

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -
TIKTOK, INC., ET AL.,)
 Petitioners,)
 v.) No. 24-656
MERRICK B. GARLAND,)
ATTORNEY GENERAL,)
 Respondent.)
- - - - -

BRIAN FIREBAUGH, ET AL.,)
 Petitioners,)
 v.) No. 24-657
MERRICK B. GARLAND,)
ATTORNEY GENERAL,)
 Respondent.)
- - - - -

Pages: 1 through 178
Place: Washington, D.C.
Date: January 10, 2025

HERITAGE REPORTING CORPORATION

Official Reporters

1150 Connecticut Avenue, N.W., Suite 305

Washington, D.C. 20036

(202) 628-4888

www.hrcourtreporters.com

1 IN THE SUPREME COURT OF THE UNITED STATES
2 - - - - -
3 TIKTOK, INC., ET AL.,)
4 Petitioners,)
5 v.) No. 24-656
6 MERRICK B. GARLAND,)
7 ATTORNEY GENERAL,)
8 Respondent.)
9 - - - - -
10 BRIAN FIREBAUGH, ET AL.,)
11 Petitioners,)
12 v.) No. 24-657
13 MERRICK B. GARLAND,)
14 ATTORNEY GENERAL,)
15 Respondent.)
16 - - - - -
17 Washington, D.C.
18 Friday, January 10, 2025
19
20 The above-entitled matter came on for
21 oral argument before the Supreme Court of the
22 United States at 10:08 a.m.
23
24
25

1 APPEARANCES:
2 NOEL J. FRANCISCO, ESQUIRE, Washington, D.C.; on
3 behalf of Petitioners TikTok, Inc., et al.
4 JEFFREY L. FISHER, ESQUIRE, Menlo Park, California; on
5 behalf of Petitioners Brian Firebaugh, et al.
6 GEN. ELIZABETH B. PRELOGAR, Solicitor General,
7 Department of Justice, Washington, D.C.; on behalf
8 of the Respondent.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	NOEL J. FRANCISCO, ESQ.	
4	On behalf of Petitioners TikTok, Inc.,	
5	et al.	4
6	ORAL ARGUMENT OF:	
7	JEFFREY L. FISHER, ESQ.	
8	On behalf of Petitioners Brian Firebaugh,	
9	et al.	73
10	ORAL ARGUMENT OF:	
11	GEN. ELIZABETH B. PRELOGAR, ESQ.	
12	On behalf of the Respondent	117
13	REBUTTAL ARGUMENT OF:	
14	NOEL J. FRANCISCO, ESQ.	
15	On behalf of Petitioners TikTok, Inc.,	
16	et al.	172
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (10:08 a.m.)

3 CHIEF JUSTICE ROBERTS: We will hear
4 argument this morning in Case 24-656, TikTok
5 versus Garland, and the consolidated case.

6 Mr. Francisco.

7 ORAL ARGUMENT OF NOEL J. FRANCISCO

8 ON BEHALF OF PETITIONERS TIKTOK, INC., ET AL.

9 MR. FRANCISCO: Mr. Chief Justice, and
10 may it please the Court:

11 Under the Act, one of America's most
12 popular speech platforms will shut down in nine
13 days. That shouldn't happen for three reasons.

14 First, TikTok incorporated is a U.S.
15 company speaking in the United States. The Act
16 requires it to go dark unless ByteDance executes
17 a qualified divestiture. Whether you call that
18 a ban or a divestiture, one thing is clear:
19 It's a burden on TikTok's speech, so the First
20 Amendment applies.

21 Second, the Act is content-based from
22 beginning to end. It applies only to social
23 media platforms that have user-generated
24 content, except for business, product, and
25 travel reviews. Within that content-based

1 universe, it singles out a single speaker for
2 uniquely harsh treatment, and it does so because
3 the government fears that China could, in the
4 future, indirectly pressure TikTok to
5 disseminate foreign misinformation and
6 propaganda.

7 Finally, the Act can't satisfy any
8 standard of scrutiny. The government has no
9 valid interest in preventing foreign propaganda.
10 And its fall-back that it seeks merely to
11 prevent covertness makes no sense since that
12 could be addressed with a risk disclosure.

13 The government's real target, rather,
14 is the speech itself, its fear that Americans,
15 even if fully informed, could be persuaded by
16 Chinese misinformation. That, however, is a
17 decision that the First Amendment leaves to the
18 people.

19 Given that, the government's data
20 security rationale cannot independently sustain
21 the Act. It is also grossly under-inclusive and
22 ignores the most obvious less restrictive
23 alternative: simply banning TikTok,
24 Incorporated, from sharing any sensitive user
25 data with anyone.

1 In short, this Act should not stand.
2 At a minimum, you should preliminarily enjoin
3 it, which will allow you to carefully consider
4 this momentous issue and, for the reasons
5 explained by the President-Elect, potentially
6 moot the case.

7 I welcome your questions.

8 JUSTICE THOMAS: Exactly what is
9 TikTok's speech here?

10 MR. FRANCISCO: TikTok, Your Honor,
11 uses an algorithm that, in its view, reflects
12 the best mix of content. What the Act does is
13 it says TikTok cannot do that unless ByteDance
14 executes a qualified divestiture. That's a
15 direct burden on TikTok's speech, much less of a
16 burden than the one that this Court struck down
17 in the Simon & Schuster case, where all the
18 author had to do was take a certain amount of
19 proceeds and put it into an escrow account for a
20 short period of time to satisfy a civil
21 judgment.

22 JUSTICE THOMAS: So why does a
23 restriction on ByteDance, which is not a
24 citizen, is not located in the U.S., a
25 restriction on TikTok?

1 MR. FRANCISCO: Because what the law
2 says to TikTok is that, TikTok, you cannot use
3 the algorithm that you prefer to use unless
4 ByteDance executes a qualified divestiture.

5 So the law, therefore, falls directly
6 on TikTok itself. It imposes a burden on
7 TikTok's speech, again, a much less -- a much
8 more significant burden than the one that was
9 struck down in Simon & Schuster. There --

10 CHIEF JUSTICE ROBERTS: Sir --

11 JUSTICE THOMAS: You're -- you're
12 converting the restriction on ByteDance's
13 ownership of the algorithm and the company into
14 a restriction on TikTok's speech.

15 MR. FRANCISCO: Mm-hmm.

16 JUSTICE THOMAS: So why can't we
17 simply look at it as a restriction on ByteDance?

18 MR. FRANCISCO: Because -- because I
19 think the burden falls directly on TikTok. And
20 I can use a hypothetical that helps illustrate
21 the point. Suppose that China used its leverage
22 over Jeff Bezos's international empire,
23 including his Chinese businesses, to force
24 Wash -- the Washington Post to write whatever
25 China wanted on the front page of the Post.

1 Surely, the government couldn't come
2 in and say, Jeff Bezos, you need to either sell
3 the Washington Post or shut it down. That
4 wouldn't just violate Mr. Bezos's First
5 Amendment rights. That would also violate the
6 Washington Post's First Amendment rights because
7 they are ultimately the one that's suffering the
8 burden under that law because they have to go
9 dark and close up their books.

10 CHIEF JUSTICE ROBERTS: Counsel, you
11 began by saying this is a U.S. company operating
12 in the United States.

13 MR. FRANCISCO: Yes, Your Honor.

14 CHIEF JUSTICE ROBERTS: But the
15 ultimate company that controls it, ByteDance,
16 was found by Congress -- and I'll quote this --
17 "to be subject to Chinese laws that require it
18 to assist or" -- "or cooperate with the Chinese
19 government's intelligence work" and to ensure
20 that the Chinese government "has the power to
21 access" and "control private data" that the
22 company holds.

23 So are we supposed to ignore the fact
24 that the ultimate parent is, in fact, subject to
25 doing intelligence work for the Chinese

1 government?

2 MR. FRANCISCO: Well, Your Honor, I
3 don't think you are supposed to ignore that at
4 all, but I also don't think that it changes the
5 analysis for a couple of reasons.

6 Look, TikTok --

7 CHIEF JUSTICE ROBERTS: Well, just --
8 hold on a second. Well, as I said, you began by
9 saying this is a U.S. company operating in the
10 United States.

11 MR. FRANCISCO: Mm-hmm.

12 CHIEF JUSTICE ROBERTS: And it seems
13 to me that you're ignoring the major concern
14 here of Congress, which was Chinese manipulation
15 of the content --

16 MR. FRANCISCO: Mm-hmm.

17 CHIEF JUSTICE ROBERTS: -- and
18 acquisition and harvesting of -- of the content.

19 MR. FRANCISCO: Sure. And I'll start
20 by saying that TikTok, Incorporated, is a United
21 States subsidiary operating in the United States
22 with its own set of free speech rights. I --

23 CHIEF JUSTICE ROBERTS: Do you dispute
24 the fact that ByteDance --

25 MR. FRANCISCO: Yeah.

1 CHIEF JUSTICE ROBERTS: -- is a -- has
2 ultimate control of TikTok in its corporate
3 organization?

4 MR. FRANCISCO: Yes, Your Honor, I do
5 dispute that, but I also don't think that it
6 matters because, even if China could exercise
7 overwhelming power against TikTok versus
8 ByteDance, I don't think it would change the
9 analysis. And I can take that Washington Post
10 hypothetical and ratchet it up a little bit to
11 help illustrate the point.

12 Let's suppose that the Chinese
13 government had actually taken the Bezos children
14 hostage and it was using that leverage in order
15 to force Bezos and the Washington Post to
16 publish whatever they wanted on the front page
17 of the Post. So China effectively has total
18 control.

19 I still don't think that Congress
20 could come in and tell Bezos either sell the
21 Post or shut it down because that would violate
22 Bezos's rights and the Washington Post's rights.

23 Maybe what they could do is come in
24 and say you need to disclose the fact that
25 you're under this amount of coercion so that the

1 people who are looking at the paper understand
2 it and can make their own assessment.

3 But I think the First Amendment rights
4 of both Bezos and the Post would be directly
5 implicated, notwithstanding that China, in that
6 scenario, has effectively total control over
7 what -- what -- what gets printed in the
8 Washington Post.

9 JUSTICE SOTOMAYOR: Counsel, let me
10 break this down. I understand your argument
11 that there is a First Amendment right that the
12 U.S. company has. I'll go that far with you,
13 okay --

14 MR. FRANCISCO: I'll take it.

15 (Laughter.)

16 JUSTICE SOTOMAYOR: -- because we're
17 affecting their ability to talk in some -- in
18 whatever way they choose. The Washington Post
19 could choose, without any influence or threat
20 against the children of Mr. Bezos, to promote
21 Chinese policy, and our First Amendment would
22 permit them to do that if they chose it
23 independently, correct?

24 MR. FRANCISCO: Yes.

25 JUSTICE SOTOMAYOR: Now the question

1 becomes -- so it's not -- that's just a given,
2 that they have a First Amendment right. The
3 next question is, assuming they do, what's the
4 level of scrutiny --

5 MR. FRANCISCO: Mm-hmm.

6 JUSTICE SOTOMAYOR: -- we apply?
7 Isn't that what the issue here is?

8 MR. FRANCISCO: That is certainly one
9 of the issues, Your Honor.

10 JUSTICE SOTOMAYOR: All right. So, if
11 we get to that side of the issue, that TikTok
12 U.S.A. has some sort of First Amendment right,
13 taking your example, if the government said no
14 speaker is free to speak under -- under a
15 criminal compulsion by someone else, because of
16 extortion, because of kidnapping, we are doing
17 this because it is the only way to ensure the
18 safety of people, that they are not going to be
19 kidnapped or threatened, their lives threatened.

20 You don't think that the government
21 has a compelling state interest in saying, if
22 there is a threat, a -- a physical criminal
23 threat against someone to do some activity, that
24 the government couldn't say: I'm not
25 questioning whatever the content is --

1 MR. FRANCISCO: Mm-hmm.

2 JUSTICE SOTOMAYOR: -- of that
3 activity. I'm simply saying we, in our
4 governmental powers, have a right to say: You
5 can't do that. You can't speak.

6 MR. FRANCISCO: Sure, Your Honor. So,
7 to take your question in pieces, I do think that
8 they would have a compelling interest in that
9 scenario to do something. But what I don't
10 think is that they could simply target speakers
11 and speech.

12 Take, for example, generally
13 applicable laws like the Trading --

14 JUSTICE SOTOMAYOR: So you think in
15 that situation that it -- that the only thing
16 the government could do is tell the Washington
17 Post: Disclose to the public that you are
18 saying this because you are being forced to?

19 MR. FRANCISCO: So, sure --

20 JUSTICE SOTOMAYOR: That that --
21 that's the only remedy the government could
22 undertake?

23 MR. FRANCISCO: No -- no, Your Honor,
24 but I want to make sure I understand the
25 hypothetical. The compelling interest is in

1 preventing this kind of compulsion, coercion,
2 and, ultimately, harm to children.

3 And I think that the government has a
4 lot of different ways they can address that
5 through speech-neutral laws. And I was going to
6 point to things like the Trading with the Enemy
7 Act or Russia sanctions. You can broadly say
8 and attack problems --

9 JUSTICE SOTOMAYOR: They haven't been
10 very effective.

11 MR. FRANCISCO: Well, be that as it --

12 JUSTICE SOTOMAYOR: We -- we're still
13 having people kidnapped. We're still having
14 coercion.

15 MR. FRANCISCO: Yeah. And be that as
16 it may, you can say to Americans: You cannot
17 collaborate with our enemies at all, and if you
18 do that, you're going to be severely punished
19 for doing that. But what I don't --

20 JUSTICE SOTOMAYOR: All right. We can
21 go on to the effectiveness of the remedy.

22 MR. FRANCISCO: Mm-hmm.

23 JUSTICE SOTOMAYOR: But the point is,
24 I believe, that even if your First Amendment
25 rights are impinged and there is some

1 protection, the question is, is what -- at what
2 level of scrutiny --

3 MR. FRANCISCO: Yes, Your Honor.

4 JUSTICE SOTOMAYOR: -- and whether
5 that -- the action is content-neutral or not.

6 MR. FRANCISCO: I -- I -- I agree that
7 that is the way that the analysis proceeds.
8 Here, we believe that the level of scrutiny
9 should be strict scrutiny, but --

10 JUSTICE KAVANAUGH: What -- what is
11 the relevance of the history? Chief Judge
12 Srinivasan, in his opinion in the D.C. Circuit,
13 emphasized that there is a long tradition of
14 preventing foreign ownership or control of media
15 in the United States --

16 MR. FRANCISCO: Sure.

17 JUSTICE KAVANAUGH: -- going back:
18 radio, television --

19 MR. FRANCISCO: Right.

20 JUSTICE KAVANAUGH: -- and what have
21 you. I would think, no matter the level of
22 scrutiny, that history has to be important, and
23 I want to get your response to it.

24 MR. FRANCISCO: Mm-hmm. I don't
25 actually think it's important in this context

1 because that history all arises in the context
2 of bandwidth scarcity. And, in that context,
3 you have the government that's in -- in the
4 position of doling out a limited number of
5 licenses.

6 And when you have to dole out a
7 limited number of licenses, you, by definition,
8 have to pick winners and losers, and when you
9 have to do that, you get a certain amount of
10 discretion. I think that's the whole basis of
11 those cases.

12 You can't really take those cases
13 and --

14 JUSTICE KAVANAUGH: Well -- keep
15 going.

16 MR. FRANCISCO: You can't really take
17 those cases and extend them to an area where
18 there is no scarcity, like the World Wide Web,
19 because, once you do that, there's really no
20 limiting principle. There's no reason why it
21 wouldn't also apply to really popular books or
22 magazines or newspapers or chains of newspapers.

23 The bandwidth scarcity, I think, is
24 really what justifies the greater discretion
25 that the government gets in that area.

