No. 22-611

IN THE

Supreme Court of the United States

KEVIN LINDKE,

Petitioner,

v.

JAMES R. FREED,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit

BRIEF OF NETCHOICE, THE CATO INSTITUTE, CHAMBER OF PROGRESS, AND THE COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION AS *AMICI CURIAE* IN SUPPORT OF NEITHER PARTY

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INTEREST OF *AMICI CURIAE*

This *amicus* brief is jointly submitted by non-profit trade associations and public policy research organizations—NetChoice, the Cato Institute, Chamber of Progress, and the Computer & Communications Industry Association (CCIA)—in *O'Connor-Ratcliff* v. *Garnier*, No. 22-324, and *Lindke* v. *Freed*, No. 22-611, in which the Court has set identical briefing schedules.[1]

Through litigation and advocacy, *amici* challenge efforts that would undermine free expression online.

NetChoice is a national trade association of online businesses that works to protect free expression and promote free enterprise online. Toward those ends, NetChoice is engaged in litigation, *amicus curiae* work, and political advocacy. NetChoice is currently litigating four federal lawsuits challenging state laws that chill free speech or stifle commerce on the internet. In the federal and state courts, NetChoice fights to ensure the internet stays innovative and free.

The Cato Institute was established in 1977 as a nonpartisan public policy research foundation dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies was established in 1989 to promote the principles of limited constitutional government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences,

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[1] Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part, and no person or entity other than *amici* and their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

and issues the annual Cato Supreme Court Review. This case interests Cato because it concerns the application of fundamental First Amendment principles to online speech—an increasingly urgent issue for civil liberties in the digital age.

Chamber of Progress is a tech-industry coalition devoted to a progressive society, economy, workforce, and consumer climate. Chamber of Progress backs public policies that will build a fairer, more inclusive country in which the tech industry operates responsibly and fairly, and in which all people benefit from technological leaps. Chamber of Progress seeks to protect internet freedom and free speech, to promote innovation and economic growth, and to empower technology customers and users.

CCIA is an international, not-for-profit association representing a broad cross-section of communications, technology, and internet industry firms that collectively employ more than 1.6 million workers, invest more than $100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA believes that open, competitive markets and original, independent, and free speech fosters innovation.

The First Amendment prohibits the government from censoring, compelling, or otherwise abridging speech and protects private digital services' decisions about what user content to publish or remove. *Amici* submit this brief in support of neither party to urge a decision that safeguards these critical protections.

SUMMARY OF ARGUMENT

Amici take no position on the narrow question that these two coordinated cases each present: Whether particular government officials' decisions to block particular constituents on Facebook and Twitter, or to delete those constituents' commentary from the officials' pages and posts, constitute state action for purposes of the First Amendment and 42 U.S.C. § 1983. Because this question may implicate a series of related issues, *amici* file this brief, which highlights three points regarding digital service providers' rights and responsibilities relative to their users, and which we believe will assist the Court in addressing the Questions Presented without inadvertently disturbing established law.

First, the Court should confirm that—irrespective of any limits the First Amendment places on government officials' use of social media sites and other digital services—the private companies that own and operate those services have the authority to revoke or deny an account to any person, and to remove or block any user content, at their sole discretion. The First Amendment provides this right, see *Manhattan Cmty. Access Corp.* v. *Halleck*, 139 S. Ct. 1921, 1930-31 (2019), and the companies' terms of service and related user agreements reinforce that authority. The Sixth and Ninth Circuits did not address this point in the decisions under review, but the Court should expressly acknowledge it to provide clarity.

Second, even if the government officials in these cases are found to have exercised state action through their use of Facebook and Twitter, and even if digital services make independent moderation decisions that sometimes align with government

preferences, the Court should make clear that the *companies* involved are neither state actors nor state instrumentalities for First Amendment purposes. The First Amendment "prohibits only *governmental* abridgment of speech." *Id.* at 1928. Digital service providers like Facebook and Twitter are "private entit[ies]" that "may * * * exercise editorial discretion over the speech and speakers in the forum[s]" they provide. *Id.* at 1930. The fact that some actions by public officials using digital services may qualify as state action for First Amendment purposes does not alter that conclusion. "[A] private entity who provides a forum for speech is not transformed by that fact alone into a state actor." *Ibid.* Just as the *Wall Street Journal* does not become a state actor when it publishes an opinion column by the President, digital service providers do not become state actors when they publish content generated by public officials, or provide tools that public officials use to interact with, or block interaction with, constituents. Nor do digital service providers become instruments of the state when they independently decide to remove content in response to government take-down requests.

