

**Remarks by Gary Shapiro, President & CEO  
Consumer Technology Association  
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Thank you for that introduction.

Thank you for this opportunity to speak formally to the Media Institute. At CTA, we are passionate believers in the Institute's mission of protecting First Amendment values.

That mission is more important today as our nation seems less interested in protecting free speech than any time I can recall.

Growing up as a Jewish boy in New York, I believed and still believe, that the Nazis were horrible people. But when Nazi sympathizers wanted to parade in Skokie, Illinois in the late 1970s, it also became our cultural gospel that we value and elevate freedom of speech — no matter how much we disagree with what is being said. While the courts have helped define limited exceptions, we always come back to the fundamental principle that we are built as a nation on a shared desire to freely express and receive divergent views.

I have given three prior speeches to the Media Institute in the last couple of decades. In one, I talked about how First Amendment principles not only focus on the right of Americans to speak but also include the right for others to receive their views. Since our nation's founding, many innovative technologies, such as radio, telephone, television, computers and the Internet have enhanced our ability to create, share and receive new ideas. Indeed, they have also fueled our country's global economic success, and in many of these areas the U.S. has led the world. I cannot help but compare us to China and North Korea, whose citizens are literally blocked off from receiving external information or views.

In another speech before the Media Institute, I discussed the intersection between intellectual property and the First Amendment. The Media Institute gathers content and technology interests and I am fascinated by how we balance the two sometimes conflicting constitutional rights.

Today, I wonder if our nation is devaluing First Amendment principles. Can most Americans recognize, remember and even re-unite around our First Amendment values? These values define who we are as a nation.

I see us at an inflection point in our nearly 250-year experiment in democracy. We are under attack with a civil war where both sides choose their facts and how they perceive our nation. Political tribal leaders seem increasingly to view the First Amendment as a barrier to their parochial goals, rather than a common cultural template we share in helping ensure our success.

Think about who we are. We are a nation in which almost all our people came from somewhere else. We have a very brief history, without the homogeneity or the thousands of years of history which help most other countries resolve tough social issues.

Our strength is our diversity. It fuels our ideas, our can-do attitude, our innovation, our creativity and our success. We are a great nation, but we share more than common geography. We share a focus on the future, a belief in a better life for our children and an appreciation for the brilliance of our founders.

The founders bequeathed us the unique liberty embodied in the Bill of Rights. The First Amendment of the Bill of Rights encases our essence, the core of who we are and what we stand for. It is not just freedom of the press. It is also the freedom to associate with like-minded people. It is the right to petition our government. It also protects our freedom of religion. Compare us to China where, in reality, none of these rights exists. Yet China is a giant using its growing strength not only to dominate economically but to spread its value system as well.

While China is increasing its influence, it is also increasing repression of views that are not the “party line.” Its journalists are government employees and cannot criticize the government. Chinese screws are tightening on the freedom-loving citizens of Hong Kong and Taiwan.

At the same time, China is focusing laser-like on new technologies including artificial intelligence. It produces millions of scientists, IT specialists and engineers each year and can create huge data sets to propel artificial intelligence – why? Because there is little respect for the privacy of its citizens. Nearly every Chinese citizen is socially ranked based on their social media comments, credit history and even cameras identifying jaywalking. These rankings determine the ability to travel and even placement on dating websites.

I bring this up to raise the alarm. We are different than China. We have different values. Those values are embedded in our First Amendment. Yet we, too, are deviating from our path of righteousness into very dangerous areas.

Consider what we are doing:

We are shutting down the diversity of opinions on college campuses and even in the media. Cancel culture has extended to those teachers with different views, conservative speakers invited to speak and then blocked from speaking, and even editors from respected publications like the [New York Times](#) who dare to have a view different from woke culture. According to the [New York Times](#), even free speech stalwart, the ACLU, is now wavering in its First Amendment advocacy.

Both major political parties are pushing proposals clearly in conflict with the letter and spirit of the First Amendment. Florida’s Republican governor recently signed a law which tells social media platforms what content and speakers they must allow. A Democratic Senator tried to use her position in Congress to intimidate, threatening to punish a company for what she described

as [“snotty tweets.”](#) And both parties play games with online free expression, trying to browbeat internet platforms into leaving up speech that helps their side and removing speech favored by their opponents.

Members of both political parties want to make Internet platforms responsible for user generated comments and reviews. This is akin to making hotel owners responsible for guest behavior. Creating this liability given the huge amount of postings would severely crimp the value of these services and lead to an onslaught of opportunistic trial lawyer lawsuits. If Yelp is responsible for user reviews, if NextDoor is responsible for a neighbor's critical comments or if Facebook is responsible for political comments, not only are we making these services essentially unusable, we are trampling on the free expression values embodied in the Constitution.

I understand that the First Amendment talks about Congress and government actions. But if legislators threaten retaliatory action, if they act to remove a longstanding protection for user-generated comments or if they even respond to competitor complaints and seek to shut down, shrink, limit the size of, limit acquisitions by or otherwise seek to hurt social media platforms – are we eroding the freedom of speech that made us the envy of the world and the "shining city on the hill" that President Reagan talked about and which so many admire and aspire to reach?

