparov said, censorship in the USSR is "when the state attacks a company for offending an official ... not the other way around." Or as Jameel Jaffer put it, "forcing publishers to publish the government's speech is what happens in China."

7. No, a private company can't violate your First Amendment rights.

There should be no disagreement on this narrow point...

7. Can private companies violate your First Amendment rights?

Any debate over a high-profile user getting banned from a social media platform quickly devolves into the two sides talking past each other. Those critical of the decision to ban a user say that it's a violation of that person's free speech or First Amendment rights. The other side immediately latches on to the First Amendment part of that claim, pointing out (correctly) that the First Amendment restrains the government from infringing on ability to speak, not private companies or individuals. Since it's so short, let's just look directly at the text to make sure we're all on the same page (emphasis added):

> **Congress shall make no law** respecting an establishment of religion, or **prohibiting the free exercise thereof; or abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Clearly, the First Amendment was not meant to abridge the rights of private entities and citizens. But "free speech" is a much broader concept than what's written in the Bill of Rights. That's one of the harder questions.

8. But saying a company can't violate your First Amendment rights doesn't end the debate.

Need to look beyond the false dichotomy of the individual & the state, and recognize there are "mezzanine authorities" in society (h/t @Noahpinion).

Companies can restrict free speech.

8. How much should private companies restrict free speech and free expression?

In everyday use, “freedom of speech” means the ability for someone to express their views or opinions without fear of retaliation (beyond verbal criticism). In other words, it means that people can speak their mind without fear of a disproportionate response. That doesn’t mean those restraints on speech are bad! As a society we make tradeoffs all the time between different values depending on the context. It just means that “free speech” as a concept is not limited to the First Amendment.

Some conservatives and libertarians think that by pointing out that private companies have First Amendment rights too, that’s the end of the conversation, when in reality it’s only the beginning of the conversation. We must admit that these tech platforms are powerful and the decisions they make affect billions of people worldwide. It is legitimate to raise concerns about who gets to be on and off the platform (even while recognizing the companies themselves are under cross-pressures, with conservatives arguing for a more hands-off approach and liberals arguing for more aggressive moderation).

To start answering the tougher questions, we first need to move past the false dichotomy of the individual and the state. As Noah Smith wrote in his own post about Big Tech and free speech, “Between the government and individual citizens lie a variety of mezzanine authorities who have real power, and whose actions can lead to a real loss of liberty.” Noah continued by citing one his previous pieces (emphasis added):

9. So how should policymakers proceed?

I propose a tech stack framework that focuses on 3 tiers.

Top tier (apps & websites) should have the most discretion to moderate.

Bottom tier (infrastructure) should default to neutrality (unless there's competition).

9. Which layer of the tech stack should have the responsibility for moderating content?

Here's a framework for thinking about these issues: How much capital investment and time does it take to construct or find an alternative vendor, especially given government regulation? How close to the end users on social media platforms are these services? You can think of the tech stack in roughly three layers:

1. The top layer is the social media apps and websites themselves (e.g., Facebook, Twitter, Parler, etc.);
2. The middle layer is intermediaries or aggregators of apps and websites (e.g., app stores, browsers, search engines, etc.);
3. The bottom layer is infrastructure providers (e.g., cloud providers, content delivery networks, the Domain Name System, internet service providers, utilities, payments, etc.).

On the top layer, it is relatively easy for a company to create its own app or website. Scaling these platforms to take advantage of network effects can be difficult, but it's by no means impossible (see TikTok, Discord, Telegram, Signal, Snapchat, etc.).

In the middle layer, Google and Apple have a virtual duopoly (99% market share) in the smartphone operating system market, which makes their decisions regarding the default app stores on Android and iOS devices very important. But while securing distribution in the two major app stores can be hugely beneficial, it's not necessary for adoption. Users can navigate directly to a website in a browser and Progressive Web Apps are bringing more and more functionality to web apps that was previously limited to only native apps. Companies can also have their users sideload another app store on Android devices, like Epic Games did for Fortnite. Hypothetically, if Chrome were to block users from accessing websites like Parler at the browser level, then that would be worrisome, as Chrome controls 63% of the browser market (while still noting that users can download alternative browsers such as Firefox or Brave).

10. We should closely examine deplatforming cases when they happen in the infrastructure layer because there is often little competition (consider local monopolies that utility companies have).

At least in the AWS & Stripe cases, there is lots of competition in cloud & payments.

10. When should we require neutrality?

Following the framework detailed above, Apple and Google banning Parler from their app stores is a bigger deal than Facebook and Twitter banning Trump from their platforms. And what occurred in the infrastructure layer (i.e., AWS banning Parler and Stripe banning the Trump Campaign) is a bigger deal than what the app stores did. That means we should closely examine the AWS and Stripe cases to make sure these are indeed competitive markets.

First, AWS does not have a monopoly on cloud services (it has a 32% market share). Gab, a free speech social media platform with zero censorship and lots of Nazis, and PornHub, a website that needs no explanation, both operate without relying on the Google and Apple app stores or AWS for cloud services. Parler put itself in this situation by relying on a risk-averse mainstream cloud provider when there were numerous other options for hosting (including self-hosting). (The latest news is the Parler is now switching over to Epik, the cloud provider that hosts Gab). The same is true for Stripe, which only has an 18% market share. While the payment processor is part of the infrastructure layer, there are dozens of other competitors in the market that are available to the Trump Campaign. If these companies in the infrastructure layer had been monopolies, policymakers should have stepped in to enforce a neutrality standard.

Here's the full piece if you want more detail: https://t.co/9043bu5FuY