Third, public officials may not commandeer private actors' editorial controls to indirectly censor user speech they could not regulate directly. See *Bantam Books, Inc.* v. *Sullivan*, 372 U.S. 58, 65 n.6, 68-69, 71-72 (1963). To the extent the Court finds that these cases raise this concern, it should reiterate that any remedy for such conduct properly lies against the government. Any rule that suggests litigants may seek recourse from the underlying digital service providers would diminish focus on government officials whose conduct violated the First Amendment. Moreover, digital services should not be

forced into the position of mediating disputes between government officials and their constituents.

This Court has recognized that "basic principles of freedom of speech and the press, like the First Amendment's command, do not vary when a new and different medium for communication appears." *Brown* v. *Entm't Merchs. Ass'n*, 564 U.S. 786, 790 (2011) (citation and internal quotation marks omitted). No matter how the Court decides the present disputes, its decisions should underscore that there is still "no basis for qualifying" the application of these principles to digital services. *Reno* v. *ACLU*, 521 U.S. 844, 870 (1997).

ARGUMENT

I. Companies That Provide Digital Services Have The First Amendment Right To Exercise Editorial Control Over User Accounts And Content.

The First Amendment protects the right of private media to "exercise[] editorial discretion in the selection and presentation" of speech on their own services. *Ark. Educ. Television Comm'n* v. *Forbes*, 523 U.S. 666, 674 (1998). This includes the right to exercise "editorial control over speech *and speakers*" permitted to speak through their services. *Halleck*, 139 S. Ct. at 1932 (emphasis added). *Halleck* and *Forbes* are among this Court's many precedents applying the principle from *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241, 258 (1974), that "the editorial function *itself* is an aspect of 'speech'" the First Amendment protects. *Denver Area Educ. Telecomms. Consortium, Inc.* v. *FCC*, 518 U.S. 727, 737-38 (1996) (plurality op.) (emphasis added).

The rule that the First Amendment protects editorial control as speech is not "restricted to the press." *Hurley* v. *Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 574 (1995). It applies equally to "business corporations generally" and to "ordinary people engaged" in any kind of "expression." *Ibid.* Private advocacy organizations thus have a right to select the speakers permitted to participate, and the messages permitted to be expressed, in their public activities. *Id.* at 574-76. Similarly, private television stations have a right "to pick and to choose programming." *Denver Area*, 518 U.S. at 737-38; see also *Halleck*, 139 S. Ct. at 1932. And "private corporation[s]" have a right to "select[]" the "views" and "speakers" to which they "provide a forum." *Pac. Gas & Elec. Co.* v. *Pub. Utils. Comm'n of Cal.*, 475 U.S. 1, 9, 20-21 (1986).

This concept applies to *any* private entity engaged in the "dissemination of information" because that is "speech within the meaning of the First Amendment." *Sorrell* v. *IMS Health Inc.*, 564 U.S. 552, 570 (2011); see also *Bartnicki* v. *Vopper*, 532 U.S. 514, 527 (2001) ("if the acts of 'disclosing' and 'publishing' information do not constitute speech, it is hard to imagine what does"); *Brown*, 564 U.S. at 792 n.1 (same).

Digital services are no exception. See *Reno*, 521 U.S. at 868, 870 (refusing to "qualify[] the level of First Amendment" protections online because the "factors" warranting qualifications in other media "are not present in cyberspace"); see also *Packingham* v. *North Carolina*, 582 U.S. 98, 105 (2017) (affirming that the First Amendment applies equally online). Just as a newspaper or television station engages in speech when it decides what

third-party columns to publish or independent programs to broadcast, digital services "are in the business of disseminating curated collections of speech" and "invest significant time and resources * * * editing and organizing * * * users' posts into collections of content that they then disseminate to others." *NetChoice, LLC* v. *Att'y Gen. of Fla.*, 34 F.4th 1196, 1204-05, 1216 (11th Cir. 2022). These "decisions about whether, to what extent, and in what manner to disseminate third-party-created content to the public are editorial judgments protected by the First Amendment." *Id.* at 1213; see also *Bursey* v. *United States*, 466 F.2d 1059, 1087 (9th Cir. 1972) (First Amendment protects decisions about "what should be published").

