



Biden's Escalating Fusion of Regulation and Censorship Requires Decisive Pushback

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President Joe Biden's "whole of government" advancement of numerous elements of an-interventionist "Building a Better America" agenda is accompanied by an alarming level of comfort with imposing unilateral mandates and censorship, prominently on social media, to dampen dissent from those programs. This needs the undivided attention of policy makers, especially as it is accompanied by federal government surveillance to monitor its myriad programs.

The federal COVID response brought an alarming disregard by officials of government's proper role with respect to free speech and free association, but COVID was only the beginning. We saw in 2021 White House collusion with tech companies on what the press secretary repeatedly called "misinformation" and "disinformation" seeking its removal from social media. July 2021 warnings from the surgeon general on the "urgent threat of health misinformation" in July 2021 had morphed into Biden's outright pressure in January of this year: "I make a special appeal to social media companies and media outlets: Please deal with the misinformation and disinformation that's on your shows. It has to stop."

Although the frenzied COVID phase has wound down everywhere except Shanghai and Philadelphia, we witness in its place even larger-scale Biden's pursuits on climate, competition policy, digital assets, "long COVID," and more. The whole-of-government "Equity" agenda underlies them all, with dozens of agencies last week releasing "Equity Action Plans" in a "generational commitment" both philosophically flawed and incompatible with limited government. The Pentagon's Equity Action Plan, for example, incorporates "a focus on how extremist or dissident ideologies violate the fundamental principles of the Department." What does that mean exactly? It's not clear, but the Department of Homeland Security in February 2022 lowered the bar for what could be considered "the proliferation of false or misleading narratives, which sow discord or undermine public trust in U.S. government institutions."

Last week we also saw Biden take executive action to ban “ghost guns,” while Treasury Secretary Janet Yellen called for (even in our supply-shocked, inflated economy) a “whole-of-economy” approach to “net zero” emissions by 2035.

The Biden administration is also leveraging the federal government’s extraordinary procurement heft as the world’s largest purchaser (to hundreds of billions annually) to force the agenda results it wants. These pursuits are synergistic with the rent-seeking elements of business and with the environmental, social, and governance, or ESG goals, epitomized by the financial agencies and top business’s singing from the same page on climate change and green energy.

It’s Congress’ Duty, Not Elon Musk’s, to Protect Dissent. This might partly explain why there arose so much celebration among conservatives over Elon Musk’s proposed buy of Twitter during the past couple of weeks.

Conservatives’ zeal for a fix mirrors their belief that Section 230 reform and antitrust leveled at big tech will protect their interests rather than further secure those of the left, or their perverse notion that if federal agencies are uprooted from the Beltway and spread out across the nation, then government will somehow shrink.

More pertinent with respect to censorship battles, Musk and the cheering section also are feeding into a narrative that Twitter has some obligation to share everything; it does not, and couldn’t anyway; that’s the forced-speech flipside of Biden’s very same anti-free speech coin.

Dissent from COVID orthodoxy, wokeness, or anything else is not protected by one’s being allowed to be a conservative on Twitter; dissent is protected by continuing to allow platforms to compete with one another. TIn the current instance, whether Twitter swallows the poison pill or sells out to Saudi investors or to a private equity firm, the problem remains Biden’s censorship and regulatory trigger finger. This is what Congress must address.

Pandemic-Era Censorship and Mandates Offer Lessons for Future Battles. Contemporary with Biden’s censorship pressures against social media companies, business mandates, and “modernized” regulatory environment was an exploitation of a pandemic to impose health mandates that aggravated already ongoing business uncertainties, supply disruptions, and higher consumer prices.

Serious lessons need to be learned from that. Whether in a pandemic setting or at any other time, de-platforming and de-banking can be appropriate private actions, but these become censorship and worse when encouraged by government.

Early 2022 brought White House press secretary Jen Psaki reacting to the controversy over Joe Rogan Spotify podcast’s interview of a COVID dissident by proclaiming “[W]e want every platform to continue doing more to call out ... mis- and disinformation while also uplifting accurate information.”

In an earlier instance, Psaki had said that these content standard regulations should incorporate all online platforms. (“You shouldn’t be banned from one platform and not others if you—for providing misinformation out there.”) That universality also happens to be the desire,

conveniently enough, of many “big tech” companiesf, which would protect them from upstart media. Psaki’s comment occurred in the context of health information, but the implications are clear, with the energy sector under scrutiny for “climate disinformation,” for example. Without course correction, regulation of social media platforms’ content, advertising, search result choices, and standards for protection of kids would be governed by federal appointees who seem comfortable restricting viewpoints not in line with the left’s worldview.

These mounting calls for mutually beneficial regulation on the part of regulators and private companies invite us to circle back to Biden’s overarching “competition policy,” consisting of suspect business and government alliances in infrastructure and technology that Biden touted anew last week in his Greensboro speech. “Competitive” alliances with favored businesses—which enjoys unfortunate bipartisan support—while pressuring social media companies to spread government’s perspective and suppress or forbidding others stands to take the excesses of COVID intervention to new levels that go beyond mere usurpation.

A “Whole of Congress” Agenda for Rescue is Needed. Like the latitude Biden assumed in decades-old Occupational Safety and Health Act to issue COVID mandates, Biden’s whole-of-government regulatory agendas are animated by a negligent Congress rather than mere administrative state overreach. As William Yeatman of the Cato Institute (and formerly of CEI) has noted, “By now, Congress has ceded enough policy making initiative to render itself expendable. When Biden wants a law made, he can go it alone. All he has to do is order an agency to push the envelope of its existing authority.” Apart from court rebuke, the only risk for the president remains a weak accusation of “blatant overreach” by Republicans, knowing that eventually, something will stick.

COVID will not be the final crisis Americans face. Regulatory enthusiasms pursued by powerful governmental institutions paired with unwillingness to countenance dissonant viewpoints have been highlighted by COVID but are a far more general concern. Freedom of speech and debate have been shown to be vital by the very actions of leaders and officials, both in the U.S. and around the globe, whose missteps and regulatory abuses during the pandemic will be repeated the moment any new shock occurs, unless corrective actions happen.

The federal government, as currently constituted, will not perform its primary job of protecting dissent. Instead, it suppresses, and we have watched real-world demonstrations of the results. Being accused of COVID misinformation has been most prominent, but expect the phenomenon to grow if one were to engage in the likes of “climate misinformation.”

Certainly, it is welcome when a once-a-generation business titan like Elon Musk works to turn the tide with respect to specific instances, but the wider fusion of censorship and mandates in play will need to be countered with a whole-of-Congress response that says “No.”