In addition to free speech, another value that makes America special is that we celebrate and encourage success. We believe that providing popular services, serving customers, and making a profit is a glorious thing. That is why the House antitrust package set to be marked up tomorrow is an existential threat to our competitiveness. The bills would effectively prohibit acquisitions by our largest companies, leaving startups who wish to sell their companies out in the cold. It would prohibit beloved services, like Amazon prime, maps in google services, and pre-installed apps on your iPhone. It would require companies to open their systems to competitors and potential wrongdoers. None of this promotes consumer welfare. And by imposing these mandates only on our most-successful companies it sends a terrible message to all entrepreneurs - you better not grow too big or become too successful, or you too will be faced with onerous and crushing mandates. These bills are being rushed though without a hearing or testimony. Even the bills' sponsors do not agree on what the bills require or what companies they would impact.

The fact is these same targeted companies and the tech industry rescued us during the pandemic. They saved our economy, our jobs, our health, our kids, and our sanity. And because of tech (AI-driven rapid gene sequencing), we produced a vaccine to a deadly virus in less than a year.

Technology is also changing our lives for the better. Digital health and remote care keep us healthy at home. Remote learning allows our children to learn despite closed classrooms. It is creating unprecedented growth in Americans' retirement stock portfolios and pension funds. It is keeping inflation in check as it is the major driver of productivity improvement, and it has created or directly supports at least 18 million American jobs.

But technology is also disrupting older industries, and let's be frank — some of those disrupted industries are gleefully stirring the anti-tech fervor in Washington. Tech has disrupted almost every industry, and the disruption is accelerating. Think how almost 100 years ago when my organization started as the Radio Manufacturers Association what tech did to live performances by bands or to piano players during silent movies. I began my career as a young lawyer representing the predecessor organization to CTA as Hollywood sought to ban the VCR and the music industry tried to block audio recordings using an audible notch in music.

Cable disrupted broadcasting. Satellite disrupted cable. The Internet and streaming continue to disrupt many business models. The cycle won't stop, as innovators like Clubhouse, Substack, Dispo, and TikTok gain millions of followers and challenge established social media platforms. In fact, Clubhouse became a unicorn - one billion dollars in valuation - earlier this year only nine months after its launch. Now, that's a dynamic marketplace!

While all this disruption may hurt individual companies and their employees and shareholders, it is the necessary part of what makes our economic system superior to any other. Creative disruption allows consumers to benefit from better, less expensive, more robust services. It is the reason why the U.S. continues to be the world's hotbed of innovation.

The free-market system works — except when government goes beyond legitimate regulatory guard rails and rushes to regulate in a harmful way, restricting innovation and often simultaneously chilling speech. Thus, we see weird and dangerous new antitrust theories — protecting competitors — not competition and not consumers.

And that is a malady unique to Washington. Because while some politicians relish the idea of strait-jacketing tech companies, average Americans love what the tech companies can and will do. Despite the nonstop efforts by DC politicians to demonize tech, Americans remain relentless tech optimists.

In a 2020 Morning Consult [Most Loved Brands of 2020 report](#), top companies included Google, Amazon and Netflix. The report includes rankings of the brands' favorability, trust and community impact. Large tech companies have provided innovations like vaccines, electric vehicles, bringing down the cost of batteries that store green energy, vegetarian meat options, and other ways that have improved our quality of life.

And each of you knows that tech enables free speech. Indeed, the First Amendment enables tech innovation. It restricts government from quiet backroom deals with threatened incumbent industries. In almost every tech battle in my career — from ensuring the legality of the VCR to protecting the Internet from those alleging it was an illegal copying device to fighting for market disrupters like AirBnB, Uber and Lyft — we won, as average Americans and consumers. And soon politicians realized with delight that the new services, benefits and choices these innovations allowed not only enhanced life and created new choices, but also produced new jobs and elevated the U.S. and citizens everywhere.

Because of these and other innovations, in some ways we live in the Golden Age of Free Speech. Twenty years ago, to speak to an audience of millions you needed to own or be invited by an owner of a TV network, a radio station or a newspaper. Today, you need a smartphone and a data connection. Anyone can create content, and so many do. As of last year, some 37 million YouTube channels existed, giving musicians, film producers and artists a venue to display their creativity.

Indeed, free speech and the First Amendment remain important to Americans. According to a Harvard-Harris poll released today, the strong majority of Americans – 81% - believe elementary school students should be taught about the First Amendment and the importance of free speech.

Yet the new Washington sport is lambasting and threatening the free speech of tech platforms. But these platforms face an impossible task. They are asked to determine truthfulness of political speech and what is offensive – in dozens of countries and different languages. Critics use out of context quotes and barely relevant facts.

Facebook is somehow expected to be a super State Department and Supreme Court – analyzing and adjudicating local and regional political claims. The reality is that content moderation at scale is incredibly daunting — platforms will inevitably make mistakes. Facebook users post 350 million photos per day. Twitter users post 200 billion tweets per year. Moderation decisions anger both sides of the political spectrum.