It makes no difference that digital service providers offer a medium to publish or display *others'* expression—including the expression of public officials. See *Tornillo*, 418 U.S. at 258 (newspaper had First Amendment right to exclude some politicians' expression from its editorial page, even when it published others' views about them). When a private party disseminates content, the First Amendment protects its decisions about what speakers and statements to publish even if the private party does not "generate, as an original matter, each item featured in the communication" or "isolate an exact message as the exclusive subject matter of the speech." *Hurley*, 515 U.S. at 569-70. Private media "do[] not forfeit constitutional protection simply by combining multifarious voices" or exercising editorial discretion in a manner that does not meet the subjective standards of certain third parties. *Id.* at 569. The "compilation of the speech of third parties" is itself a "communicative

act[]" protected by the First Amendment. *Forbes*, 523 U.S. at 674; see also *Denver Area*, 518 U.S. at 737-38.

This First Amendment right is reinforced by the contractual terms of service governing most online digital services. Facebook, for instance, reserves the right to "remove or restrict access to content" that violates its standards or "suspend or permanently disable" a user account "in [its] discretion," and its terms state that "permission to create a new account is provided at [Facebook's] sole discretion." Facebook, *Terms of Service*, https://tinyurl.com/yc5u2x85 (last visited June 28, 2023). Twitter similarly "reserve[s] the right to remove content" and "create limits on use * * * at [its] sole discretion at any time." Twitter, *Terms of Service*, https://tinyurl.com/8xv6ythn (last visited June 28, 2023). Courts have correctly applied these terms—and digital service providers' First Amendment rights—to protect digital service providers' liberty to edit and remove user content and accounts as they see fit. See generally Eric Goldman & Jess Miers, *Online Account Terminations/Content Removals and the Benefits of Internet Services Enforcing Their House Rules*, 1 J. FREE SPEECH L. 191, 217-21 (2021) (listing 62 cases enforcing digital service providers' "house rules").

Thus, even if the Court concludes that a government official's decision to block a constituent on Facebook or Twitter, or delete commentary from the official's page or posts, constitutes state action in some instances, the Court should clarify that nothing about that holding prevents a digital service like Facebook or Twitter from continuing to exercise its First Amendment and contractual right to control what content it publishes from that official's, that constituent's, or any other user's account.

II. Digital Services Are Private Actors Even When Government Officials Use Them, Or Report Content For Review.

Regardless of whether government officials' use of digital services constitutes state action in these cases, the Court should make clear that the First Amendment does not restrict—but instead *protects*—the companies that provide those digital services. "The Free Speech Clause of the First Amendment constrains governmental actors and protects private actors." *Halleck*, 139 S. Ct. at 1926. Here, even if the Court holds that actions by the government officials qualify as state action, and even if the Court holds that those government officials violated the First Amendment through those actions, Facebook and Twitter are not governmental actors and their conduct cannot be reviewed under the lens of potential governmental infringement of a civil right.

Generally speaking, "a private entity * * * who opens its property for speech by others is not transformed by that fact alone into a state actor." *Ibid.* Instead, private entities may be considered state actors only "in a few limited circumstances." *Id.* at 1928. These include "when the private entity performs a traditional, exclusive public function," "when the government acts jointly with the private entity," and "when the government compels the private entity to take a particular action." *Ibid.*

The facts that digital service providers display (among other things) government speech, provide government officials (like all users) with tools to moderate content on those officials' pages, and may respond to officials' (again, like other users') requests that the services take down or allow any particular

content, do not transform the actions of these private entities into state action under any test.[2]

