



## The Daily Dish

# Trump, Free Speech, and the Tech Sector

DOUGLAS HOLTZ-EAKIN | JANUARY 13, 2021

### Eakinomics: Trump, Free Speech, and the Tech Sector

It has been nearly a week since the insurrection at the United States Capitol. Each day we learn more about the horrific violence itself, the degree of planned intent, and the role of social media in these events. There have also been some notable changes in the social media landscape. Twitter, Facebook, and Instagram have all suspended President Donald Trump's accounts. Apple and Google removed the social media app Parler from their app stores. Payment processor Stripe and shopping service Shopify suspended their services to several Trump campaign-associated sources. And finally, there has been a lot of criticism of these actions as "censorship" and/or violations of First Amendment free speech rights.

AAF's Jennifer Huddleston has sorted through these issues in her most [recent piece](#), which builds on an impressive [portfolio](#) of work on online platforms, user-generated content, and speech and privacy issues. The essential insight is that the companies involved [have First Amendment rights](#). They can decide what content to display and whom to allow to have accounts. The government did not compel anyone to be silenced or have their content removed. Thus, there is no First Amendment violation.

Instead, the way that companies control (or "moderate") their content is through terms of service agreements. If a Twitter user violates the terms of service, Twitter or any other company can ban the individual and/or remove the content. Similarly, if an app store has terms that each app must meet to be distributed, an app can be removed if those terms are violated.

The second important point is the by-now-infamous Section 230 of the Communications Decency Act. Far from being a problem, Section 230 is the legal shield that provides certainty that platforms can engage in content moderation, including the removal of

objectionable content and users, without fear of endless litigation over their decisions. The flip side to this protection is that if you don't like the job a company is doing in moderating its content, you can take your opinions to another social media site and that social media site can offer a competitive alternative knowing it has Section 230 protection as well.

The United States is in the midst of the fallout of an assault on its democratic principles and an armed insurgency in the halls of its seat of government, while struggling with the COVID-19 pandemic. Now is not the time for hasty changes in the laws governing online speech that may raise new and more concerning questions for government involvement in private speech and decisions. Fear not for the speech of the disgraced president; he is never far from a microphone and can easily address the American public. This is not Big Tech violating the president's or other users' First Amendment rights. But it is a moment when it is important to protect their right to exercise their own.