1 JUSTICE ALITO: Mr. Francisco, let me
2 see if I can break this down.

3 Suppose that TikTok were outright
4 owned by the People's Republic of China. Would
5 you make the same argument?

6 MR. FRANCISCO: I wouldn't be making
7 the same argument, Your Honor. There, you
8 would --

9 JUSTICE ALITO: Why -- why not?

10 MR. FRANCISCO: Because, there, you
11 would have to confront a very different
12 question, whether a foreign government that was
13 speaking in the United States has First
14 Amendment rights. And I don't know that the
15 Court has ever addressed that.

16 But, here, we've got a U.S. company --

17 JUSTICE ALITO: No, I understand that.
18 I just want to see where you draw the line.

19 MR. FRANCISCO: Mm-hmm.

20 JUSTICE ALITO: So it's true, the
21 Court has never held that a foreign government
22 has free speech rights. And if we were to hold
23 that, I would think it's because -- it would be
24 because speech by a foreign government,
25 particularly one with enormous resources, is not

1 protected -- allowing that is -- does not serve
2 the underlying interests of the First Amendment,
3 which are, among other things, fostering
4 democratic self-government and furthering the --
5 the truth -- the search for truth.

6 So let's assume that that's -- we
7 start with that, all right? What if TikTok were
8 then not owned by the foreign government, but it
9 was undisputed that TikTok was totally
10 controlled by the foreign government, could not
11 do one thing without the approval of the foreign
12 government? That's different?

13 MR. FRANCISCO: I do think that it is
14 different, Your Honor. For example, you know,
15 I -- I've given the hypothetical that I've
16 given, but there are a lot of companies in this
17 country that have foreign owners, not just
18 companies like Politico, with -- which is German
19 owned, or Al Jazeera, which is partly owned by
20 the government of Qatar.

21 JUSTICE ALITO: Well, I -- I
22 understand that, but what would be the reason
23 for drawing that line?

24 MR. FRANCISCO: Sure. Because --

25 JUSTICE ALITO: If -- if there's a

1 good reason for saying --

2 MR. FRANCISCO: Mm-hmm.

3 JUSTICE ALITO: -- that a foreign
4 government, particularly an adversary, does not
5 have free speech rights in the United States,
6 why would it all change if it was simply hidden
7 under some kind of contrived -- a corporate
8 structure?

9 MR. FRANCISCO: Because it is a U.S.
10 speaker.

11 I'll give you another example. AMC
12 movie theaters used to be owned by a Chinese
13 company. Under this theory, Congress could
14 order AMC movie theaters to censor any movies
15 that Congress doesn't like or promote any movies
16 that Congress wanted.

17 And I think the reason is that, here,
18 where it's conceded you actually have a bona
19 fide U.S. company, it is not simply a Chinese
20 cutout that is the Chinese government speaking
21 itself --

22 JUSTICE ALITO: All right. Let's say
23 that's not a complete --

24 MR. FRANCISCO: -- but an independent
25 United States company.

1 JUSTICE ALITO: Let's say this is not
2 a complete answer to -- to your First Amendment
3 argument, but would you be willing to concede
4 that this is a very important factor that should
5 be taken into account in deciding whether
6 there's a First Amendment violation?

7 MR. FRANCISCO: Well, Your Honor, I
8 think that it does help supply a compelling
9 governmental interest, but I still think you
10 have to march through the strict scrutiny
11 analysis and analyze their interests. I do not
12 think that they have a compelling government --
13 mental interest in -- in -- in the manipulation
14 of content.

15 I think that is in the teeth of the
16 First Amendment. And if you look at the
17 government's brief and the rest of the record in
18 this case, that's really what it's focused on.
19 Their complaint is the fear that the content
20 could be critical of the United States
21 Government or -- or could undermine our
22 democracy.

23 Yes, Your Honor.

24 JUSTICE GORSUCH: Mr. Francisco, I
25 just wanted to follow up on -- on that line of

1 questioning with just some fact questions --

2 MR. FRANCISCO: Mm-hmm.

3 JUSTICE GORSUCH: -- because it seems
4 to me there are a couple of things that the
5 parties still dispute about facts in this Court,
6 which is a little unusual.

7 The government says that TikTok U.S.
8 has no authority or ability to alter the
9 algorithm or recommendation engine but must
10 simply follow ByteDance's directives. You
11 disagree with that in your reply brief.

12 MR. FRANCISCO: Yes, we do.

13 JUSTICE GORSUCH: Somebody has to be
14 right and somebody has to be wrong about that.
15 What's -- what's the fact -- what does the
16 record show on that?

17 MR. FRANCISCO: Well, Your Honor, we
18 are here on a record, and there is nothing in
19 the record that says that TikTok, like any other
20 subsidiary, doesn't have its own
21 independent-making authority. If you look at
22 their record cites, what they point to is the
23 ordinary types of control that a parent company
24 has over a subsidiary company. But it doesn't
25 change the fact that --

1 JUSTICE GORSUCH: All right. What is
2 the fact? Are you prepared to make a -- a
3 representation of the fact here?

4 MR. FRANCISCO: Yes, Your Honor. The
5 fact is that TikTok, Incorporated, as a U.S.
6 company, does have a choice over the algorithm.
7 Now it would be a incredibly bad business
8 decision for them to abandon this algorithm, and
9 they very doubtful would ever do it, but they
10 have that authority.

11 What they clearly have the authority
12 to do is shut down the platform in the face of
13 Chinese pressure. That's actually what they
14 agreed to do in the national security agreement.
15 I think that underscores why TikTok,
16 Incorporated, as a U.S. company, does have its
17 own set of First Amendment rights.

18 JUSTICE GORSUCH: Okay. And then
19 another fact question.

20 Before the D.C. Circuit, you -- you
21 argued that the Chinese government has made
22 clear in public statements that it would not
23 permit a forced divest -- divestment of the
24 recommendation engine. Does that mean that some
25 key component of the recommendation engine is

1 under Chinese control?

2 MR. FRANCISCO: No, Your Honor. What
3 it means -- and this might warrant a little more
4 explanation. What it means is that there are
5 lots of parts of the source code that are
6 embodied in intellectual property that are owned
7 by the Chinese government, and they would
8 restrict, like the United States restricts, the
9 sale of those types of things to foreign
10 governments.

11 It doesn't alter the fact that this is
12 being operated in the United States by TikTok,
13 Incorporated. So --

14 JUSTICE GORSUCH: Okay. I -- I got
15 it.

16 MR. FRANCISCO: Okay.

17 JUSTICE GORSUCH: I got it. And then
18 you represent that the divestiture is not
19 feasible within the Act's timeframe.

20 MR. FRANCISCO: Mm-hmm.

21 JUSTICE GORSUCH: I'm sorry for these
22 fact questions --

23 MR. FRANCISCO: Sure.

24 JUSTICE GORSUCH: -- but I just want
25 to understand what's before us.

1 MR. FRANCISCO: Yeah.

2 JUSTICE GORSUCH: Would it be feasible
3 in any timeframe? I -- I take the government
4 doesn't dispute that it's infeasible in the 270
5 days provided by law. But would it be feasible
6 at all?

7 MR. FRANCISCO: Your -- Your Honor, I
8 think, at least as we understand how they've
9 interpreted the qualified divestiture provision,
10 it would be exceedingly difficult under any
11 timeframe for two principal reasons.

12 The first is that there's a global
13 team of engineers that are some in China, some
14 in Europe, some in the United States, that
15 maintain and update the original source code.
16 And, as we understand their interpretation, a
17 qualified divestiture would prohibit any kind of
18 coordination with that global team of engineers.

19 The other reason is because, as we
20 understand how they're interpreting it, a
21 qualified divestiture would divorce the U.S.
22 platform from the global content. So, for
23 example, there are videos created in the United
24 States. There are videos created in Ireland.
25 In order to get global content, we need access

1 to the Irish videos. They need access to the
2 U.S. videos.

3 JUSTICE GORSUCH: I got that.

4 MR. FRANCISCO: We understand that
5 couldn't happen.

6 JUSTICE GORSUCH: Okay. So you think
7 it's probably not feasible in any timeline?

8 MR. FRANCISCO: Well, Your Honor, I
9 think it would be extraordinarily difficult.

10 JUSTICE GORSUCH: Okay. Last -- last
11 fact question. Then I'll yield the floor here.

12 The -- the government admits that it
13 has no evidence that TikTok has engaged in
14 covert content manipulation in this country but
15 says that ByteDance has responded to PRC demands
16 to censor content outside of China in other
17 countries. Again, you deny that in your reply
18 brief. Somebody has to be right about that.

19 MR. FRANCISCO: Well -- well, Your
20 Honor, the problem there is everything that
21 follows what you just read is redacted, and so I
22 don't know what it says.

23 What the record shows is two things.
24 The record shows first what you just said: They
25 haven't done anything here in the United States

1 with respect to TikTok, Incorporated. And,
2 second, the record also shows through our
3 transparency reports that we haven't removed or
4 restricted content on the TikTok platform in
5 other parts of the world. And TikTok doesn't
6 operate in China. It operates in other parts of
7 the world. We haven't removed or restricted
8 content at the request of China. That's what we
9 put out in our regular transparency reports.

10 JUSTICE GORSUCH: Removed or
11 restricted, though, doesn't necessarily cover
12 covert content manipulation, though, right?

13 MR. FRANCISCO: Well, Your Honor, I --
14 I'm limiting my response to what's in the
15 record.

16 JUSTICE GORSUCH: To what's in the
17 record? Okay.

18 MR. FRANCISCO: It's very difficult
19 for me to respond to things that I -- where I
20 don't know what the accusation is.

21 JUSTICE GORSUCH: I -- I have other
22 questions about the secret evidence in this
23 case, but we'll get to that later.

24 MR. FRANCISCO: Yes, Your Honor.

25 JUSTICE GORSUCH: Thank you.

1 JUSTICE BARRETT: Mr. Francisco, can I
2 ask you a question about the relevant speech
3 here? So it strikes me that this is a little
4 different than your Bezos example because,
5 there, it's clearly content discrimination
6 because we're talking about the ability to post
7 particular articles versus other articles.

8 MR. FRANCISCO: Mm-hmm.

9 JUSTICE BARRETT: Am I right that the
10 algorithm is the speech here?

11 MR. FRANCISCO: Yes, Your Honor.
12 The -- the -- well, I -- I would say it's -- you
13 know, the algorithm is a lot of things. The
14 algorithm has built within it -- it's -- it's --
15 it's basically how we predict what our customers
16 want to see.

17 JUSTICE BARRETT: The editorial
18 discretion?

19 MR. FRANCISCO: Yeah --

20 JUSTICE BARRETT: Yeah.

21 MR. FRANCISCO: -- the editorial
22 discretion. It also has built within it the
23 moderation elements. All of this kind of comes
24 together when the source code is translated into
25 executable code in the United States. In the

1 United States, that executable code is then
2 subject to vetting, review, moderation through
3 content moderation algorithms. And that -- so
4 it ultimately lands on the TikTok platform.

5 JUSTICE BARRETT: Got it. But what
6 we're -- what we're talking about as -- as in
7 NetChoice is the editorial discretion that
8 underlies the algorithm. And -- and I just want
9 to be clear. A lot of your examples talk about,
10 including the Bezos one --

11 MR. FRANCISCO: Mm-hmm.

12 JUSTICE BARRETT: -- the right of an
13 American citizen to repeat what a foreign entity
14 says or say, you know, I'm hitching my wagon to
15 China; I want to say everything China does.

16 Here, the concern is about the covert
17 content manipulation piece of the algorithm.

18 MR. FRANCISCO: Mm-hmm.

19 JUSTICE BARRETT: That is something
20 that ByteDance wants to speak, right?

21 MR. FRANCISCO: Well, Your Honor, I
22 think that ultimately it's TikTok's choice
23 whether to put it on the platform. And --

24 JUSTICE BARRETT: And you don't want
25 that? Are you -- is your client disclaiming

1 any --

2 MR. FRANCISCO: Well, we -- we --
3 we -- we absolutely resist any kind of content
4 manipulation by China at all, but what I do want
5 to focus in on is what -- their asserted
6 interests here. They do talk about covertness.
7 But it can't possibly be that all they're
8 concerned about is mere covertness.

9 If all you were concerned about was
10 the covertness untethered from the underlying
11 content, that's something that could be easily
12 addressed through a risk disclosure.

13 JUSTICE BARRETT: But that goes to
14 scrutiny, the level of --

15 MR. FRANCISCO: Yes, Your Honor.

16 JUSTICE BARRETT: -- the application.
17 I'm trying to -- I mean, let's say that I agree
18 with you the First Amendment is implicated, and
19 I'm trying to figure out what level of scrutiny
20 applies.

21 MR. FRANCISCO: Sure.

22 JUSTICE BARRETT: And I'm trying to
23 figure out what content, if any, discrimination
24 is going on here. You know, there's a
25 disproportionate burden. I --

1 MR. FRANCISCO: Right.

2 JUSTICE BARRETT: Let's say that I
3 agree with you about that.

4 No one is preventing you -- I mean,
5 you -- you're seeking access to a particular
6 source code engineering the recommendation
7 feature. It's -- it's the technology that you
8 want. You're not trying to repeat, as in the
9 Bezos example -- if we take the speech that the
10 government's concerned about to be the covert --
11 the covert content manipulation rationale,
12 you're not seeking to utter that speech.

13 MR. FRANCISCO: Well, what we're --
14 that's correct, Your Honor. What we are seeking
15 to do is use an algorithm that displays the
16 combination of content that we prefer our users
17 to see on the platform.

18 JUSTICE KAGAN: But is that --

19 JUSTICE BARRETT: And the government
20 doesn't care about that. I mean, the
21 government -- the government is fine with you
22 doing that. You can invent it yourself. It
23 doesn't even care what content that displays,
24 cat videos or whatever.

25 MR. FRANCISCO: Yeah, but -- but I

1 think that the way that the analysis has to
2 unfold is first you ask, is this law burdening
3 our speech? I think we agree --

4 JUSTICE BARRETT: Yeah.

5 MR. FRANCISCO: -- that the law is
6 burdening our speech. Then you have to look at
7 whether the law itself is somehow content-based,
8 not just what their motivations are but whether
9 the law is content-based. And, here, the
10 trigger for this law, the one thing that gets it
11 going, is if you operate a social media platform
12 that has user-generated content, unless that
13 content takes the form of a product, travel, or
14 business review.

15 Then, within that universe of content,
16 it says there's one speaker we're particularly
17 concerned about, and we're going to hammer home
18 on that one speaker. And then, just to make the
19 rubble bounce, they come in and tell us that one
20 of the reasons they're targeting that speaker is
21 because they're worried about the future content
22 on that platform, that it could in the future
23 somehow be critical of the United States or
24 undermine democracy, to pull examples from the
25 government's brief.

1 So I think there's no way to get
2 around the fact that this is a content-based
3 speech restriction and you do have to go
4 directly to what their interests are.

5 Now their principal interest is --

6 JUSTICE KAGAN: Could -- could I --
7 because I think I'm -- I'm a little bit
8 surprised by one of the answers that you gave to
9 Justice Barrett. I had understood that TikTok's
10 essential complaint here is that they wouldn't
11 be able to use the algorithm that ByteDance has
12 invented and that they want to use the algorithm
13 that ByteDance has invented.

14 MR. FRANCISCO: One hundred percent.
15 And if I -- if I was unclear on that, Your
16 Honor, I apologize.

17 JUSTICE KAGAN: Okay. Because I
18 think --

19 MR. FRANCISCO: That is absolutely the
20 core of the claim.

21 JUSTICE KAGAN: -- what Justice
22 Barrett was saying to you is, like, what's the
23 problem here because ByteDance is a foreign
24 company. Or maybe this isn't what Justice
25 Barrett says; it's just what I say.

1 (Laughter.)

2 JUSTICE KAGAN: ByteDance is a foreign
3 company. And you started off with Justice Alito
4 saying, you know, well, we would be making a
5 different argument. And, of course, that's
6 true. I mean, I would think that Alliance for
7 Open Society makes it pretty clear that you have
8 to be making a different argument with respect
9 to a foreign state or a foreign company.

