

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

April 6, 2021

Dear Mr. President,

We write to urge you to rescind a dangerous and unconstitutional executive order your predecessor issued. You have already restored civil rights and liberties across a wide range of issues by eliminating many of the previous Administration’s executive orders. We hope you will do the same for Executive Order 13925—Preventing Online Censorship—because it continues to threaten both free speech and the democratic ideals of our country.

The “Executive Order on Preventing Online Censorship” is a drastic assault on free speech designed to punish online platforms that fact-checked President Trump. Its continued existence threatens Internet users’ ability to obtain accurate, truthful information about voting and other civic subjects.

On May 26, 2020, President Trump tweeted misinformation about voting by mail during the 2020 election, including that mail-in ballots would be “substantially fraudulent” and that “[m]ail boxes will be robbed.” Twitter added a label to President Trump’s tweet that said “Get the facts about mail-in ballots” and linked to another page fact-checking the claims. Two days later, President Trump issued the Executive Order and stated explicitly that he was singling out online services that had sought to provide users with factual information about voting mechanisms and the right to vote in the 2020 presidential election. His actions made clear that the full force of the federal government would be brought down on those whose speech he did not agree with, in an effort to coerce adoption of his own views and to prevent the dissemination of accurate information about voting.

That effort, as manifested through the Executive Order, is unconstitutional, and it threatens the very mechanics of democracy. The Executive Order sought to stifle important steps to combat online misinformation and voter suppression at a time when those efforts were needed most, including speech and outreach by scores of civil society organizations across the country. Other aspects of the Order, including those embroiling the National Telecommunications and Information Administration and the Federal Communications Commission in rulemaking to enable the government’s regulation of online speech, are also unconstitutional.

Letter to President
Executive Order 13925

Our organizations brought lawsuits seeking to strike down the order, especially because it threatens democracy and the voting rights of people who have been underrepresented for generations. Those challenges are currently pending in the Ninth Circuit and the DC Circuit Courts of Appeal. Thus, your Administration is in the untenable position of defending an unconstitutional order that was issued with the clear purpose of chilling accurate information about the 2020 election and undermining public trust in the results.

We ask that you swiftly rescind this unconstitutional Executive Order. Eliminating this egregiously unconstitutional hold-over from the prior Administration vindicates the Constitution's protections for both online services and the users who rely on them for accurate, truthful information about voting rights. It will also save Department of Justice resources that would otherwise be used to defend this unconstitutional and undemocratic Executive Order.

Sincerely,

Center for Democracy & Technology

Common Cause

Rock The Vote

Free Press

Voto Latino

Decode Democracy
(formerly MapLight)