First, digital service providers do not fulfill any function traditionally provided exclusively by the government. As this Court recently explained in *Halleck*, "'very few' functions fall into that category." 139 S. Ct. at 1929. Social networking is a relatively new service, and it is not one that the government has ever—much less "traditionally" and "exclusively"—provided. And the curation and display of newsworthy content has been the province of private entities since the nation's founding. Nor can the mere provision of these services for third-party speech otherwise be considered a "traditional, exclusive public function within the meaning of [the] state-action precedents." *Ibid.* *Halleck* itself rejected an argument that providing public-access cable channels is a public function, recognizing that "a variety of private and public actors hav[e] operated public access channels" historically—and more generally that private actors provide forums for speech. *Ibid.*; see also *id.* at 1930 ("Providing some kind of forum for speech is not an activity that only governmental entities have traditionally performed.").

Second, it makes little sense to classify a government official's editorial activity on his or her

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[2] In *Lindke*, the Sixth Circuit applied a gloss on the test for state action to determine whether government officials were acting in their official capacities, rather than as public individuals. See *Lindke* Pet. App. 4a-5a. *Amici* take no position regarding the validity of this test, which would address only whether *individual government officials* are acting as state actors constrained by the First Amendment—not whether the services are state actors.

own social media page as "joint action" with the digital service hosting that page—even if the official's activity is determined to be state action—because these services provide the same editorial tools to *all* users. All users on Twitter, for example, can "block" accounts to prevent others from following their accounts, viewing their Tweets, sending them direct messages, viewing their account activity lists like "Moments" or "likes" logs, and more. See Twitter Help Center, *How to block accounts on Twitter*, https://tinyurl.com/mc9bzpyp (last visited June 28, 2023). Facebook likewise permits all users to "block" accounts to prevent others from "tagging" a user's profile or viewing the user's activity. See Facebook Help Center, *Unfriending or Blocking Someone*, https://tinyurl.com/2p9b86aj (last visited June 28, 2023). These tools enable any user to control how others access and interact with the content the user publishes. Many services also provide tools to allow any user to report pernicious content. Although digital service providers have ultimate editorial control over the content published on their services, see *supra* Part I, they are not involved in these unilateral, individual decisions—whether undertaken by a government official or a private citizen.

In both *Lindke* and *O'Connor-Ratcliff*, the government officials used tools provided by digital services to remove posts and ultimately block constituents from accessing their accounts. But *all* users have access to the same suite of tools—not just government officials, and not only on official accounts. Further, companies' terms of service, to which users must agree, do not distinguish between how private actors and government officials may use these tools. When a public official (or an "official" government account) deletes a post, blocks a user, or

otherwise exerts control over others' interactions with their account, that accountholder acts alone. That the official uses a digital service provider's tools for these actions does not mean that the service acts jointly with the government.

Finally, the compulsion test for state action cannot be satisfied in this context because digital service providers have their own First Amendment rights to control what they publish on their services, see *supra* Part I, and there is no suggestion that the digital services providers are compelled to act in any specific way. Digital services, including Facebook and Twitter here, may moderate content they find objectionable, problematic, or contrary to their policies—independent of whether a government official has brought it to the service's attention and made a request to remove, or not to remove, that particular content.

It makes no difference if the digital service provider is alerted to that content by a take-down request by the government. "A private party can find the government's stated reasons for making a request persuasive, just as it can be moved by any other speaker's message." *O'Handley* v. *Weber*, 62 F.4th 1145, 1158 (9th Cir. 2023). When fielding take-down requests, a digital service remains "free to disagree with the government and to make its own independent judgment about whether to comply with the government's request." *Ibid.*

Transforming a private editorial judgment into state action just because it aligns with the government's preferences would perversely chill digital service providers from exercising their editorial rights in the first place. Digital services could be forced to reinstate accounts and publish

content they would have otherwise independently chosen not to carry out of fear that blocking the content could expose them to civil liability. Such a rule would not only dilute the services' First Amendment liberties, but also damage national discourse by enabling a type of "heckler's veto," *Reno*, 521 U.S. at 880, to distort the "power of [a] thought to get itself accepted in the competition of the market." *Abrams* v. *United States,* 250 U.S. 616, 630 (1919) (Holmes, J., dissenting); see also Jack M. Balkin*, Free Speech and Hostile Environments*, 99 COLUM. L. REV. 2295, 2298 (1999) (describing similar kinds of "collateral censorship").