10 So let's -- let's say that they don't
11 have First Amendment rights. The only First
12 Amendment rights lie in TikTok, which does have
13 First Amendment rights. And I -- I -- I guess
14 my question is, how are those First Amendment
15 rights really being implicated here?

16 This -- this statute says the foreign
17 company has to divest. Whether or not that's
18 feasible --

19 MR. FRANCISCO: Mm-hmm.

20 JUSTICE KAGAN: -- however long it
21 takes, TikTok still has the ability to use
22 whatever algorithm it wants, doesn't it?

23 MR. FRANCISCO: No, Your Honor. And
24 their rights are implicated at a most basic
25 level. In 10 days, TikTok wants to speak. In

1 10 days, because this law was passed, TikTok
2 cannot speak unless ByteDance executes a
3 qualified divestiture.

4 That's not just ByteDance's choice.
5 That is a -- that is a condition --

6 JUSTICE KAGAN: Well, I realize --

7 MR. FRANCISCO: -- that's imposed by
8 law.

9 JUSTICE KAGAN: -- that it has -- it
10 definitely has effects on TikTok if ByteDance
11 acts in the way that you're assuming it will
12 act. So -- so this is not to say that the First
13 Amendment isn't involved because TikTok is going
14 to suffer some pretty severe incidental effects,
15 but they are incidental, aren't they?

16 Because the statute only says to this
17 foreign company divest or else and -- and leaves
18 TikTok with the ability --

19 MR. FRANCISCO: Right.

20 JUSTICE KAGAN: -- to do what every
21 other actor in the United States can do, which
22 is go find the best available algorithm.

23 MR. FRANCISCO: Yeah. I -- I very
24 much disagree that the effects are incidental
25 because the way that this law works is it is

1 only triggered if somebody is engaging in speech
2 based on their content, user-generated content,
3 except for business, product, and travel
4 reviews. It then singles out a single speaker.
5 And you have the concession for the government
6 that one of the reasons they've singled out that
7 speaker --

8 JUSTICE KAGAN: That puts a lot of
9 emphasis on the idea of just like -- you know --
10 I think what you're basically saying is that all
11 speaker-based restrictions generate strict
12 scrutiny. I'm not sure that we've ever said
13 anything like that.

14 You know, let's put aside the
15 facial -- your argument that this is facially
16 content-based. It seems to me that your
17 stronger argument or at least the one that most
18 interested me was this argument of, look, if the
19 government is doing something specifically for
20 the purpose of changing the content that people
21 see, that has to be subject to strict scrutiny.

22 But I don't see that as -- as
23 affecting TikTok as opposed to as affecting
24 ByteDance, that --

25 MR. FRANCISCO: Well, no, no, I -- I

1 very much do see it as affecting TikTok because
2 they choose this algorithm because it reflects
3 the mix of content. The government's fear is
4 that China could come in and pressure TikTok,
5 TikTok, through ByteDance, to TikTok, to alter
6 that mix of content to make it too pro-Chinese
7 or too anti-American. That is very much
8 directly a content-based charge straight at
9 TikTok.

10 The other point I would like to --

11 JUSTICE KAGAN: I -- I hear you that
12 it might very well have that effect. I guess
13 what I'm suggesting is that the law is only
14 targeted at this foreign corporation, which
15 doesn't have First Amendment rights.

16 Whatever effect it has, it has. You
17 know --

18 MR. FRANCISCO: So --

19 JUSTICE KAGAN: -- maybe ByteDance
20 will figure out a way to, like, put this on open
21 source, and then TikTok will be able to use the
22 algorithm.

23 MR. FRANCISCO: So -- so, Your Honor,
24 if I could take that on directly, because, to
25 the -- I think TikTok has First Amendment

1 rights. To the extent ByteDance is speaking in
2 the United States, it, I believe, has First
3 Amendment rights.

4 If you conclude that neither has First
5 Amendment rights, then, surely, the creators
6 have First Amendment rights. But, if you take a
7 step back, what their position is is that none
8 of these entities -- this is the universe of
9 entities affected by this law -- none of these
10 entities have the authority to assert First
11 Amendment rights, which means that the
12 government really could come in and say: I'm
13 going to shut down TikTok because it's too
14 pro-Republican or too pro-Democrat or won't
15 disseminate the speech I want, and that would
16 get no First Amendment scrutiny by anybody.
17 That cannot possibly be the case, yet that is
18 the -- the effect of their position.

19 The last point I'd like to emphasize,
20 though, is this law, like the Playboy case, like
21 the Hobby Lobby case, has built within it a less
22 restrictive alternative, which is the general
23 provision by definition designed to protect
24 against the very harm the government is
25 identifying.

1 Suppose New York State passes an
2 asbestos abatement law. They say: These types
3 of buildings have to abet -- abate asbestos. In
4 addition, New York Times, you have to abate
5 asbestos in your building. And they say: There
6 are two reasons for this. One, we want to abate
7 asbestos. Two, we hate the New York Times
8 editorial page.

9 Surely, at the very least, what you're
10 going to say is: You can't target The New York
11 Times directly. What you can do is throw them
12 into the general process.

13 CHIEF JUSTICE ROBERTS: Thank you,
14 counsel.

15 MR. FRANCISCO: We think that's the
16 minimum that should be done here.

17 CHIEF JUSTICE ROBERTS: Thank you,
18 counsel. We -- we've been talking about
19 connection between the regulation of -- of
20 TikTok and the burden on expressive conduct.
21 And your basic position is that interfering with
22 the ownership of TikTok constitutes a direct
23 regulation of the expressive conduct of other --
24 other people.

25 What -- what is your best example in

1 our precedent of a situation where we've -- a
2 regulation of corporate structure or something
3 else has been treated as a direct regulation of
4 expressive conduct?

5 MR. FRANCISCO: The regulation of a
6 corporate structure as a --

7 CHIEF JUSTICE ROBERTS: Yeah.

8 MR. FRANCISCO: Your Honor, I -- I --
9 I don't have a case in my fingertips. I can
10 consider it when we come back on --

11 CHIEF JUSTICE ROBERTS: Well, I don't
12 have one at my fingertips or any other part of
13 my body.

14 MR. FRANCISCO: -- rebuttal. But I --
15 but I think it's quite clear, though, that if
16 you're saying to a company: You have to talk --
17 stop talking unless somebody else does
18 something, and that's imposed by the force of
19 law, it directly affects that company's speech.
20 That's --

21 CHIEF JUSTICE ROBERTS: Well, it's --
22 it's -- it's -- again, I don't -- I don't know
23 if it's directly affecting the company's speech
24 or the speech of third parties. And I'm not
25 sure what -- you know, where your -- your

1 emphasis is.

2 But, again, I'm not sure there's
3 another case where we've said that regulating a
4 company has -- should be -- others' expression
5 should be treated as direct imposition on their
6 speech in terms of a standard of review, for
7 example, when it's based on derivative
8 regulation of corporate structure of somebody
9 else.

10 MR. FRANCISCO: Well, Your Honor, I
11 think that it's -- I -- I would concede that
12 this is a pretty unprecedented case. I'm not
13 aware of any time in American history where the
14 Congress has tried to shut down a major speech
15 platform.

16 But I -- I think that if a law imposes
17 a -- a direct regulation on a third party that,
18 in turn, results in shutting down somebody
19 else's speech, and they do it for content-based,
20 viewpoint-based reasons, and, in particular, on
21 this record, because the speaker that is
22 ultimately being shut down, they don't like the
23 speech of that particular platform, that's a
24 real problem. So --

25 CHIEF JUSTICE ROBERTS: Well, it may

1 be a real problem or it may not. But I just am
2 wondering if there's any precedent where we have
3 that same connection and that it affects the
4 standard of review. For example, you would
5 treat it as a direct restriction on expression.
6 Even the only thing the law does is say, in this
7 case --

8 MR. FRANCISCO: Mm-hmm.

9 CHIEF JUSTICE ROBERTS: -- somebody
10 other than the Chinese government has to own
11 TikTok.

12 MR. FRANCISCO: So -- so -- so we
13 don't have any direct precedent along the lines
14 that you're citing, but we do have precedents.
15 We have cases like Arcara, and what Arcara says
16 is, if the law is totally speech-neutral, then
17 that's one thing. We have cases like O'Brien,
18 which say, if the law doesn't care about speech
19 but happens to draw in speech, that's another
20 thing.

21 Both of those cases make clear,
22 however, is that when the law is concerned with
23 the content of the speech, when the
24 justification is based on the content of the
25 speech -- that's cases like Reed too -- then you

1 do trigger strict scrutiny --

2 CHIEF JUSTICE ROBERTS: So then I
3 think your argument comes down to: Is this
4 direct concern with speech, or is it concern
5 with the potential for Chinese interference with
6 the level of interference in -- indirectly?

7 In other words, they're not coming
8 back -- the Chinese government -- TikTok doesn't
9 care what the people are saying on TikTok.
10 That's not the -- the concern. The concern is
11 that they are regulating a particular channel of
12 communication. And I just wonder if there's any
13 precedent for that type of thing.

14 They're not saying: We're going to
15 restrict this contact -- content and that
16 content but not this. They're just saying:
17 We're going to be in a position where we can
18 control what happens, whether it's based on
19 expression, whether it's based on anything else.

20 MR. FRANCISCO: So, Your Honor, I
21 disagree. And I think, if you take a step back
22 and look at this record, I think it is quite
23 clear that it is focused on both current and
24 potential future content on TikTok, TikTok,
25 Incorporated.

1 Here, you don't have just an act that
2 is based on speakers and speech. It's triggered
3 by speech. It's focused on a single speech or
4 TikTok -- speaker, TikTok, Incorporated.

5 CHIEF JUSTICE ROBERTS: Thank you.
6 Thank you.

7 Justice Thomas, anything further?

8 Justice Alito?

9 JUSTICE ALITO: What if Congress -- if
10 there were nothing in this Act about content
11 moderation or covert manipulation? What if it
12 was just about preventing what Congress viewed
13 as an enormously powerful, popular application
14 from gathering an arsenal of information about
15 American citizens, and they said: This is the
16 worst offender and we're going to require
17 divestiture by this offender?

18 Would there be a First Amendment
19 problem there? And if you think there would be,
20 what would the level of scrutiny be?

21 MR. FRANCISCO: Yeah. Yes, there
22 would be a First Amendment problem if you had a
23 law like this that was only focused on speakers,
24 those who use user-generated content, other than
25 product, travel, or business reviews, and --

1 JUSTICE ALITO: Well, Congress --
2 Congress concludes that this particular entity
3 is the worst, this is the worst offender, and it
4 happens to be an entity that is involved with
5 speech.

6 MR. FRANCISCO: If all you had -- so I
7 want to make sure I understand the hypothetical.
8 The only provision you have is one that says:
9 This company has to shut down --

10 JUSTICE ALITO: Right.

11 MR. FRANCISCO: -- because of data
12 security.

13 JUSTICE ALITO: Right.

14 MR. FRANCISCO: I would have a
15 different set of arguments.

16 I think it would still implicate the
17 First Amendment, particularly where you have
18 strong evidence that they were being targeted in
19 part at least because of their speakers and
20 speech. Suppose Congress passed the law that
21 you posited --

22 JUSTICE ALITO: Well, all right, but
23 you're changing the -- you're changing the
24 hypothetical by -- by injecting congressional
25 concern about the content of the speech.

1 MR. FRANCISCO: Okay. Well, I'll put
2 that to the side.

3 JUSTICE ALITO: So what would your
4 argument be? It would be an equal protection
5 argument --

6 MR. FRANCISCO: No. No. I'd still be
7 saying --

8 JUSTICE ALITO: -- based on rational
9 basis? What --

10 MR. FRANCISCO: -- I'd still be saying
11 that Arcara itself makes clear that where a law
12 disproportionately burdens just a speaker, we
13 have to subject that to scrutiny to suss it out,
14 to suss out whether the asserted interest is the
15 actual interest.

16 There, the asserted interest is in
17 data security. I think I would have a couple of
18 arguments under whatever form of scrutiny you
19 wanted to apply, whether it is strict scrutiny
20 or intermediate scrutiny, in that context.

21 I would say first that that law is
22 dramatically under-inclusive because it
23 categorically exempts e-commerce apps that this
24 record shows have comparable ties to China --

25 JUSTICE ALITO: All right. You say --

1 you say -- I don't want to prolong this too
2 much. You -- you say this is not like Arcara, I
3 think primarily because you say that divestiture
4 requires the new company to cease using the
5 algorithm, right?

6 MR. FRANCISCO: No. I think it's not
7 like Arcara for a much more fundamental sense.

8 Arcara involved a totally
9 speech-neutral law. It didn't go after speakers
10 at all. If you had a law in Arcara that said
11 we're going to prohibit prostitution in
12 bookstores only, then I think that Arcara would
13 have come out differently. There would have at
14 least been, you know, some kind of intermediate
15 scrutiny, potentially strict scrutiny.

16 JUSTICE ALITO: All right. Well,
17 you're -- you're continuing --

18 MR. FRANCISCO: That's the law that I
19 think is your hypothetical.

20 JUSTICE ALITO: -- you're continuing
21 to walk away from the hypothetical that --

22 MR. FRANCISCO: I don't think so, Your
23 Honor.

24 JUSTICE ALITO: -- I proposed for the
25 purpose of narrowing in on what your -- on what

1 your argument is.

2 My -- I understood you to say that
3 it -- this -- that would not be a -- a -- a
4 solution to the problem because one of
5 Congress's motivations was -- was the content --
6 was based on the content of TikTok.

7 Am I wrong in that? Did I read your
8 argument incorrectly?

9 MR. FRANCISCO: Well, I think the -- I
10 want to make sure I understand what you're
11 saying. I -- I certainly think that because one
12 of the motivations was content, that is an
13 enormously important fact.

14 I was trying to answer your
15 hypothetical where we were trying to take that
16 out of the mix.

17 And the reason why Arcara is different
18 is because Arcara didn't just simply say no
19 prostitution in bookstores. That's what your
20 hypothetical effectively says. It says no data
21 security problems in speakers or in this
22 particular speaker. And I think that that would
23 trigger at the very least intermediate scrutiny.

24 JUSTICE ALITO: All right.

25 MR. FRANCISCO: And then --

1 JUSTICE ALITO: Thank you. Thank you.

2 CHIEF JUSTICE ROBERTS: Justice
3 Sotomayor?

4 JUSTICE SOTOMAYOR: That gets to my
5 question, which is Justice -- the Chief Justice
6 asked you whether or not we've ever had a case
7 where pure ownership was at issue and not
8 speech. And I don't think we've had one like
9 that, you're right, but I don't think that your
10 question -- that the question gets to the
11 essence of your argument, is it? The essence of
12 your argument is you're being asked to divest
13 because of speech, correct?

14 MR. FRANCISCO: Correct.

15 JUSTICE SOTOMAYOR: All right. So, if
16 I get past that, if I go to Justice Alito's
17 point, which is I don't think it's just about
18 speech, it's about data control --

19 MR. FRANCISCO: Mm-hmm.

20 JUSTICE SOTOMAYOR: -- if it's about
21 data control -- and assume for the sake of
22 argument that I believe intermediate scrutiny
23 applies --

24 MR. FRANCISCO: Mm-hmm.

25 JUSTICE SOTOMAYOR: -- to the data

1 control provision --

2 MR. FRANCISCO: Mm-hmm.

3 JUSTICE SOTOMAYOR: -- then your
4 arguments would be different, wouldn't they?
5 They would be under-inclusiveness, they would be
6 other arguments, correct?

7 MR. FRANCISCO: Well, Your Honor, I
8 think they'd be very similar because I think the
9 nature of our arguments work just as well under
10 intermediate and strict scrutiny.

