

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-0515

June 7, 2023

Mr. James P. Rubin
Special Envoy and Coordinator
Global Engagement Center
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Mr. Rubin:

The Small Business Committee, Subcommittee on Oversight, Investigations, and Regulations is conducting an investigation into the extent of the Biden Administration's involvement and funding of non-profits and other non-governmental organizations (NGOs) that pressure advertising and social media companies to remove small businesses from their platforms because of their apparent political positions or the political opinions of the business owners. We write today to request documents and information as well as a staff briefing.

As made evident through investigative reporting such as the 'Twitter Files' and the *Washington Examiner's* 'Disinformation Inc.' series, various agencies within the federal government, including the Global Engagement Center (GEC), have been collaborating with the private sector to have user-generated content removed from various internet platforms.¹ It has become clear that the federal government has undermined First Amendment principles by working to censor certain viewpoints by proxy.² As you know, the First Amendment prohibits the government from imposing viewpoint-based censorship restrictions.³ It is inconsequential whether the government believes this speech is "disinformation", "misinformation", or "malinformation"- constitutional protection does not turn upon the truth, popularity, or social utility of the ideas and beliefs which are offered.⁴ One of the main purposes of the First

¹ *Hearing on the Weaponization of the Federal Government on the Twitter Files: Hearing Before the Select Subcommittee on the Weaponization of the Federal Government, Committee on the Judiciary, 118th Cong.* (statement of Matt Taibbi); Matt Taibbi, *New Knowledge, the Global Engagement Center, and State-Sponsored Blacklists*, SUBSTACK (Mar. 2, 2023); Matt Taibbi, *The Censorship Industrial Complex*, SUBSTACK (Mar. 9, 2023); Gabe Kaminsky, *How we uncovered a modern censorship regime*, THE WASH. EXAMINER (Mar. 31, 2023).

² *Id.*

³ *Police Dep't v. Mosley*, 408 U.S. 92, 95 (1972), " ...the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content."; see also U.S. Const. amend. I.

⁴ *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 271-72, 84 S. Ct. 710, 721 (1964).

Amendment's Free Speech Clause is to foster "an uninhibited marketplace of ideas," testing the "truth" of various ideas "in the competition of the market."⁵

Various non-profits and NGOs have made it their mission to have conservative-leaning companies removed from advertising platforms and exchanges under the guise of the businesses' purported use of "disinformation", "misinformation", or "malinformation", thereby decimating their advertising revenue and aiming to make it impossible for these small businesses to compete in the digital market.⁶ The mission statement of one of these NGOs, the Global Disinformation Index (GDI), is to "remove the financial incentive" to create "disinformation" by issuance of its "dynamic exclusion list" that rates news outlets based on their alleged disinformation "risk" factor.⁷ GDI's CEO stated that its exclusion list has "had significant impact on the advertising revenue that has gone to those sites".⁸ An October 2022 brief by the GDI names several small conservative-leaning businesses as the top "riskiest sites".⁹ A former State Department employee stated that "the implementation of ad revenue crushing sentinels like Newsguard, GDI, and the like has completely crippled the potential of alternative news sources to compete on an even economic playing field with "approved" media outlets like CNN and the *New York Times*."¹⁰

The GDI was a recipient of at least one recent GEC grant.¹¹ This Committee wishes to understand the use of that grant, and any other GEC funding of similar entities whose actions have resulted in small businesses' loss of profits and economic opportunities from the freedom of engaging in uncensored speech on online platforms. Using taxpayer dollars to bankroll third-parties in order to deplatform small businesses and censor private speech runs directly afoul of the State Action doctrine.¹² The federal government cannot circumvent constitutional protections

⁵ *Virginia v. Hicks*, 539 U.S. 113, 119 (2003); *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting). Accord, e.g., *Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 390 (1969).