Courts thus routinely reject allegations that digital service providers are state actors in situations where the government has merely attempted to persuade those services to moderate particular content. See*, e.g.*, *Doe* v. *Google LLC*, 2022 WL 17077497, at *2 (9th Cir. Nov. 18, 2022) (comments by Congresspeople regarding content moderation do not render services' activities state action because they "lack force of law, rendering them incapable of coercing YouTube to do much of anything"); *Hart* v. *Facebook Inc.*, 2022 WL 1427507, at *8 (N.D. Cal. May 5, 2022) (dismissing coercion theory of state action due to absence of alleged "connection between any (threat of) agency investigation and Facebook and Twitter's decisions" to moderate content); *Children's Health Def.* v. *Facebook Inc.*, 546 F. Supp. 3d 909, 933 (N.D. Cal. 2021) (no state action where government never "directed Facebook or Zuckerberg to take any specific action with regard to [plaintiff] or its Facebook page").

In all cases, the digital service exercises its independent judgment. In no way does the service

act as an instrument of the state by independently deciding to remove content the government also wanted removed. See, *e.g.*, Lee C. Bollinger & Geoffrey R. Stone eds., NATIONAL SECURITY LEAKS & FREEDOM OF THE PRESS 70-71, 105-123, 170-85 (2022) (reviewing how the press traditionally consults with and sometimes—but not always—independently accedes to the government before publishing sensitive reports).

But even if the government were to cross the line from attempting to persuade a digital service provider to remove content or take another specific action and instead coerced the service to take that action, the *government* would be accountable under the state action doctrine, not the digital service provider. To be clear, *amici* strongly oppose attempts by government officials to pressure digital service providers regarding editorial decisions. But should government officials succeed in actually compelling a service to take action—rather than persuading it to do so—the service itself would be a victim of the government's overreach and should not be liable.

Indeed, the compulsion theory of state action supports liability only for the government, not for any party compelled to participate. "[I]n a case involving a private defendant, the mere fact that the government compelled a result does not suggest that the government's action is 'fairly attributable' to the private defendant." *Sutton* v. *Providence St. Joseph Med. Ctr.*, 192 F.3d 826, 838 (9th Cir. 1999). Instead, "compelled participation by a private actor may fall outside of the contours of state action" where the private party is not a "*willful* participant." *Harvey* v. *Plains Twp. Police Dep't*, 421 F.3d 185, 195 (3d Cir.

2005) (citation omitted). "[C]ompulsion by the state negates the presence of willfulness." *Id.* at 196.

This Court's decisions applying the compulsion framework for state action do not suggest otherwise. The Court has never found a private party liable under a theory of state action based entirely on the government's coercion. This is because, "[i]n the typical case raising a state-action issue, a private party has taken the decisive step that caused the harm to the plaintiff, and the question is whether the State was sufficiently involved to treat that decisive conduct as state action"—in other words, "whether the State provided a mantle of authority that enhanced the power of the harm-causing individual actor." *NCAA* v. *Tarkanian*, 488 U.S. 179, 192 (1988). But in coercion cases, the private party is "left with no choice of his own." *Peterson* v. *City of Greenville*, 373 U.S. 244, 248 (1963) (applying coercion theory of state action to hold city liable for discriminatory ordinance enforced by private establishment). See *Sutton*, 192 F.3d at 838; see also Barbara Rook Snyder, *Private Motivation, State Action and the Allocation of Responsibility for Fourteenth Amendment Violations*, 75 CORNELL L. REV. 1053, 1065 (1990).

Accordingly, digital service providers do not satisfy any of the tests for identifying a state actor.

III. The Court Should Refrain From Announcing Any Rule That Would Enable The Government To Commandeer Digital Services Or Immunize Officials For Their Actions On Them.

As explained above, social media and other digital services are not state actors; they are private

actors with the First Amendment freedom to determine the content they publish. As is true of any users' activity, government officials' activity on those sites belongs to those officials alone. The government officials retain responsibility for that activity, including activity that may infringe the First Amendment rights of their constituents. While lawsuits sometimes seek to attribute to digital service providers responsibility over governmental use of those services, the Court should not endorse such efforts. To the extent those government officials' activity interferes with constituents' First Amendment rights, the government officials or the government should be responsible.