11 JUSTICE SOTOMAYOR: All right.

12 MR. FRANCISCO: If I could unpack that
13 a little?

14 JUSTICE SOTOMAYOR: No, I'm not going
15 to --

16 MR. FRANCISCO: Sure.

17 JUSTICE SOTOMAYOR: Because we're
18 going to run out of time, because we're going to
19 need to figure out what intermediate scrutiny
20 means. But I'm not sure it means what you do,
21 which is I don't think any of our cases have
22 ever suggested that we have to use the least
23 restricted means under intermediate scrutiny.
24 In fact, our cases have said --

25 MR. FRANCISCO: Mm-hmm.

1 JUSTICE SOTOMAYOR: -- we have to use
2 a reasonable means.

3 MR. FRANCISCO: And if I can respond
4 to that point specifically, I completely agree
5 it's not a least restrictive means alternative,
6 Your Honor. But you do have to at least
7 consider alternatives.

8 Here, if the concern -- let's take the
9 data security concern, which you put your finger
10 on.

11 JUSTICE SOTOMAYOR: Well, I -- I -- I
12 know you want to keep going on, but I can't let
13 you because I can't monopolize the argument,
14 okay? But let me just get to the bottom of
15 that, all right?

16 You seem to suggest that Congress has
17 to actually look at all of the alternatives and
18 say no. I don't think we have a case that says
19 that.

20 MR. FRANCISCO: I -- I am not
21 suggesting --

22 JUSTICE SOTOMAYOR: If from the record
23 it's clear that alternatives won't be adequate
24 for whatever set of reasons, isn't that enough?

25 MR. FRANCISCO: If the record were

1 clear on that, that might be enough.

2 JUSTICE SOTOMAYOR: Okay. Now -- I
3 take that.

4 MR. FRANCISCO: But, here, on the
5 key --

6 JUSTICE SOTOMAYOR: Now let me go to
7 the next question and the last.

8 MR. FRANCISCO: If -- if I could, Your
9 Honor, just one sentence?

10 JUSTICE SOTOMAYOR: Mm-hmm.

11 MR. FRANCISCO: If, on the key less
12 restrictive alternatives, they had actually
13 considered them and said what you suggested,
14 this would be a different case. But our point
15 is that on the key most obvious less restrictive
16 alternatives, a law, for example, that simply
17 prohibits TikTok, Incorporated, from sharing any
18 sensitive user data with ByteDance or anyone
19 else, there's nothing in the record that
20 suggests they even considered it.

21 JUSTICE SOTOMAYOR: That's because
22 there --

23 MR. FRANCISCO: And that's why it
24 would fail under even intermediate scrutiny.

25 JUSTICE SOTOMAYOR: We have -- we have

1 a different problem, which is that the record
2 shows that there is no sharing that could happen
3 that wouldn't put the data at security.

4 MR. FRANCISCO: That's --

5 JUSTICE SOTOMAYOR: But we can go past
6 that.

7 MR. FRANCISCO: -- that's incorrect
8 actually.

9 JUSTICE SOTOMAYOR: No, because the
10 NSA doesn't. What's very clear --

11 MR. FRANCISCO: Yeah. I'm not talking
12 about the NSA.

13 JUSTICE SOTOMAYOR: Or even anything
14 else. But putting that aside, one last
15 question.

16 Assuming that the covert manipulation
17 issue is one, I think that what remains is, to
18 the Chief's question and Justice Alito's
19 questions, if the covert manipulation is a
20 concern, then the question becomes what kind of
21 burden does it put on TikTok U.S.A.

22 And I think your point is that that
23 requires strict scrutiny because it doesn't
24 permit them to speak to the Chinese government
25 through the algorithm and promote whatever

1 speech it wants to promote through the
2 algorithm, correct?

3 MR. FRANCISCO: It doesn't prohibit --
4 permit them to speak to the American public
5 through the algorithm --

6 JUSTICE SOTOMAYOR: Right.

7 MR. FRANCISCO: -- and promote
8 whatever type of speech they want to promote on
9 the algorithm. And I -- I also think that this
10 covert manipulation is a little bit odd.
11 They're not concerned just with covertness. If
12 all you were concerned with is secret --

13 JUSTICE SOTOMAYOR: I'm going to ask
14 the SG about that, how you disentangle the two
15 things.

16 MR. FRANCISCO: Thank you, Your Honor.

17 CHIEF JUSTICE ROBERTS: Justice Kagan?
18 Justice Gorsuch?

19 Justice Kavanaugh?

20 JUSTICE KAVANAUGH: Just on the data
21 collection interest, I think Congress and the
22 President were concerned that China was
23 accessing information about millions of
24 Americans, tens of millions of Americans --

25 MR. FRANCISCO: Mm-hmm.

1 JUSTICE KAVANAUGH: -- including
2 teenagers, people in their 20s, that they would
3 use that information over time to develop spies,
4 to turn people, to blackmail people, people who,
5 a generation from now, will be working in the
6 FBI or the CIA or in the State Department.

7 Is that not a realistic assessment by
8 Congress and the President of the risks here?

9 MR. FRANCISCO: Well, Your Honor, I'm
10 not disputing the risks. I'm disputing the
11 means that they've chosen. One way, the most
12 direct way to address that, all of this user
13 data sits on data servers in Virginia controlled
14 by Oracle.

15 I'm not talking about the national
16 security agreement. What I'm talking about is a
17 law that simply says to TikTok, Incorporated,
18 and its U.S. employees, you cannot share that
19 user data with anybody. You can't give it to
20 ByteDance. You can't give it to China. You
21 can't give it to Google. You can't give it to
22 Amazon. You cannot give it to anybody under
23 threat of massive penalties.

24 They never even considered that most
25 obvious alternative. And so, whether you apply

1 intermediate scrutiny or strict scrutiny, it's
2 not a least restrictive means test, but you've
3 got to at least consider the most obvious
4 alternative.

5 JUSTICE KAVANAUGH: So you acknowledge
6 the risk that Congress and the President were
7 concerned about. You're just saying the means
8 they chose to address that risk were incorrect?

9 MR. FRANCISCO: So I -- I --

10 JUSTICE KAVANAUGH: Not permissible?

11 MR. FRANCISCO: -- I mean, I -- I
12 certainly acknowledge the risk, but I think
13 there are lots of reasons, not just the one I
14 just gave, but there are lots of reasons why
15 that risk still can't justify the law. When it
16 sits alongside of the impermissible covert
17 manipulation risk, I think it falls under Mt.
18 Healthy. It's no different if they came in and
19 said we passed this law, one for data
20 security --

21 JUSTICE KAVANAUGH: I -- I understand
22 that, but just on the -- on the data collection,
23 that seems like a huge concern for the future of
24 the country.

25 MR. FRANCISCO: And, Your Honor,

1 again, it is a concern -- two responses.

2 First, it is a concern that can be
3 addressed directly. The reason why there's no
4 evidence in this record about whether that kind
5 of direct prohibition on TikTok, Incorporated,
6 from sharing sensitive user data with anybody,
7 including ByteDance, the reason why the record
8 is devoid of any evidence of that is because
9 Congress never considered the other side of the
10 balance.

11 And that's the minimum that Congress
12 has to do under the First Amendment. It's got
13 to at least consider the -- the consequences of
14 shutting down a speech platform used by 170
15 million Americans against the benefits of an
16 alternative like simply saying to TikTok's
17 employees, you're essentially going to get
18 massive fines, potentially jail sentences, if
19 you share any of that sensitive user data with
20 anybody, not TikTok, not ByteDance -- I'm sorry,
21 not ByteDance, not China, not anybody else in
22 the world. Yet there's nothing in this record
23 that suggests they even considered that
24 alternative.

25 JUSTICE KAVANAUGH: What happens after

1 January 19th if you lose this case? Can you
2 just spell that out?

3 MR. FRANCISCO: At least as I
4 understand it, we go dark. Essentially, the
5 platform shuts down.

6 JUSTICE KAVANAUGH: Unless there's a
7 divestiture?

8 MR. FRANCISCO: Unless there's a
9 divestiture. Unless --

10 JUSTICE KAVANAUGH: A presidential
11 extension --

12 MR. FRANCISCO: -- President Trump
13 exercises his authority to extend it by not --
14 but -- but he can't do that on January 19th. On
15 January 19th, we still have President Biden --

16 JUSTICE KAVANAUGH: Mm-hmm.

17 MR. FRANCISCO: -- and on
18 January 19th, as I understand it, we shut down.

19 It is possible that come January 20th,
20 21st, 22nd, we might be in a different world.
21 Again, that's one of the reasons why I think it
22 makes perfect sense to issue a preliminary
23 injunction here and simply buy everybody a
24 little breathing space.

25 This is an enormously --

1 JUSTICE KAVANAUGH: What do you mean
2 by "shut down" too? Can you just spell that
3 out?

4 MR. FRANCISCO: So --

5 JUSTICE KAVANAUGH: If -- if you can.

6 MR. FRANCISCO: -- the -- the app --
7 one, the app is not available in the app stores.
8 That's at a minimum. But, in addition, what the
9 Act says is that all of the other types of
10 service providers can't provide service either.

11 Now there's enormous consequences for
12 violating that for the service providers. So,
13 essentially, you know, what they're going to say
14 is that, you know, I think, we're not going to
15 be providing the services necessary to have you
16 see it. So it's essentially going to stop
17 operating.

18 I think -- I think that's the
19 consequence of this law, which, again, is why a
20 short reprieve here would make all the sense in
21 the world. It's an enormously consequential
22 decision, and it -- and -- and I think all would
23 benefit if it weren't necessary.

24 JUSTICE KAVANAUGH: Thank you.

25 CHIEF JUSTICE ROBERTS: Justice

1 Barrett?

2 JUSTICE BARRETT: So I just want to --
3 just kind of following up on Justice Kavanaugh's
4 questions. Let's say I agree with you that some
5 level of scrutiny applies and --

6 MR. FRANCISCO: Mm-hmm.

7 JUSTICE BARRETT: -- I'm trying to
8 figure out which level of scrutiny applies, and
9 I'm trying to figure out if there's content
10 discrimination.

11 And let me ask you a different
12 question than I did before --

13 MR. FRANCISCO: Mm-hmm.

14 JUSTICE BARRETT: -- about the
15 algorithm. I mean, you keep saying "shut down."
16 The law doesn't say TikTok has to shut down. It
17 says ByteDance has to divest.

18 If ByteDance divested TikTok, we
19 wouldn't be here, right? If -- if -- if
20 ByteDance was willing to let you go and willing
21 to let you take the source code with you, that
22 would be fine, right? We would not be here?

23 MR. FRANCISCO: Well, Your Honor, if
24 ByteDance divested, then the law wouldn't fall
25 on TikTok. But the law will -- the law, not

1 ByteDance. The law requires TikTok to shut
2 down.

3 JUSTICE BARRETT: But that's because
4 of ByteDance's choice, right?

5 MR. FRANCISCO: Well, it --

6 JUSTICE BARRETT: I mean, this is like
7 Justice Kagan's point. I mean, I'm trying to
8 figure out how we account for the reality of
9 third-party choices, and --

10 MR. FRANCISCO: Mm-hmm.

11 JUSTICE BARRETT: -- the choices of
12 third parties, that the whole reason for the law
13 being passed in the first place.

14 MR. FRANCISCO: Yeah, Your -- Your
15 Honor, I -- I -- I still don't -- I -- I think
16 that the way the analysis works is: Step 1, is
17 there a First Amendment violation?

18 JUSTICE BARRETT: Right.

19 MR. FRANCISCO: Step 2, you get to the
20 question that we're grappling with: What
21 standard of scrutiny do you apply?

22 Typically, what you do is you ask: Is
23 this law content-based? Is it content-based
24 based on its face? Is it content-based in its
25 decision?

1 Here, we know it's content-based on
2 its face because it says what it says. We know
3 it's content-based in its motivation because the
4 government concedes it's content-based in its
5 motivation.

6 JUSTICE BARRETT: Well, that's not
7 quite what I'm asking. I mean, let's see.

8 MR. FRANCISCO: I -- I think --

9 JUSTICE BARRETT: That's the dispute
10 between you --

11 MR. FRANCISCO: Yeah.

12 JUSTICE BARRETT: -- and the
13 government, is, is it content-based if it's
14 about divestiture and not about telling TikTok
15 what content it can display on the platform.

16 MR. FRANCISCO: And I think it has to
17 be because that's -- I think that that really
18 goes to the first question: Does the burden
19 fall on the speaker? If the burden falls on the
20 speaker, that triggers the speaker's First
21 Amendment rights.

22 But the law is, in fact,
23 content-based, whether it comes in the form of a
24 divestiture or something else, when the law
25 specifically says it's content-based. We're

1 worried about the content on the platform and
2 when the government tells you that one of our
3 reasons -- one of the things that we're worried
4 about is TikTok, not ByteDance, but TikTok,
5 Incorporated, and TikTok in the United States
6 will, absent the divestiture, have a mix of
7 content that we find objectionable. They will
8 mix around their videos in a way that is too
9 pro-Chinese or too anti-American.

10 JUSTICE BARRETT: Okay. Let me --

11 MR. FRANCISCO: And that is TikTok,
12 the platform.

13 JUSTICE BARRETT: -- let me just ask
14 you one last question. Why is it impossible to
15 divest in the 270 days, even assuming that the
16 Chinese government hadn't said you couldn't?

17 MR. FRANCISCO: Mm-hmm. Sure. And
18 this is the exchange I was having with Justice
19 Gorsuch. There -- there are two basic reasons.

20 The first is that the underlying
21 source code, that's the source code that comes
22 in here and then has to be converted and
23 executed and --

24 JUSTICE BARRETT: But -- but that's
25 what Justice Gorsuch said, just not ever.

1 So it's not really that you can't do
2 it within the timeframe. It's that you really
3 couldn't ever divest because you never are going
4 to get the source code.

5 MR. FRANCISCO: So -- well, let me
6 unpack that a little bit. No, it -- it's that
7 with the underlying source code, it takes a team
8 of engineers to update and maintain that. It
9 would take us many years to reconstruct a
10 brand-new team of engineers to do that with
11 respect to the source code.

12 With respect to the sharing of
13 content, that was the --

14 JUSTICE BARRETT: Yeah.

15 MR. FRANCISCO: -- different reason.
16 In theory, we could kind of send our salesmen
17 around the world, go to Ireland, go to Finland,
18 go to every country, and say: Look, you used to
19 automatically get our content, but now you've
20 got to separately sign up for our platform.

21 JUSTICE BARRETT: Okay. So last --
22 last point. Let me make sure I understand what
23 you're saying.

24 It's not that you couldn't execute the
25 disentanglement. You could say: We're

1 independent. You just can't re-create TikTok in
2 any kind of way --

3 MR. FRANCISCO: Well, I think that --

4 JUSTICE BARRETT: -- if I recall.

5 MR. FRANCISCO: -- any new -- new
6 TikTok would be a fundamentally different
7 platform with different content, which is yet
8 another reason why I think this is a
9 content-based restriction that falls directly on
10 TikTok, Incorporated, itself and our platform.

11 CHIEF JUSTICE ROBERTS: Justice
12 Jackson?

13 JUSTICE JACKSON: So I guess I'm back
14 to some of the questions that Justice Barrett
15 and Justice Kagan asked about the sort of
16 threshold issue that you point out --

17 MR. FRANCISCO: Mm-hmm.

18 JUSTICE JACKSON: -- which is, is
19 there a burden on the speaker.

20 I'm trying to understand what the
21 burden is that you are articulating and whether
22 it really isn't about association and not
23 speech. You say -- you have in your brief some
24 cases that talk about American speakers being
25 free to choose whether to affiliate with foreign

1 organizations.

2 MR. FRANCISCO: Mm-hmm.

3 JUSTICE JACKSON: And the colloquy you
4 had with Justice Kagan made me think that what
5 you're really complaining about is the inability
6 to associate with ByteDance and its algorithm,
7 that it's not really about, you know, if TikTok
8 came up with its own algorithm or bought an
9 algorithm from some other company or devised it
10 or whatever. This law would have nothing to do
11 with them from your perspective.