⁶ Gabe Kaminsky, *Disinformation Inc: Meet the groups hauling in cash to secretly blacklist conservative news*, THE WASH. EXAMINER (Feb. 9, 2023); Colin Moynihan, *The Defunders: A Sleeping Giants veteran and her partner pioneered a new way to fight disinformation. Is it accountability or censorship?* N.Y. MAG. (Sep. 1, 2022).

⁷ *Defunding Disinformation*, GLOBAL DISINFORMATION INDEX, <https://www.disinformationindex.org/mission> (last visited May 3, 2023).

⁸ Clare Melford "*I went down the rabbit hole*": *Exploring the real-life effects of False Narratives*, THE SAFETY TECH PODCAST (Mar. 17, 2022). The Safety Tech Innovation Network is funded by the United Kingdom's Department for Digital, Culture, Media and Sport.

⁹ *Brief: Disinformation Risk in the United States Online Media Market*, GLOBAL DISINFORMATION INDEX (Oct. 21, 2022), <https://www.disinformationindex.org/research/2022-10-21-brief-disinformation-risk-in-the-united-states-online-media-market-october-2022/>.

¹⁰ Gabe Kaminsky, *Disinformation Inc: Meet the groups hauling in cash to secretly blacklist conservative news*, THE WASH. EXAMINER (Feb. 9, 2023).

¹¹ Gabe Kaminsky, *Disinformation Inc: State Department bankrolls group secretly blacklisting conservative media*, THE WASH. EXAMINER (Feb. 9, 2023).

¹² *Edmonson v. Leesville Concrete Co., Inc.*, 500 U.S. 614 (1991), "Although the conduct of private parties lies beyond the Constitution's scope in most instances, governmental authority may dominate an activity to such an extent that its participants must be deemed to act with the authority of the government and, as a result, be subject to constitutional constraints. This is the jurisprudence of state action, which explores the "essential dichotomy" between the private sphere and the public sphere, with all its attendant constitutional obligations."; VALERIE C. BRANNON, CONG. RESEARCH SERV., R45650, *FREE SPEECH AND THE REGULATION OF SOCIAL MEDIA CONTENT* (Mar. 27, 2019) "Government action regulating internet content would constitute state action that may implicate the First Amendment."

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by using private actors to accomplish what the State itself is prohibited from doing.¹³ Recent media labeling the pursuit of truth about the extent of the censorship-industrial complex as akin to harassment in an effort to discredit the genuine issue that speech is being improperly stifled is misplaced and concerning.¹⁴

It is the GEC's responsibility to protect the United States from threats from foreign bad actors, not to facilitate harm to U.S. small businesses through intermediaries because the Administration disagrees with the speech or politics of the business owner. Accordingly, the Committee is requesting the following documentation as soon as possible, but no later than June 21, 2023:

1. Unredacted list of all GEC grant recipients and associated award numbers from FY 2019 – present.
2. Unredacted copies of all GEC Award Purpose and Objective Alignment documents from FY 2019 – present.

To schedule the delivery of your response or ask any related follow-up questions, please contact the Committee on Small Business Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



Roger Williams
Chairman
Committee on Small Business



Beth Van Duyne
Chairman
Subcommittee on Oversight,
Investigations, and Regulations

¹³ *Norwood v. Harrison*, 413 U.S. 455, 465 (1973), “The government “may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.”; *Biden v. Knight First Amendment Institute at Columbia Univ.*, 141 S. Ct. 1220, 1226 (2021), A private entity thus violates the First Amendment “if the government coerces or induces it to take action the government itself would not be permitted to do, such as censor expression of a lawful viewpoint.” (Thomas, J., concurring).

¹⁴ Naomi Nix & Joseph Menn, *Congress escalates push for researchers' private documents*, THE WASHINGTON POST (Jun. 6, 2023).

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cc: The Honorable Nydia M. Velasquez, Ranking Member
Committee on Small Business

The Honorable Kweisi Mfume, Ranking Member
Subcommittee on Oversight, Investigations, and Regulations