We agree that platforms have a moral and legal obligation to prevent users from inciting violence. That said, every American should be uncomfortable when a former president of the United States is barred from major social media platforms. Not only is this an extreme example of chilling political speech — but it is disenfranchising not just an individual but millions of his followers. What can be more divisive for a country than to shut out a passionate minority? Is the ban necessary to promote public safety—or does it merely inflame and exacerbate our existing political divisions? This should concern anyone who cares about free expression. While we can disagree with platform content moderation decisions, the last thing we want to do is replace an imperfect content moderation system with actual government censorship – taking companies and speech off the internet.

And we have also seen our own government chill speech during the pandemic. As health officials first said to avoid masks and then mandated them – as allegations of the Wuhan lab causing the disease were quashed – as schools shut down nationwide with little scientific basis and discounting the collateral damage – and as scientific facts on COVID victims having virus antibodies that worked were ignored, and even COVID victims were told to get two dose vaccines – a group of press too passively accepted and platforms choked off any dissenting voices despite the scientific basis for their claims. I might add that my wife, a surgeon, advocated for only one vaccine after having COVID. Our comments on social media on this were removed. She was told she was wrong and must have the second dose. Eventually, even Dr. Fauci agreed the second dose isn't necessary for those who have recovered after COVID.

To be fair, platforms were faced with a rapidly changing environment and scientific consensus during a crisis. While they did not make every call correctly, it's plausible the pressures on Internet platforms mirrored the stresses and divisions of our society as we responded to the COVID pandemic.

I must note that this changed recently after the top CDC official testified in a Senate hearing last month that outdoor COVID-19 transmission was a threat causing less than 10% of COVID-19 cases. Kudos to the New York Times for digging into this misstatement, noting that only one study suggested that number and its research sample included people working both inside and outside. Thankfully, the First Amendment allows us to question our government – even in a pandemic. Between the pandemic and tribal politics, though, the First Amendment has had a rough 2020 and 2021.

But given legitimate concerns that new media needs some guardrails, the issue we must grapple with is what should government do regarding Internet speech.

I submit and hope you agree that we first must follow the Hippocratic oath of medicine and do no harm. We should avoid mandates conflicting with America's free speech traditions.

Second, we also should be practical and sensitive to business realities and avoid mandates that advantage large companies but impose burdens on small companies or startups. Big companies have big pockets and can afford big law firms and big compliance departments. We must protect American innovators and creators!

Third, we must avoid doing anything that would undercut US global competitiveness or do the unintentional bidding of China or other economic (or military) rivals. Last week, our often-divided Senate overwhelmingly passed a bill helping the US compete with China. But Congressional attacks on our technology innovators and other successful business only help the Chinese agenda of catching and surpassing the United States. President Xi must be gleeful when he hears American leaders push to undermine our own First Amendment or talk of breaking up our crown jewel tech companies.

Fourth, we must not do the bidding of lawsuit-happy trial lawyers or legacy industries that want to use government to undercut their digital competitors. Our nation already suffers competitively from a litigation tax imposed by the trial lawyer lobby which hurts our national competitiveness.

Consistent with this, we can and should provide clear and reasonable guardrails that give American companies legal certainty. They should not have to ask the government for permission to create and try new things. But they must be willing to correct, accept and avoid infringing on IP, and defaming and slandering others. This means having a process in place to correct or remove postings once platforms learn of legitimate and clear challenges.

We should encourage U.S. internet platforms to be more transparent about their content moderation decisions and give people more control over what they see on their feeds. Facebook's Oversight Board and Twitter's Birdwatch are evolving examples of the type of transparent and fair processes which can address legitimate concerns.

And for the sake of First Amendment principles, we must avoid imposing new liabilities on a company for those using its platform as that only will chill legal speech.

The bottom line is that technology or innovation is a tool. It is neither good nor bad. Think of how humans took advantage of fire, created a hammer, invented the wheel, harnessed electricity, and split the atom. These innovations and others created problems, but once our founders grappled with them and created appropriate legal frameworks, they vastly improved and lengthened our lives or provided other tangible benefits.

Our nation is blessed with good fortune as we are a land of plenty and a nation of innovators. That is who we are as Americans. We must figure out how to unite around our values, including the First Amendment. We must ensure our identity as one free nation – centered on liberty and First Amendment principles – that will allow us to both innovate and respect the diversity of viewpoints defining our nation.

We are a free people. This means free markets, with minimal mandates. It means free speech with diversity in ideas, both giving and receiving. It means attracting the best and brightest and welcoming innovation and entrepreneurship.

Innovation is changing the world. We are advancing quickly in health care, education, AI, robotics and self-driving vehicles, as well as content creation, delivery and predictive intelligence.

We must move from less productive debates on shutting-off speech to more productive discussions.

How can we balance our important liberties and culture and First Amendment rights with the rapid evolution of platforms, innovation and technology changing and improving life around the world?

Thank you for your time and to the Media Institute and its sponsors for inviting me to speak on one of the most pressing issues facing America. I appreciate what the Media Institute does – it's so important. I look forward to answering your questions.