12 But the problem I think you're
13 articulating -- and this is -- I'm -- I'm
14 seeking your clarification.

15 MR. FRANCISCO: Mm-hmm. Sure. I --

16 JUSTICE JACKSON: The problem I think
17 you're articulating is that you want to use
18 ByteDance's algorithm and, therefore, associate
19 with ByteDance, and Congress has prohibited that
20 by requiring divestiture.

21 So isn't this really a right of
22 association case under the First Amendment?

23 MR. FRANCISCO: I -- I think it's -- I
24 think it's both, Your Honor. I do think that
25 that is a component of it. We want to use the

1 algorithm that we think reflects the best mix of
2 content. That's the algorithm that reflects the
3 best mix of content.

4 What this law says is we can't do that
5 unless ByteDance exercises a qualified
6 divestiture. But I also think more directly
7 what this law does is it says to TikTok,
8 Incorporated, if ByteDance doesn't exercise a
9 qualified divestiture, you have to go mute. You
10 cannot speak at all. Full stop, period.

11 JUSTICE JACKSON: No, I don't think it
12 says that, though. I mean, if -- if -- if
13 TikTok were to, post-divestiture or whatever,
14 pre-divestiture, come up with its own algorithm,
15 right, then, when the divestiture happened, it
16 could still operate.

17 MR. FRANCISCO: Mm-hmm. I think --

18 JUSTICE JACKSON: It doesn't say,
19 TikTok, you can't speak.

20 MR. FRANCISCO: -- I -- I -- I think
21 that's theoretically correct, Your Honor.

22 JUSTICE JACKSON: Right. But --
23 but --

24 MR. FRANCISCO: But I think that also
25 underscores the content-based nature of the

1 restriction. We have to change our speech.

2 JUSTICE JACKSON: No, but the fact --
3 excuse me. The fact that that's true suggests
4 that you're wrong about the statute being read
5 as saying, TikTok, you have to go mute, because
6 TikTok can continue to operate on its own
7 algorithm, on its own terms, as long as it's not
8 associated with ByteDance.

9 So isn't this really just all about
10 association?

11 MR. FRANCISCO: Your Honor, I think it
12 is partly about association, but I'm going to
13 take another shot at explaining why it's not
14 just about association.

15 JUSTICE JACKSON: Okay. Well, let me
16 just take you down the association path for a
17 second because, if it is about the association
18 of TikTok with ByteDance, then don't we have
19 cases that seem to undermine your view that
20 Congress can't do this?

21 I mean, I thought we had cases about
22 Congress prohibiting association with terrorist
23 organizations, prohibiting association with
24 foreign adversaries. And so why doesn't this
25 fall into that kind of group of -- of our

1 jurisprudence?

2 MR. FRANCISCO: Well -- well, at least
3 as I understand all of those cases, they applied
4 strict scrutiny. The -- the -- the material
5 support statute most definitely applied strict
6 scrutiny.

7 JUSTICE JACKSON: And -- and
8 ultimately upheld the law, so fine.

9 MR. FRANCISCO: But -- but -- sure.
10 And if -- I think, if we go down the strict
11 scrutiny road here, I don't see that this law
12 can possibly be satisfied under the interests
13 that they assert here.

14 But I do want to emphasize why this is
15 also about TikTok's speech. Even under your
16 hypothetical, where, theoretically, they can say
17 something differently than they are say --
18 saying today, that in and of itself is a direct
19 restriction on TikTok's speech.

20 They can't engage in the speech they
21 want to engage in. They have to engage in a
22 different kind of speech, the speech they don't
23 want to engage in. That is a direct burden on
24 TikTok, Incorporated's speech --

25 JUSTICE JACKSON: All right.

1 MR. FRANCISCO: -- wholly apart from
2 association.

3 JUSTICE JACKSON: I think I understand
4 that argument.

5 Let me ask you a question about your
6 colloquy with Justice Kavanaugh. Did I
7 understand you to concede that there is a
8 compelling interest and that the problem is
9 really tailoring?

10 I mean, you said: I understand the
11 risks. I don't hear you suggesting that the
12 risks don't exist. So it sounds like we've
13 gotten past -- even if we're in strict scrutiny
14 world, we've gotten past the compelling interest
15 part of this.

16 MR. FRANCISCO: No, Your Honor. What
17 I was saying is that if all you had, standing
18 alone, were the data security, that would be a
19 different case.

20 Here, when you have the content
21 manipulation sitting right alongside of the data
22 security, that taints the data security
23 rationale. If Congress came in and said: We're
24 passing this law for two reasons -- one, we
25 really care about data security, and, two, we

1 hate the speech on TikTok -- the data security
2 wouldn't alone sustain that law.

3 Under cases like Mt. Pleasant, it
4 would speak in both --

5 JUSTICE JACKSON: I understand. But
6 why -- why -- you're equating we don't want
7 foreign adversaries to be able to manipulate the
8 content on this platform, you're equating that
9 with we hate the content, and I'm just trying to
10 understand why.

11 MR. FRANCISCO: Be -- be -- sure.
12 Because content manipulation is, by definition,
13 a content-based distinction.

14 Look, everybody manipulates content.
15 There are lots of people who think CNN, Fox
16 News, The Wall Street Journal, The New York
17 Times, are manipulating their content. That is
18 core protected speech. That's why they put so
19 much weight on this mere covertness. But --

20 JUSTICE JACKSON: Right, but that's --
21 that -- but that analysis is just about
22 content-based versus content-neutral and,
23 therefore, whether you apply strict scrutiny.

24 I'm in the strict scrutiny world.

25 MR. FRANCISCO: Mm-hmm.

1 JUSTICE JACKSON: Okay? I'm assuming
2 that you're right that strict scrutiny applies,
3 and now prong number one in that world is do --
4 does the government have a compelling interest.

5 MR. FRANCISCO: And --

6 JUSTICE JACKSON: And so I'm trying to
7 understand why the government's argument that we
8 have data manipulation concerns, which I
9 understood you in colloquy with Justice
10 Kavanaugh to say is a risk, and we are
11 concerned, based on what Justice Gorsuch says
12 when he's looking at the facts, you know, that
13 the government contends that there's this real
14 problem with this foreign adversary doing
15 manipulation in other places, are you saying
16 those are not compelling government interests?

17 MR. FRANCISCO: I am 100 percent
18 saying that content manipulation is not just not
19 a compelling governmental interest, it is an
20 impermissible governmental interest. You could
21 not go to CNN or Fox News and say we're going to
22 regulate you because you're manipulating the
23 content in the way that we don't like. That is
24 per se impermissible.

25 JUSTICE JACKSON: Okay.

1 MR. FRANCISCO: That is why --

2 JUSTICE JACKSON: Can I just ask you
3 one last thing? You -- you say with respect to
4 the tailoring issue that disclosure, you think,
5 is a possible more narrowly tailored way of
6 handling some of this.

7 And I guess I'm just wondering whether
8 disclosure under this Court's case law and the
9 law of other lower courts doesn't carry its own
10 First Amendment complications, that don't we
11 have -- wouldn't we have compelled speech
12 problems if disclosure was required in this
13 situation?

14 MR. FRANCISCO: Sure, Your Honor.
15 Now, look, I might think so because I think that
16 the factual predicate is wrong, but they think
17 the factual predicate is right. And if the
18 factual predicate is right, then there are no
19 First Amendment problems at all under Zauderer
20 and the cases that you're suggesting.

21 And that underscores the larger
22 problem here. Not all disclosures are perfect.
23 I'm not here to argue that they are. But you've
24 always got to consider what the alternative is.
25 And, here, the alternative is shutting down one

1 of the largest speech platforms in the --
2 America.

3 The reason there's no evidence in this
4 record as to disclosures is because Congress
5 never even undertook that balancing in the first
6 place --

7 JUSTICE JACKSON: Thank you.

8 MR. FRANCISCO: -- the bare minimum
9 that has to be done before we take an
10 unprecedented -- unprecedented step of shutting
11 down the voices of 170 million Americans.

12 JUSTICE JACKSON: Thank you.

13 CHIEF JUSTICE ROBERTS: Thank you,
14 counsel.

15 Mr. Fisher.

16 ORAL ARGUMENT OF JEFFREY L. FISHER
17 ON BEHALF OF PETITIONERS BRIAN FIREBAUGH, ET AL.

18 MR. FISHER: Mr. Chief Justice, and
19 may it please the Court:

20 Wholly apart from the companies' legal
21 interests here, the Act directly restricts the
22 rights, the First Amendment rights, of American
23 creators to participate and speak in what the
24 Court a little less than a decade ago called the
25 modern public square and what you might say

1 today is the most vibrant speech forum in the
2 United States of America.

3 And the Act, therefore, is inescapably
4 subject to strict scrutiny because of the First
5 Amendment implications. And the Act fails that
6 test and, indeed, any level of scrutiny under
7 this Court's case law because the Act and the
8 reasons behind it defy our history and
9 tradition, as well as precedent.

10 American creators have long and always
11 enjoyed the right to speak in conjunction with
12 foreign speakers or work with foreign
13 publishers. Americans even have the right under
14 the Lamont case to receive information from
15 foreign speakers, indeed, foreign governments.
16 The -- so that leaves the -- the government with
17 this implication in its -- in its use of the
18 phrase "national security" in this context. But
19 that just simply doesn't change the calculus.

20 Throughout our history, we have faced
21 ideological campaigns by foreign adversaries.
22 Yet, under the First Amendment, mere ideas do
23 not constitute a national security threat.
24 Restricting speech because it might sow doubt
25 about our leaders or undermine democracy are

1 kind of things our enemies do. It is not what
2 we do in this country. And so we think the
3 Court should reverse.

4 And I would welcome the Court's
5 questions.

6 JUSTICE THOMAS: How exactly is -- are
7 the creators' speech being impeded?

8 MR. FISHER: So two ways, Justice
9 Thomas. First, I'd just point you to the text
10 of the statute, which directly regulates text,
11 images, communicate -- real-time communications,
12 videos. My clients, the creators, are the ones
13 creating that speech and posting it to speak to
14 other Americans.

15 JUSTICE THOMAS: But it doesn't say
16 anything about creators or people who use the
17 site. It's only concerned about the ownership
18 and the concerns that data will be manipulated
19 or there will be other national security
20 problems with someone who's not a citizen of
21 this country or a company who's not here.

22 MR. FISHER: So -- so there's two
23 ways, and I think the Sorrell case is where you
24 look for the analysis of the First Amendment
25 burden here. As I said, the text of the statute

1 regulates our speech. And then you point out
2 ownership, and this was talked about a lot in
3 the first part of the argument here, so let me
4 be very clear.

5 The American creators have a right to
6 work with the publisher of their choice. So
7 imagine somebody wanted to work on -- post
8 speech on Twitter, now known as X, and Congress
9 passed a law saying we don't like the current
10 owner of X. The current owner of X has to sell
11 that platform or else it has to shut down.

12 People who post on that platform and
13 who, indeed, some of them make a living
14 commentating, engaging on current events, news,
15 politics, would have a First Amendment claim --

16 JUSTICE THOMAS: But -- it -- it --

17 MR. FISHER: -- to work with that
18 particular publisher.

19 JUSTICE THOMAS: -- using that
20 argument, you could have said that about the
21 breakup of AT&T. You could say that about the
22 foring -- foreign limitations of on foreign
23 ownership of broadcast companies.

24 MR. FISHER: Well, no -- I think that
25 you have to dig a little deeper than that,

1 Justice Thomas. It's not mere foreign ownership
2 and it's certainly -- the broadcast cases I'll
3 get to in a moment. But it's foreign ownership
4 because of a particular perspective.

5 If you boil it down to an essence, the
6 owner of a print media or online media
7 publication is -- is -- is the essence of the
8 viewpoint of that publication. The current
9 owner of X or the current owner of Fox News or
10 the current owner of MSNBC has a particular
11 perspective. And working with that particular
12 platform is shot through with the ownership from
13 top to bottom.

14 JUSTICE JACKSON: But why couldn't
15 Congress prohibit Americans from associating
16 with certain foreign organizations that have
17 interests that are hostile to the United States?
18 I mean, I thought that's what Holder versus
19 Humanitarian Law Project allowed, so I don't
20 really understand what you mean.

21 MR. FISHER: Right. So I'm glad
22 you're bringing that up.

23 JUSTICE JACKSON: Yes.

24 MR. FISHER: So, when it comes to this
25 national security, you are right that Congress

1 can prohibit Americans, to use that case as an
2 example, from associating with terrorist
3 organizations or other organizations that pose a
4 clear and present danger to this country.

5 This case, Justice Jackson, is
6 fundamentally different. What the government
7 tells you in its own brief that it is worried
8 about here are the ideas that might be expressed
9 on TikTok. We might undermine U.S. leadership.
10 We might sow doubts about democracy. We might
11 have pro-China views.

12 And so, if you look to whether that is
13 a legitimate interest, my fundamental
14 submission -- and this, I think, goes to the
15 last colloquy you were having with Mr.
16 Francisco -- is that is an impermissible
17 government interest. And you look throughout
18 our history and tradition, and I think the place
19 I would point you most directly would be the
20 opinions of Justice Brandeis in Whitney and
21 Justice Holmes in Abrams --

22 JUSTICE JACKSON: I guess I don't
23 understand how that's distinguishable from
24 what's happening in Holder, and -- and so can
25 you just say a little bit more?

1 MR. FISHER: It's -- it -- it goes to
2 the nature of the national security threat. So
3 my position is the government just doesn't get
4 to come in and say national security and the
5 case is over or you don't get to associate. You
6 have to dig underneath what is the national
7 security claim. And what Justice Holmes said in
8 his Abrams dissent -- and I know that was a
9 dissent, these are hard issues, but that has
10 been vindicated over time -- is that it's not
11 enough to say national security. You have to
12 say what is the real harm. Is it -- you know,
13 is it terrorism? Is it where are -- where our
14 battleships are located?

15 JUSTICE JACKSON: But Justice
16 Kavanaugh --

17 MR. FISHER: Is it war?

18 JUSTICE JACKSON: -- Justice Kavanaugh
19 presented a number of potential risks, right,
20 with -- with foreign adversaries using covert
21 manipulation of the data platforms that are
22 being used by youths today that would then make
23 it more likely that people would turn into spies
24 and do terrible things to the United States.
25 This is a hypothetical, but --

1 MR. FISHER: Yeah.

2 JUSTICE JACKSON: -- you know what I'm
3 saying?

4 MR. FISHER: I -- I get it. So I
5 think, if I understood Justice Kavanaugh
6 correctly, he was talking about the data
7 security arguments. Let me just pull these
8 apart.

9 You first have an argument -- and the
10 government itself separates these two arguments
11 in its brief. The first argument and the one
12 I'm focusing on initially is the content
13 manipulation argument, and that argument is that
14 our national security is implicated if the
15 content on TikTok is anti-democracy, undermines
16 trust in our leaders. They use -- they use
17 various phrases like that in their brief. So my
18 primary submission is that is an impermissible
19 government interest that taints the entire Act.

20 Now there's a secondary argument the
21 government makes, and we say you don't even get
22 to that because, once you have an impermissible
23 motive like that, the law is unconstitutional.

24 But, even if you could get to that,
25 Justice Jackson, I do grant that data security

1 in -- in the way Justice Kavanaugh spelled it
2 out is compelling. That is compelling. But
3 that's not the question. You just don't ask in
4 the air, you know, was Congress worried about
5 data security or could it reasonably worry -- be
6 worried about data security? You say, can this
7 Act, the Act before you, be sustained on data
8 security grounds?

9 And our answer to that has to be no.
10 You don't have to look any further than the
11 divest -- the -- the divestiture provision
12 itself, which says that the content
13 recommendation algorithm cannot be used in the
14 future. Well, that has nothing to do with data
15 security. So the core feature of the
16 divestiture provision is going at content
17 manipulation, which I say is impermissible. You
18 can't -- you can't uphold that under data
19 security grounds.

20 And the rest of the Act, when you look
21 at the covered companies provision, Justice
22 Jackson, if this were primarily a data security
23 law, what you think you'd find is, what kind of
24 data is procured? How is it stored? Is it
25 shared? Those are the things you think you'd

1 find under covered companies.

