



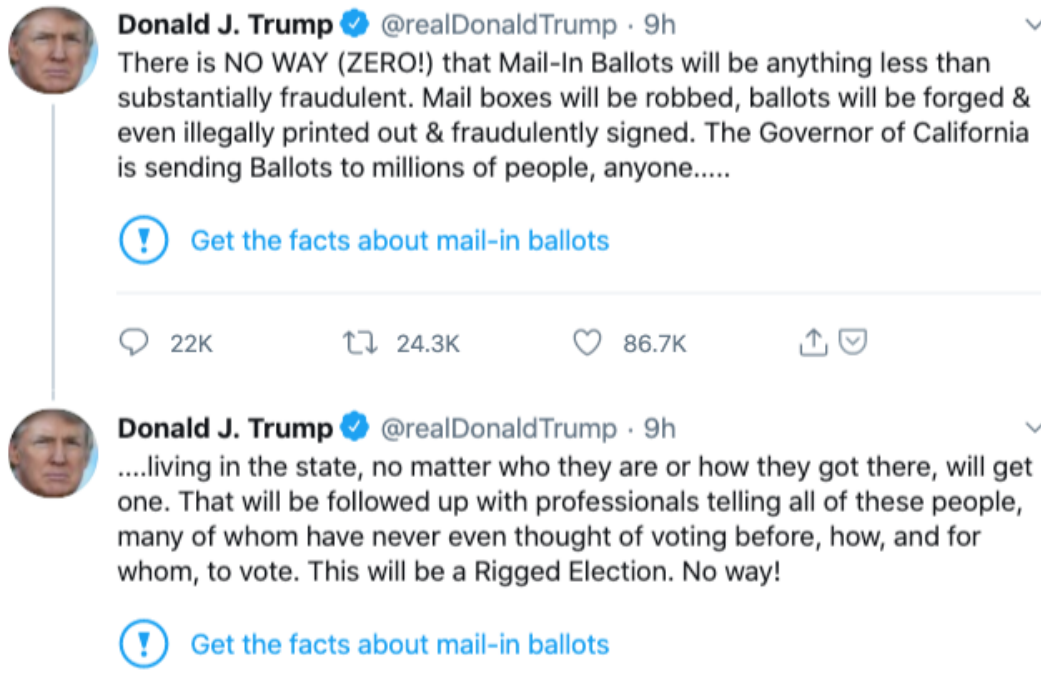
The Daily Dish

# What Is At Stake In Trump's War With Twitter?

DOUGLAS HOLTZ-EAKIN | MAY 29, 2020

## Eakinomics: What Is At Stake In Trump's War With Twitter?

The basic outlines of the story are now well known. Twitter added “fact check tags” (see below) to President Trump's tweets regarding mail-in voting in California, with the key fact being that ballots are only being sent to registered voters.



The president responded yesterday by signing an executive order (EO) directing tighter regulation of social media companies; in particular, their approach to handling the content posted on their platforms. Is this a big deal?

Yes, but not because Twitter (or other social media platforms) are violating First Amendment free speech. In her [fine piece](#) on this issue, AAF's Jennifer Huddleston reminds us that “First Amendment speech rights restrain government, not private actors, when it comes to the regulation of speech.” Moreover, “Platforms themselves have First Amendment speech rights, and they exercise these when they themselves speak, such as by attaching a fact check to user-generated content. As Judge Andrew Napolitano [explained on Fox News](#), ‘The president can say what he wants about Twitter and they can say what they want about him.’”

In short, social media platforms tagging or deleting content is not a First Amendment issue, but the president's

attempt to regulate them very well may be! As a result, the executive order is of questionable legality and will almost certainly be litigated.

These attacks and attempted changes are largely directed at Section 230, the federal statute that protects online platforms from liability for their users' speech and enables them to make decisions about what content to allow or delete. Beyond just this executive order itself, this approach may spawn more dangerous legislative efforts to [modify Section 230](#) that could silence voices from all sorts of perspectives. Indeed, within minutes of the signing, Attorney General William Barr [stated](#) his intention to prepare such legislation. This potentially endangers the liability protection that has been critical to the ability for a wide range of online platforms to host user-generated content and has spawned a vibrant and flourishing internet.

It is tempting to treat the president's action as nothing more than a tantrum – childish, but harmless. This EO is anything but.