This Court has long avoided attributing responsibility to private parties when holding the government liable for pressuring those parties to censor speech. In *Bantam Books*, for example, this Court held that a government agency violated the First Amendment by pressuring a bookstore to stop selling materials the agency considered "objectionable." 372 U.S. at 61. The agency "either solicited or thanked [the bookseller], in advance, for his 'cooperation'" and referenced the possibility of "prosecution of purveyors of obscenity." *Id.* at 62. This Court explained that "[t]hese acts and practices directly and designedly stopped the circulation of publications," because "compliance * * * was not voluntary" in light of those threats—even though a bookseller's choice to ignore the threats actually "would have violated no law." *Id.* at 68.

Following *Bantam Books*, circuit courts have held the government liable for violating the First Amendment when it has "trie[d] to shut down an avenue of expression of ideas and opinions through

'actual or threatened imposition of government power or sanction.'" *Backpage.com, LLC* v. *Dart*, 807 F.3d 229, 230-31 (7th Cir. 2015) (Posner, J.) (citation omitted) ("scaring off" third parties from "facilitating future speech" was a prior restraint even absent formal action); see also*, e.g.*, *Okwedy* v. *Molinari*, 333 F.3d 339, 344 (2d Cir. 2003) (official "who threatens to employ coercive state power to stifle protected speech violates a plaintiff's First Amendment rights, regardless of whether the threatened punishment comes in the form of the use (or, misuse) of the defendant's direct regulatory or decisionmaking authority over the plaintiff, or in some less-direct form"); *Penthouse Int'l, Ltd.* v. *McAuliffe*, 610 F.2d 1353, 1360 (5th Cir. 1980) (questioning of magazine distributors effectuated an unlawful prior restraint even where sellers "voluntarily removed" magazines).

The same principle applies where government agencies or officials pressure digital service providers to choose, curate, or display content in a particular manner. Government officials should not be permitted through the use or threat of coercive state authority to commandeer digital service providers to moderate content. But in general, take-down requests and content reports are not threatening or coercive.

In these two cases before the Court, these issues are not directly presented because the plaintiffs have sued the officials, not the digital service providers. But the Court should be careful to avoid impliedly endorsing any rule that would undermine service providers' First Amendment rights to moderate content—regardless of whether such content moderation accords with the preferences of any

governmental entity. Most importantly, the Court should avoid any implication that a digital service could possibly be liable under any set of facts for the negative reactions that constituents may have to the words or actions of government officials.

Digital service providers cannot be expected to arbitrate disputes between government account-holders and constituents. If they were, they would lose their ability independently to make their own content-moderation decisions—a crucial component of their First Amendment freedoms. And as a practical matter, involving digital service providers in these disputes would be ineffective to guard against encroachment by government account-holders on the First Amendment rights of constituents attempting to interact with their accounts: Digital service providers have no authority beyond the powers of their own services.

Protecting the ability of digital service providers to moderate the content they publish, without attempts by the government to force any particular moderation, is critical to the robust exchange of ideas on the internet. This independence fosters diversity of digital service providers, ensuring varied approaches to content moderation tailored for the audience each aims to serve. See Eric Goldman, *Content Moderation Remedies*, 28 MICH. TECH. L. REV. 1, 4 (2021) (describing a variety of content moderation approaches to a single controversial video). Although not every digital service's policies will be palatable to every taste, that variety itself is critical to the "purpose" of the First Amendment—"to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail." *McCullen* v. *Coakley,* 573 U.S. 464, 476 (2014) (citation omitted);

see also *Abrams*, 250 U.S. at 630-31 (Holmes, J., dissenting).

CONCLUSION

Regardless of how the Court decides the question whether the First Amendment permits a government official to block a constituent from the official's social media account, the Court should ensure that its decisions in these cases do not undermine digital service providers' rights to moderate user content on their websites. The ability of those providers to make independent decisions about content moderation is core to their own rights under the First Amendment, and is essential to the free flow of ideas on the internet.

Respectfully submitted.

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