2 But you don't find that. What you
3 find is, are text images shared? Is content
4 being shared between users? Is it being created
5 and posted in a social media platform?

6 So I don't dispute for one second that
7 data security is a very important thing, and
8 Congress in this very law regulated data
9 security in other ways with the -- with data
10 brokers. That's perfectly permissible. But the
11 question before you today is narrower. The
12 question is, is this law before you sustainable
13 on data security grounds? And that answer has
14 to be no.

15 JUSTICE GORSUCH: Mr. --

16 CHIEF JUSTICE ROBERTS: Congress
17 doesn't care about what's on TikTok. They don't
18 care about the expression. That's shown by the
19 remedy. They're not saying TikTok has to stop.
20 They're saying that the Chinese have to stop
21 controlling TikTok.

22 So it's -- it's not any -- a direct
23 burden on the expression at all. Congress is
24 fine with the expression. They're not fine with
25 a foreign adversary, as they've determined it

1 is, gathering all this information about the 170
2 million people who use TikTok.

3 MR. FISHER: Well, again, Mr. Chief
4 Justice, if I may, let me separate the -- the --
5 where you started, which was the content
6 manipulation, and then go to the data security
7 part of it.

8 So I understand --

9 CHIEF JUSTICE ROBERTS: Well, the
10 first part was not -- I'm not talking about the
11 content manipulation. I'm talking about the
12 content harvesting.

13 MR. FISHER: I -- I -- when you say
14 "content harvesting," do you mean people don't
15 know where the --

16 CHIEF JUSTICE ROBERTS: Well, if
17 they've got all the information --

18 MR. FISHER: Yeah.

19 CHIEF JUSTICE ROBERTS: -- whatever
20 they -- whatever algorithms they want that has
21 access to the personal information or at least
22 information that is not readily available about
23 170 million Americans.

24 And whether they're going to use it in
25 10 or 15 years, when those people grow up and,

1 you know -- you know, have different jobs in
2 different places, or whether they're going to
3 use it now, that, at least as I look at the
4 Congressional Record, is what Congress was
5 concerned about.

6 MR. FISHER: Well, I think, though,
7 that --

8 CHIEF JUSTICE ROBERTS: And they're
9 not concerned about the fact that it is
10 available. As I said, the remedy is just
11 somebody else has to run TikTok.

12 MR. FISHER: Right.

13 CHIEF JUSTICE ROBERTS: So they're not
14 concerned about the content. They're concerned
15 about what the foreign adversary is doing.

16 MR. FISHER: So, if I may, I think I
17 still -- to answer your question properly, I
18 think I have to separate two things.

19 One is the content recommendation
20 algorithm, and that's what I was speaking about
21 a moment ago. That has nothing to do with data
22 security. That doesn't itself procure data.
23 That just determines what videos people see on
24 their feed on TikTok.

25 As to that, I think the answer is

1 inescapably that the government and Congress
2 itself was worried about content. The
3 government itself is here saying: National
4 security.

5 So, like, a mix of cat videos or dance
6 videos doesn't affect national security.
7 What -- no matter what happens, the only thing
8 that can affect data security -- I -- I'm sorry,
9 national security are the substance of those
10 videos.

11 And when the government's pressed in
12 its briefing, it outright tells you that. It
13 says: What we're really worried about is sowing
14 doubts about U.S. leaders, et cetera. So let me
15 turn then to data security.

16 Yes, you know, there were various
17 Congresspersons, and in the record that we have
18 in the D.C. Circuit, there were conversation
19 about the problem of data security here. As I
20 said, I don't dispute that that is a valid
21 governmental interest.

22 So I think you address whether that
23 alone could sustain the Act in two steps.
24 First, you would ask: If you have an
25 impermissible motive and a permissible one, can

1 we sustain the Act based on the impermissible --
2 base -- based simply on the permissible motive?

3 And I think, for the reasons
4 Mr. Francisco said and we lay out in our brief,
5 that alone, the answer is no under Hunter
6 against Underwood and other cases.

7 Even if you could get just to the data
8 security question, again, you'd have to ask the
9 question: Would this law have been passed by
10 Congress for data security reasons? Because
11 you're asking -- asked to uphold a law based on
12 that single governmental interest. And when you
13 look through the provisions, like the content
14 recommendation algorithm provision, like the
15 covered company provisions, the answer's no.

16 And if you're still in doubt on that,
17 just go back to the under-inclusiveness problem.
18 Would a Congress really worried about these very
19 dramatic risks leave out a e-commerce site like
20 Temu that has 70 million Americans using it and
21 every bit the connection to the world of
22 Chinese --

23 JUSTICE KAVANAUGH: Does Congress have
24 to go all or nothing on that? I mean --

25 MR. FISHER: It -- it doesn't have to

1 go all or nothing, Justice --

2 JUSTICE KAVANAUGH: -- if they -- they
3 isolate a particular problem, then they could --
4 they might be getting to what you're talking
5 about next, who knows, but you're really sitting
6 up there and saying Congress would not pass the
7 divestiture law if data security were the only
8 interest. I mean --

9 MR. FISHER: So I'm saying it would
10 not have passed this divestiture law if -- if --
11 if data security were the only interest.

12 It's very curious why you just single
13 out TikTok alone and not other companies with
14 tens of millions of people having their own data
15 taken, you know, in the process of engaging with
16 those websites and equally, if not more,
17 available to Chinese control.

18 So I'm not trying to say that Congress
19 has to do everything at once. I'm trying to say
20 that once you've concluded that content
21 manipulation, for the reasons I've said, as a
22 matter of our history and tradition has to be
23 impermissible --

24 JUSTICE SOTOMAYOR: Is there another
25 site like this one that covers half the American

1 population?

2 MR. FISHER: I don't -- I -- I -- I
3 don't think just by way of sheer numbers,
4 Justice Sotomayor, that -- the answer has to be
5 no.

6 JUSTICE SOTOMAYOR: All right. All
7 right. Now put -- put -- the --

8 MR. FISHER: But 70 million seems like
9 a lot.

10 JUSTICE SOTOMAYOR: A hundred and
11 seventy million is a lot, but put that aside.

12 MR. FISHER: Yeah.

13 JUSTICE SOTOMAYOR: And -- and -- and
14 then go to the next question, which is: How
15 many of these sites have all of the data
16 collection mechanisms that TikTok has?

17 From what I understand from the
18 briefs, not only is it getting your information,
19 it's asking, and most people give it permission,
20 to access your contact list, whether that
21 contact list has permitted them to or not.

22 MR. FISHER: Mm-hmm.

23 JUSTICE SOTOMAYOR: So they can now
24 have data about all of your contacts and
25 anything you say about them.

1 How many other sites gather
2 information by keystrokes to be able to do voice
3 and finger ID information if they choose? I
4 mean, there's a whole lot of data stuff that was
5 discussed in the brief that I don't think any
6 other website gathers. So wouldn't this be a
7 unique site? If I view the evidence that way,
8 how would this be under-inclusive?

9 MR. FISHER: Justice Sotomayor, I --
10 I -- I don't think a lot of the suppositions
11 you're making actually bear out. And, as
12 Justice Gorsuch was pointing out, one of the,
13 obviously, the real challenges in this case is
14 it comes to you without an ordinary trial record
15 compiled and all the rest. So we have only
16 limited amounts of information. But,
17 absolutely, these other websites are taking much
18 the same kind of information, if not more.

19 And, as to the -- as to the contact
20 list thing, I think you also -- that points out
21 one other aspect of this. That is voluntary
22 decision by an American user to share that
23 information.

24 You know, in the Riley case --

25 JUSTICE SOTOMAYOR: But not informed.

1 And even if informed, but he --

2 MR. FISHER: Well, but that could be
3 solved -- if you don't think it's informed, that
4 could be solved by a warning or disclosure.

5 JUSTICE SOTOMAYOR: Well, no, it can't
6 be because, for the United States, the threat of
7 using that information is what is at issue.
8 It's not whether the user thinks it's okay.
9 It's whether the U.S. believes that it could put
10 sites at issue.

11 But let me ask you one --

12 MR. FISHER: Mm-hmm.

13 JUSTICE SOTOMAYOR: -- last question
14 and fundamental question.

15 Assuming that content -- that
16 content-neutral data collection concerns were
17 Congress's -- is one of Congress's provisions,
18 divest because of this --

19 MR. FISHER: Mm-hmm.

20 JUSTICE SOTOMAYOR: -- why can't we
21 separate that out from how we analyze the --
22 algorithm question?

23 And couldn't we sever the two
24 provisions to say: Divestiture is right, but
25 you can't force them not to discuss algorithm?

1 MR. FISHER: Well, I think the reason
2 why you can't do that is -- is -- is was
3 Mr. Francisco explained. I -- I direct you to a
4 case like Hunter against Underwood and just --
5 and -- and -- analogize it to this situation.

6 If what you had is the government
7 saying: We -- we are shutting down TikTok or
8 requiring divestiture for two reasons, one,
9 because we think it helps the Democratic Party
10 too much and, number two, because we're
11 concerned about data, I think that first
12 interest would be a poison pill. That would be
13 an impermissible -- or because we think it, you
14 know, there's too much pro-Catholic content on
15 TikTok.

16 I think there are some interests that
17 are just so constitutionally verboten that I
18 think that -- that just makes the Act
19 unconstitutional, and you can't go looking for
20 other interests.

21 You send it back to Congress: Look,
22 if you want to pass a data security law free and
23 clear of this impermissible interest, you go
24 ahead and do it.

25 JUSTICE SOTOMAYOR: Thank you,

1 counsel.

2 JUSTICE GORSUCH: So, Mr. --

3 MR. FISHER: Can I say one other
4 thing, Justice Sotomayor, just because I think
5 it is also telling here that even if you didn't
6 buy that poison pill argument and you just asked
7 whether Congress would have passed this law,
8 something else that I think you might notice is,
9 even if all this Act goes into effect and the --
10 and the law goes through, TikTok gets to keep
11 all the data.

12 So wouldn't a data security law
13 require them to expunge that data or get rid of
14 it or something? I mean, it's a very weird law
15 if you're just looking at it through a data
16 security lens --

17 JUSTICE GORSUCH: Mr. --

18 MR. FISHER: -- and maybe Congress
19 could do better.

20 JUSTICE GORSUCH: -- Mr. Fisher, you
21 know, often we require divestiture for antitrust
22 reasons, for example. And, as I take it, your
23 argument here -- and we don't think of those as
24 normally implicating the First Amendment
25 interests of users or people who might speak

1 or --

2 MR. FISHER: Right.

3 JUSTICE GORSUCH: -- associate with
4 editors. And -- and -- and the difference here
5 is, as I understand it, in your mind, that this
6 law is motivated by a content-based interest.
7 Is -- is that -- is that a fair summary?

8 MR. FISHER: I -- I think that -- the
9 only thing I would add to it is the prior step,
10 which it is -- it is regulating the speech
11 itself for content-based reasons, yes.

12 JUSTICE GORSUCH: Yeah. We don't do
13 that in the antitrust area --

14 MR. FISHER: Exactly.

15 JUSTICE GORSUCH: -- but you say this
16 law does.

17 MR. FISHER: Exactly.

18 JUSTICE GORSUCH: Okay. And -- and it
19 does on -- on the content -- covert content
20 manipulation side, do you think that's a
21 compelling interest or not? Forget about the
22 tailoring for a moment.

23 MR. FISHER: No. My point is is that
24 preventing content manipulation, whether it's
25 covert or not --

1 JUSTICE GORSUCH: Is simply not
2 compelling?

3 MR. FISHER: -- is -- is
4 impermissible. If what you mean by "content
5 manipulation" are the kinds of interests the
6 government is saying, like undermining trust in
7 our leaders --

8 JUSTICE GORSUCH: Yeah.

9 MR. FISHER: -- you know, undermining
10 trust in democracy --

11 JUSTICE GORSUCH: And that's Whitney
12 and Abrams in your mind?

13 MR. FISHER: -- that's Whitney and
14 Abrams. And, like, those cases --

15 JUSTICE GORSUCH: Got it. I got it.

16 MR. FISHER: Yeah.

17 JUSTICE GORSUCH: I got it.

18 JUSTICE KAGAN: So, Mr. Fisher --

19 JUSTICE GORSUCH: I -- just a couple
20 more, I'm sorry.

21 MR. FISHER: Yeah. Yeah.

22 JUSTICE GORSUCH: I'll finish up real
23 quick.

24 And so that would take us to the
25 tailoring question, and there, you say

1 disclosure and alerting Americans that there is
2 covert content manipulation possibility, putting
3 aside that -- the data collection part of it --

4 MR. FISHER: Yeah.

5 JUSTICE GORSUCH: -- telling Americans
6 that there -- there is content -- covert content
7 manipulation going on in TikTok or at least it's
8 possible.

9 And the government says that's just
10 simply not enough. And the D.C. Circuit did
11 too. And I wanted to give you a chance to
12 respond to that.

13 MR. FISHER: Right. So I think that's
14 the only aspect of the governmental interest
15 that could be permissible, the -- the -- the
16 covert part.

17 And my answer, as you just said, is
18 disclosure solves that problem. And -- and --
19 and you have a law, a longstanding law which we
20 haven't talked about yet today, that gives you
21 that example. Again, under a
22 history-and-tradition test, you look at not just
23 precedent but laws and our traditions of our
24 country. Look at the Foreign Agent Registration
25 Act, passed -- passed in the run-up to World War

1 II, and the concern was Americans would be
2 controlled by foreign agents to speak and
3 advocate certain causes.

4 JUSTICE GORSUCH: We didn't ban them.
5 We just required disclosure.

6 MR. FISHER: You did not ban them.
7 All you did is require --

8 JUSTICE GORSUCH: Okay.

9 MR. FISHER: You, Congress.

10 JUSTICE GORSUCH: Yeah.

11 MR. FISHER: All Congress did was
12 require a disclosure.

13 JUSTICE GORSUCH: I certainly
14 wasn't -- I wasn't around for that.

15 (Laughter.)

16 JUSTICE GORSUCH: On -- on the secret
17 evidence point, I'm concerned about the
18 government's attempt to lodge secret evidence in
19 this case without providing any mechanism for
20 opposing counsel to review it. And I -- I
21 expressed that concern in Zubaydah, and I noted
22 that there are mechanisms to read in counsel and
23 that other countries, including our allies,
24 often do that. I just wanted to give you a
25 chance to give me your thoughts on that.

1 MR. FISHER: Yes, Justice Gorsuch. We
2 made all those arguments in the D.C. Circuit.
3 So there was a flurry of motion practice about
4 whether or not the government could rely on
5 classified evidence. Those motions were never
6 resolved.

7 What the D.C. Circuit did -- I think
8 you probably noticed from the decision -- is say
9 we're going to decide this case solely based on
10 the public record, and my understanding is
11 that's how it comes to this Court.

12 JUSTICE GORSUCH: It's interesting
13 that --

14 MR. FISHER: But, if the Court were
15 ever -- ever --

16 JUSTICE GORSUCH: It's interesting
17 that Congress hasn't acted in this field. I
18 mean, we have in the FISA area, you know, lots
19 of opportunity. They're -- they have regulated
20 this area, and it does seem like an area that
21 Congress might want to -- to pay attention to
22 given the increased appeals to secret evidence
23 that the government has made in recent years.

24 Last question for you. Could the new
25 administration after January 20th -- Mr.

1 Francisco suggested that it might -- be able to
2 extend the deadline even though -- if you were
3 to lose here by January 19th, is -- is that
4 possible as you read the law?

5 MR. FISHER: I'm not sure it is. I'm
6 not sure -- maybe -- maybe that's a question for
7 the Solicitor General, but --

8 JUSTICE GORSUCH: Oh, it certainly is.
9 I --

10 (Laughter.)

11 JUSTICE GORSUCH: -- I thought maybe
12 I'd give you a chance too.

13 MR. FISHER: The -- the -- so, you
14 know, as I understand the law, it's 270 days
15 unless extended, and once that time runs, I'm
16 not sure you're talking about an extension
17 anymore.

18 JUSTICE GORSUCH: Okay.

19 MR. FISHER: You know, there's ex post
20 facto law that --

21 JUSTICE GORSUCH: Yeah, yeah.

22 MR. FISHER: -- kind of does this
23 stuff.

24 JUSTICE GORSUCH: Got it. Thank you.

25 MR. FISHER: Yeah.

1 JUSTICE KAGAN: Can I take you back,
2 Mr. Fisher? Let's say I agree with you that if
3 you're talking about content manipulation,
4 that's an inherently content-based rationale for
5 acting. So, if Congress had passed a law that
6 says we hate the content manipulation that
7 TikTok is doing, that's strict scrutiny land,
8 and I don't know that the government can do
9 that, however important, you know, the -- the --
10 the interest.

11 But that's not what Congress is doing
12 here -- and this is the same kinds of questions
13 that I asked --

14 MR. FISHER: Mm-hmm.

15 JUSTICE KAGAN: -- Mr. Francisco --
16 because, if -- if -- let's take it as a given
17 that Congress actually can do whatever it wants
18 with respect to a wholly foreign corporation or
19 a foreign government.

20 MR. FISHER: Yeah.

21 JUSTICE KAGAN: And so Congress could
22 act with the intent to interfere with the
23 content manipulation that a foreign corporation
24 is doing. And so now we're in this strange
25 world where we're saying they can't act with

1 respect to TikTok. They could act with respect
2 to ByteDance.

3 Why isn't this Congress acting with
4 respect to ByteDance in the sense that all it's
5 doing is saying ByteDance has to divest, and
6 then TikTok can go about its business, use
7 whatever algorithm it wants, use whatever
8 content-moderation policies it wants, just like
9 everybody else does, choosing from everything
10 that's available on the open market?

11 MR. FISHER: So I -- let me answer
12 that question in two parts from the perspective
13 of the creator Americans who want to use this
14 platform to speak to other Americans.

15 So the first thing is what the Act
16 does, as you said, Justice Kagan, is prevent us
17 from working with a application that is owned by
18 ByteDance that uses this algorithm. Well,
19 that's exactly what we want to do. That's our
20 editor and publisher of choice that we think
21 best disseminates our speech.

22 JUSTICE KAGAN: Yeah, but what I'm
23 saying to you is, if you just assume a world
24 without TikTok, that -- where it's only
25 ByteDance --

1 MR. FISHER: Yeah.

2 JUSTICE KAGAN: -- and you were trying
3 to -- you -- you were trying to say, well, we
4 really want to work with ByteDance --

5 MR. FISHER: Yeah.

6 JUSTICE KAGAN: -- and Congress was
7 saying we think ByteDance presents national
8 security interests and they don't have First
9 Amendment rights, they're just a foreign
10 corporation, I think that in that case, the
11 government -- I mean, tell me if you think this
12 is wrong. It just doesn't matter --

13 MR. FISHER: Yeah.

14 JUSTICE KAGAN: -- that you have
15 creators who want to work with ByteDance --

16 MR. FISHER: So --

17 JUSTICE KAGAN: -- because ByteDance
18 is a foreign corporation with no First Amendment
19 rights.

20 Is that what you're contesting?

21 MR. FISHER: So that is what I'm
22 contesting. So you said two things, though. So
23 I could be clear, there's two aspects. Do we
24 have a First Amendment right to work with a
25 foreign company or even a foreign country to

1 publish our speech? And then there's a national
2 security part that you put into that, which goes
3 to the justification.

4 JUSTICE KAGAN: Forget that.

5 MR. FISHER: But -- forget that. Yes.
6 Let's do that. So, if that is right, Justice
7 Kagan, then American creators have no right
8 to -- to make documentaries with the BBC. They
9 can't -- they can't work with Al Jazeera if
10 Congress wants to prevent that. Any number of
11 other publications that are state-owned wholly
12 or partially.

13 And even under Lamont, remember, where
14 you're not even creating speech, you're just
15 listening, you know, that was speech from China
16 that the Court said you have a First Amendment
17 right to receive.

18 JUSTICE KAGAN: So would I be right to
19 say that your position is that because of the
20 users who want to associate and want to partner
21 with this foreign corporation --

22 MR. FISHER: Yeah.

23 JUSTICE KAGAN: -- the foreign
24 corporation ends up having, in your view, the
25 exact same First Amendment rights as your users

1 do? In other words, it's -- it's irrelevant --

2 MR. FISHER: Yeah.

3 JUSTICE KAGAN: -- that the foreign
4 corporation doesn't have First Amendment rights.

5 MR. FISHER: I -- I don't think it's
6 irrelevant because you could imagine a situation
7 where no American distributor or speaker wants
8 to work with that.

9 But the -- let me -- let me put it to
10 you this way: The Communist Manifesto written
11 by Karl Marx has no First Amendment standing on
12 its own in America, but if a bookstore wants to
13 sell that publication, I don't think Congress
14 can prevent it from doing so.

15 JUSTICE BARRETT: Well --

16 MR. FISHER: A --

17 JUSTICE BARRETT: Oh, sorry. Go
18 ahead.

19 MR. FISHER: No, I'm -- I'm fine.

20 JUSTICE BARRETT: No, no, no. It's --

21 JUSTICE KAGAN: I'm good.

22 JUSTICE BARRETT: Okay. So I want
23 to -- but I want to press you a little bit on
24 the distinction because, in Lamont, the --
25 the -- the prohibition worked directly on the

1 American, like you have to specifically request
2 this information that comes.

3 This is working -- kind of as Justice
4 Kagan's questions were -- were pressing you,
5 this is working on ByteDance. It's not saying
6 to your creators you can't post on ByteDance.
7 That's -- that's indirectly going to happen --

8 MR. FISHER: Right.

9 JUSTICE BARRETT: -- if ByteDance
10 chooses itself not to permit TikTok to walk away
11 with the code.

12 So does that matter, that distinction
13 between Lamont and this case?

14 MR. FISHER: No, for two reasons.

15 One, under the Sorrell case, you look
16 to not just the law itself but its practical
17 operation. And the practical operation does
18 prevent us from working with ByteDance. So
19 that's one answer.

20 And, you know, you bring up Lamont,
21 and Lamont's actually a very important case, as
22 I'm sure you all recognize here. It's important
23 to look not just at the Court's opinion but look
24 at the briefing in that case. The government
25 itself never came in and argued there's no right

1 to receive this information. That's the sort of
2 greater argument. All the government argued
3 was, of course, Americans have a right to
4 receive this, but it's just not so much of a
5 burden to require them to raise their hand to
6 get it.

7 So Archibald Cox, when he was the
8 Solicitor General, said to the Court quite
9 explicitly in the brief we're not even going to
10 make this argument because we think it's so
11 contrary to history and tradition. All we're
12 going to argue is the burden isn't enough.

13 Now what happened is the D.C. Circuit
14 kind of turned that upside down and said, oh,
15 Lamont's just a case about the burden. Well,
16 that's because that's the only argument the
17 government was even willing to make in this
18 Court. There was no argument that Americans
19 didn't have the right to hear that speech.

20 JUSTICE BARRETT: What about -- so I
21 think this goes to Justice Gorsuch's questions
22 about antitrust divestiture. Let's say that --
23 let's say that for antitrust reasons or -- or
24 let's even say not for that. Let's say, for
25 suspect First Amendment reasons, Congress tells

1 Jeff Bezos that he has to divest in the
2 Washington Post. You know, he can no longer own
3 the Post. And let's say that neither Bezos nor
4 the Post challenges that. But let's say that
5 you represent clients who really like the Post
6 as it was, who really want to keep receiving the
7 Post, who really want to publish op eds in the
8 Post.

9 MR. FISHER: Yeah.

10 JUSTICE BARRETT: Would you have
11 standing? Like, what kind of a claim would you
12 be making then?

13 MR. FISHER: I believe so, Justice
14 Barrett. And the Court has cited Lamont in
15 other cases in more recent years to say we've
16 recognized the right of American listeners to
17 receive information from others. And remember
18 even that is a lot -- that's only a small part
19 of the argument I'm making on behalf of the
20 creators.

21 You know, I don't mean to diminish
22 Mr. Francisco's arguments on behalf of the
23 company and ByteDance, but the core speech in
24 front of you in this case are the videos and
25 other forms of communication that people like my

1 clients are posting by the millions every day on
2 this platform to share with other Americans.

3 JUSTICE BARRETT: Can you win if -- is
4 it possible for you to win and Mr. Francisco to
5 lose? Or you rise or fall together?

6 MR. FISHER: No, I think it's
7 possible.

8 JUSTICE BARRETT: How?

9 MR. FISHER: I mean, I don't think we
10 should.

11 (Laughter.)

12 MR. FISHER: But -- but --

13 JUSTICE BARRETT: Well, is it possible
14 for you to win and him to lose? I mean, you --
15 you want to win.

16 MR. FISHER: Well, put it -- let me
17 put it this way: If you were to conclude that
18 something about the corporate ownership
19 structure -- and I think there was some
20 conversation about this earlier -- impeded Mr.
21 Francisco from being able to assert
22 full-throated First Amendment rights in this
23 case, I would step in and say, well, certainly,
24 we can do that and get you to the strict
25 scrutiny.

1 And then the arguments pretty much
2 line up. Then you're in a question of, can the
3 government satisfy strict scrutiny? And I
4 think, Mr. Chief Justice, you asked about do we
5 have cases for this and that. I think that the
6 idea is, yes, we have cases that say once you're
7 in strict scrutiny that regulating the content
8 because you don't think it's going to be
9 pro-American enough or it's going to be too
10 pro-foreign interest is just verboten under the
11 First Amendment. That's the history and
12 tradition.

13 And, Justice Kavanaugh, when you asked
14 about the broadcast cases, they're -- they're
15 grounded not just in scarcity, but they're
16 grounded in scarcity in a particular way, and it
17 has to do with the absolute need Congress has
18 for licensing in a world of scarce resources.
19 And so that's the very small carveout that even
20 in Turner the Court wouldn't extend to cable
21 television that exists for broadcast licensing.

22 And if you look in the 200-plus years
23 of our country for any other example of foreign
24 ownership of media being regulated by Congress,
25 let alone being permitted in the case law, you

1 are not going to find it, and I think the reason
2 why is because everybody has understood that if
3 you're not in a world of scarcity where
4 licensing is impossible, you cannot give the
5 government and, in this -- in this more extreme
6 example, the President himself unbridled
7 discretion to choose who is a proper owner of a
8 speech platform in this country.

9 Because it is so hand-in-hand with
10 viewpoint, as I said earlier, any number of
11 owners of big media enterprises, whether they be
12 Americans or foreign citizens, could be accused
13 of having a particular viewpoint, but speakers
14 who engage in those platforms have choices they
15 can make.

16 And so, you know, on behalf of our
17 creator clients, we find it -- we find it not at
18 all satisfactory to be told: Well, look, just
19 go post somewhere else. You know, it's not
20 enough to tell a writer: Well, you can't
21 publish an op ed in the Wall Street Journal
22 because you can publish it in the New York Times
23 instead. Just like here, to say: You can
24 publish it on Instagram or some other platform,
25 not just TikTok.

1 TikTok has a distinct editorial and
2 publicational perspective, and it particularly
3 benefits people like my clients, who are not
4 famous people. They're not actors from
5 Hollywood who have a lot of people following
6 them. They're ordinary American citizens whose
7 content that they create on the platform gets
8 privileged by way of the quality of that
9 content.

10 And that's what's so powerful about
11 the platform. So whether you're an ordinary
12 American citizen or, I might add, whether you're
13 a presidential candidate in our last election,
14 if you want to reach new and different
15 audiences, TikTok is the place people go.

16 JUSTICE ALITO: Well, this may not
17 make any difference for constitutional purposes,
18 but just out of curiosity, I'd like you to
19 explain what the practical consequences would
20 likely be for your clients if TikTok went dark,
21 as Mr. Francisco put it.

22 There, I assume, is a great demand for
23 what TikTok provides, and if TikTok was no
24 longer there to provide what your clients really
25 want, is there a reason to doubt that some other

1 social media company would not jump in and take
2 advantage of this very lucrative market?

3 MR. FISHER: There are two reasons,
4 Justice Alito. One is many of the declarations
5 from my clients actually explain they have tried
6 on other platforms to generate the kind of
7 audience and engagement they've been able to on
8 TikTok, and they've fallen dramatically --

9 JUSTICE ALITO: Yeah, I know, they
10 haven't so far. And I -- I'm just -- you know,
11 I'm just wondering whether this is like
12 somebody's attachment to an old article of
13 clothing.

14 I mean, I really love this old shirt
15 because I've been wearing this old shirt, but I
16 could go out and buy something exactly like
17 that, but, no, I like the old shirt.

18 Is that what we have here, or is there
19 some -- some reason to think that only
20 ByteDance --

21 MR. FISHER: Yeah.

22 JUSTICE ALITO: -- has this -- can --
23 that ByteDance has devised this magical
24 algorithm that all of the geniuses at Meta and
25 all of these other social media companies, they

1 couldn't -- no matter, they put their minds to
2 it, they couldn't come up with this magical
3 thing?

4 MR. FISHER: I -- I think,
5 empirically, the other companies have been
6 trying for a few years to catch up with TikTok
7 and replicate it and have been very
8 unsuccessful, and so that ought to tell you
9 something.

10 And so just imagine the algorithm here
11 as a collection of thousands of editors. You
12 know, imagine the floors of an office building
13 being filled with a collection of editors. You
14 could imagine a situation where that collection
15 of genius that is on a particular floor cannot
16 be replicated by another group of people.

17 JUSTICE ALITO: Okay. All right.

18 MR. FISHER: And that's kind of what
19 you have here.

20 JUSTICE ALITO: All right. I
21 understand that.

22 CHIEF JUSTICE ROBERTS: Thank you,
23 counsel.

24 Justice Thomas?

25 Anything further, Justice Alito?

1 JUSTICE ALITO: Yeah, one other -- one
2 other question. I'm intrigued by your Mt.
3 Healthy, Hunter versus Underwood argument. I
4 mean, maybe you're right, but Mt. Healthy arose
5 in an entirely different context, where you're
6 trying to get to an employer's motivation.

7 MR. FISHER: Yeah.

8 JUSTICE ALITO: Hunter verse -- versus
9 Underwood involved an extreme situation where
10 the Court looked at the records of a state
11 constitutional convention and came to the
12 conclusion apparently that racism was the only
13 motivation for what was done. But it does seem
14 to me to be potentially quite unworkable and
15 contrary to what we've generally said about
16 legislative intent to apply the Mt. Healthy
17 framework to a congressional enactment.

18 Do you -- do you -- do you recognize
19 or do you -- do you acknowledge that that would
20 be very difficult? Because, when an act of
21 Congress is passed, there could be more than 250
22 different motivations for the votes that were
23 cast by the members.

24 MR. FISHER: Mm-hmm. Yeah, I totally
25 understand that. And, in Hunter, the Court

1 actually engaged with that problem to some
2 degree, and what Hunter said is, to avoid that
3 problem, we're going to look just to two things.
4 One is the state's brief, which I would say is
5 the Solicitor General's brief by comparison
6 here, and the text of the law.

7 And, here, that's the only thing I
8 need to rely on to get you to the place that
9 they wouldn't have announced -- wouldn't have
10 enacted this --

11 JUSTICE ALITO: Well, it get -- it
12 gets you to the -- it gets you to the place that
13 this was part of what motivated Congress, but
14 why does it get you home?

15 MR. FISHER: Well --

16 JUSTICE ALITO: Particularly when
17 there's a severability clause in this Act.

18 MR. FISHER: -- it can't be only part
19 of it. It has to be enough to sustain the
20 entire Act or at least the parts that you
21 wouldn't sever from the Act.

22 And so I think the reason why is
23 because it's not just the content recommendation
24 algorithm part that can be theoretically, I
25 guess, severed out. It's also the covered

1 company provisions, and it's just the whole
2 approach of the statute that is based on
3 content, not on data security.

4 JUSTICE ALITO: All right. Thank you.

5 MR. FISHER: So -- okay.

6 CHIEF JUSTICE ROBERTS: Justice
7 Sotomayor?

8 JUSTICE SOTOMAYOR: No. I'll save it
9 for the SG.

10 CHIEF JUSTICE ROBERTS: Justice Kagan?
11 Justice Gorsuch?

12 Justice Kavanaugh?

13 Justice Jackson?

14 JUSTICE JACKSON: One quick question.
15 You -- you repeatedly say that the -- from your
16 perspective, the government's motivation is that
17 the content might be too anti-American or too
18 pro-China, et cetera.

19 MR. FISHER: Uh-huh.

20 JUSTICE JACKSON: So that's why you
21 think this is a content-based restriction.

22 But I guess I'm curious if you would
23 say the same thing if the government had
24 articulated its rationale as saying, you know,
25 our motivation is to limit foreign -- foreign

1 interference --

2 MR. FISHER: Yeah.

3 JUSTICE JACKSON: -- in American
4 social media platforms or discourse. Isn't that
5 a different motivation --

6 MR. FISHER: I wouldn't -- I --

7 JUSTICE JACKSON: -- from the
8 standpoint of how we characterize this?

9 MR. FISHER: I agree, but then the
10 question I would ask if the government said
11 that, which I think kind of in the reply brief
12 maybe the government does say that, is that how
13 on earth are you then serving a national
14 security interest?

15 You know, if all you're doing is just
16 saying we don't like a foreign country
17 rearranging cat and dance videos, like, it's
18 hard to come in and make a national security
19 argument.

20 So the only way you get to national
21 security, which is the government's own
22 argument, is to look at the substance that's
23 being rearranged and say we don't like the way
24 the substance is going to be rearranged and --
25 and curated differently.

1 JUSTICE JACKSON: Thank you.

2 CHIEF JUSTICE ROBERTS: Thank you,
3 counsel.

4 General Prelogar.

5 ORAL ARGUMENT OF GEN. ELIZABETH B. PRELOGAR

6 ON BEHALF OF THE RESPONDENT

7 GENERAL PRELOGAR: Mr. Chief Justice,
8 and may it please the Court:

9 The Chinese government's control of
10 TikTok poses a grave threat to national
11 security. No one disputes that the PRC seeks to
12 undermine U.S. interests by amassing vast
13 quantities of sensitive data about Americans and
14 by engaging in covert influence operations, and
15 no one disputes that the PRC pursues those goals
16 by compelling companies like ByteDance to
17 secretly turn over data and carry out PRC
18 directives.

19 Those realities mean that the Chinese
20 government could weaponize TikTok at any time to
21 harm the United States. TikTok collects
22 unprecedented amounts of personal data. And, as
23 Justice Sotomayor noted, it's not just about the
24 170 million American users but also about their
25 non-user contacts, who might not even be

1 engaging with the platform.

2 That data would be incredibly valuable
3 to the PRC. For years, the Chinese government
4 has sought to build detailed profiles about
5 Americans, where we live and work, who our
6 friends and coworkers are, what our interests
7 are, and what our vices are.

8 TikTok's immense data set would give
9 the PRC a powerful tool for harassment,
10 recruitment, and espionage. On top of that, the
11 Chinese government's control over TikTok gives
12 it a potent weapon for covert influence
13 operations. And my friends are wrong to suggest
14 that Congress was seeking to suppress specific
15 types of content or specific types of
16 viewpoints.

17 Instead, the national security harm
18 arises from the very fact of a foreign
19 adversary's capacity to secretly manipulate the
20 platform to advance its geopolitical goals in
21 whatever form that kind of covert operation
22 might take.

23 The Act addresses the threat of
24 foreign adversary control with laser-like focus.
25 It requires only divestiture of TikTok to

1 prevent Chinese government control, and that
2 divestiture remedy follows a long tradition of
3 barring foreign control of U.S. communications
4 channels and other critical infrastructure.

5 So, no matter what level of First
6 Amendment scrutiny applies, this Act is valid
7 because it's narrowly tailored to address
8 compelling national security threats.

9 Now my friend, Mr. Fisher, just
10 emphasized and I acknowledge that millions of
11 Americans enjoy expressing themselves on this
12 platform. But the important thing to recognize
13 is that the Act leaves all of that speech
14 unrestricted once TikTok is freed from foreign
15 adversary control.

16 The First Amendment does not bar
17 Congress from taking that critical and targeted
18 step to protect our nation's security.

19 I welcome the Court's questions.

20 JUSTICE THOMAS: Is there any
21 difference between content manipulation by a
22 non-U.S. company as opposed to a U.S. company?
23 I didn't hear Mr. Fisher make a distinction
24 between the two.

25 GENERAL PRELOGAR: Yes. And I think

1 the important thing to recognize is that the Act
2 here is targeting covert content manipulation by
3 a foreign adversary nation.

4 Now I understand my friends to say --
5 JUSTICE THOMAS: What difference does
6 that make?

7 GENERAL PRELOGAR: The -- the
8 difference is that there is no protected First
9 Amendment right for a foreign adversary to
10 exploit its control over a speech platform.

11 JUSTICE THOMAS: No, I mean the
12 difference -- the difference between covert and
13 non-covert.

14 GENERAL PRELOGAR: So I think that --
15 that Congress's concern with a covert operation
16 was that a foreign adversary could effectively
17 weaponize this platform behind the scenes in
18 order to achieve any number of geopolitical
19 goals.

20 Here -- here are some of the examples
21 that come to mind. One of the pages out of the
22 playbook here is for a foreign adversary to
23 simply try to get Americans arguing with one
24 another to create chaos and distraction in order
25 to weaken the United States as a general matter

1 and distract from any activities that the
2 foreign adversary --

3 JUSTICE KAGAN: I guess, what --

4 GENERAL PRELOGAR: -- might want to
5 conduct on the world stage.

6 JUSTICE KAGAN: -- what do you mean by
7 "covert," though? I mean, does "covert" just
8 mean it's hard to figure out how the algorithm
9 works? Because we could say that about every
10 algorithm.

11 GENERAL PRELOGAR: No. The covert
12 nature of it comes from the fact that it's not
13 apparent that the PRC is the one behind the
14 scenes pulling the strings here and deciding
15 exactly what content is going to be made to
16 appear on the site.

17 And another way that the PRC --

18 JUSTICE KAGAN: It's just because we
19 don't know that China's behind it? That's what
20 "covert" means?

21 GENERAL PRELOGAR: Well, I think --

22 JUSTICE KAGAN: It doesn't have
23 anything to do with the difficulty of figuring
24 out what the algorithm is doing? It's just
25 because people don't know that China is pulling

1 the strings? That's what "covert" means?

2 GENERAL PRELOGAR: What it means is
3 that Americans are on this platform thinking
4 that they are speaking to one another, and this
5 recommendation engine that is apparently so
6 valuable is organically directing their speech
7 to each other. And what is covert is that the
8 PRC, a foreign adversary nation, is instead
9 exploiting a vulnerability in the system to
10 suppress and silence views --

11 JUSTICE KAGAN: Well, that's all it
12 means, that, like, people don't know that
13 China's behind it? Like, everybody now knows
14 that China is behind it.

15 (Laughter.)

16 GENERAL PRELOGAR: No, but it -- but
17 it's the specific -- the specific content that's
18 being manipulated would be unapparent. And so I
19 think that --

20 JUSTICE KAGAN: Well, that's true of
21 every search engine. I mean, you can -- you can
22 take any of these algorithms, whether it's X or
23 whether it's, you know, you name it -- what are
24 the new ones, Bluesky -- I mean, none of
25 these -- none of these are apparent, right?

1 You -- you get what you get and you think that's
2 puzzling. And --

3 (Laughter.)

4 JUSTICE KAGAN: -- and it's all a
5 little bit of a black box. So you can't just
6 mean it's a black box, it's covert. They're all
7 black boxes. And if you just mean what's covert
8 is the fact that there's China behind it, I
9 mean, honestly, really, like, everybody does
10 know now that there's China behind it.

11 So I just don't get what this "covert"
12 word does for you.

13 GENERAL PRELOGAR: I think the problem
14 with just saying, as a general matter, China has
15 this capability and might at some point be able
16 to exercise it and manipulate the platform is it
17 doesn't put anyone on notice of when that
18 influence operation is actually happening, and,
19 therefore, it doesn't guard against the national
20 security harm from the operation itself.

21 JUSTICE GORSUCH: General, isn't that
22 a pretty paternalistic point of view? I mean,
23 don't we normally assume that the -- the best
24 remedy for problematic speech is counter-speech?
25 And, you know, TikTok says it could even live

1 with a -- a disclaimer on its website saying
2 this can be covertly manipulated by China in --
3 in case anybody were left in doubt after today
4 about that possibility. So -- you're saying
5 that won't work because?

6 GENERAL PRELOGAR: That won't work
7 because it is such a generic generalized
8 disclosure that it wouldn't put anyone
9 reasonably on notice about when it's actually
10 happening. And the example I've --

11 JUSTICE GORSUCH: That's your best --

12 GENERAL PRELOGAR: -- been thinking
13 about is --

14 JUSTICE GORSUCH: -- that's your best
15 argument, is that the average American won't be
16 able to figure out that the cat feed -- feed
17 he's getting on TikTok could be manipulated even
18 though there's a disclosure saying it could be
19 manipulated?

20 GENERAL PRELOGAR: But imagine if you
21 walked into a store and it had a sign that said
22 one of one million products in this store causes
23 cancer. That is not going to put you on notice
24 about what product is actually jeopardizing your
25 health. And I think that's roughly equivalent

1 to the type of disclosure they're contemplating
2 here.

3 They brought up the example of the
4 Foreign Agents Registration Act, FARA.

5 JUSTICE GORSUCH: If that -- if that's
6 true --

7 GENERAL PRELOGAR: There, you have to
8 disclose the actual content.

9 JUSTICE GORSUCH: -- if that's true,
10 then that -- wouldn't that be true for all
11 social media companies for all content? I mean,
12 every editor, every newspaper in its editorial
13 room makes decisions about what it's going to
14 run and how it's going to say it. And every
15 algorithm has preferences, whether it's domestic
16 or foreign. And nobody really knows exactly
17 when those editorial decisions are being made or
18 how, but they're generally aware, and we think
19 that that's enough.

20 GENERAL PRELOGAR: I think, though,
21 that there is a real risk that when a foreign
22 adversary has control of that kind of mechanism
23 and a speech platform in the United States, it
24 could weaponize -- weaponize that platform to
25 harm United States interests. And one of the

1 key ways that the PRC --

2 JUSTICE GORSUCH: I'm -- that --

3 that -- I'm -- I'm --

4 GENERAL PRELOGAR: -- flexes its
5 muscle is to suppress speech.

6 JUSTICE GORSUCH: General, I'm sorry
7 to interrupt you, but I'm -- I'm -- again, I'm
8 not -- not -- not -- we're not arguing about the
9 compelling interest. We're arguing about the
10 tailoring.

11 GENERAL PRELOGAR: Right. And so I
12 guess what I would say -- you began by saying
13 the -- the cure for concerning speech is
14 counter-speech. Here, I dispute the premise
15 that Congress was specifically concerned about
16 any particular subject or any particular
17 viewpoint. It wanted to close off the
18 capability of a foreign government.

19 But, in any event, it's very hard to
20 engage in counter-speech when you don't know
21 because someone is secretly manipulating the
22 platform behind the scenes. And, in particular,
23 what the PRC has the capability to do --

24 JUSTICE GORSUCH: Well, wouldn't the
25 same thing be true --

1 GENERAL PRELOGAR: -- is simply
2 silence American voices.

3 JUSTICE GORSUCH: -- with a newspaper
4 owned by a foreign company and a foreign
5 government? You wouldn't know when it's
6 exercising editorial discretion about this
7 article or that article or how it's doing it, so
8 maybe we just need to shut down the Oxford
9 University Press in America or, you pick it, any
10 other foreign-owned -- Politico I was told today
11 is owned by Germany.

12 GENERAL PRELOGAR: So what that --

13 JUSTICE GORSUCH: That would all be
14 okay on your theory so long as Congress
15 designates that country a foreign adversary?

16 GENERAL PRELOGAR: We are not asking
17 the Court to articulate bright-line rules to
18 govern all kinds of hypothetical situations.

19 JUSTICE GORSUCH: I -- I understand
20 that, but I am testing --

21 GENERAL PRELOGAR: And --

22 JUSTICE GORSUCH: -- I am testing your
23 argument.

24 GENERAL PRELOGAR: Yes. And in -- and
25 what I want to acknowledge is that sometimes the

1 Court has recognized that a speaker-based
2 preference might reflect a content-based
3 preference. And in the context of ownership of
4 a newspaper, for example, in part, because a
5 newspaper is a one-way channel of communication
6 and is generally understood to represent to some
7 extent its publisher's views, maybe the Court
8 would more readily infer that a regulation
9 targeting that is actually aiming to target
10 conduct -- content.

11 JUSTICE GORSUCH: Again, I'm talking
12 about the --

13 GENERAL PRELOGAR: But I don't think
14 that the Court could draw the same conclusion
15 here.

16 JUSTICE GORSUCH: -- I'm not talking
17 about the compelling interest or any of that.

18 GENERAL PRELOGAR: Right.

19 JUSTICE GORSUCH: I'm talking about
20 the tailoring. And -- and you're saying we have
21 no alternative but to stop this speech
22 altogether. We can't -- we can't rely on
23 disclosure. But you say that wouldn't apply to
24 Politico or to the Oxford University Press
25 because?

1 GENERAL PRELOGAR: In the circumstance
2 where you have a newspaper that is understood to
3 reflect its publisher's views, then you might
4 think that disclosure would be a more adequate
5 remedy there because it's not just holding
6 itself out as a forum for speech between other
7 people.

8 I think social media platforms do
9 raise distinct interests in this regard because
10 what people think when they're engaging with
11 TikTok is that it's organically feeding them
12 videos based on the recommendation engine. And
13 if actually China is behind the scenes engaging
14 in this kind of covert operation, it does
15 prevent a distinct national security risk.

16 Of course, the other big difference
17 with a newspaper is it's not likely to be
18 collecting sensitive personal information about
19 170 million-plus people and then having the
20 capacity to send that back to a foreign
21 adversary.

22 JUSTICE BARRETT: General Prelogar,
23 can I --

24 CHIEF JUSTICE ROBERTS: Counsel --

25 JUSTICE BARRETT: Oh. Go ahead.

1 CHIEF JUSTICE ROBERTS: -- I was just
2 going to say, did I understand you to say a few
3 minutes ago that one problem that Byte -- is it
4 ByteDance might be, through TikTok, trying to
5 get Americans to argue with each other?

6 GENERAL PRELOGAR: That it might be
7 just trying to foment disruption or dissent.

8 CHIEF JUSTICE ROBERTS: If they do, I
9 say they're winning.

10 (Laughter.)

11 GENERAL PRELOGAR: That -- that might
12 very well be true, Mr. Chief Justice, and I
13 think the point I'm trying to make is that China
14 is a foreign adversary nation that looks for
15 every opportunity it has to weaken the United
16 States and to try to threaten our national
17 security. And if it has control over this key
18 communications channel, it's hard to predict ex
19 ante exactly how it's going to use that as a
20 tool to harm our interests.

21 But we know it's going to try first
22 and foremost by seeking to get the data of these
23 American users, which would be of a piece of all
24 of the activity the PRC has already undertaken
25 to breach our laws, hack OPM, for example, and

1 exfiltrate the background files and security
2 clearances of 20 million government employees,
3 the breach of Equifax to get sensitive financial
4 data, Anthem to get sensitive healthcare data.

5 We know that the PRC has a voracious
6 appetite to get its hands on as much information
7 about Americans as possible, and that creates a
8 potent weapon here because the PRC could command
9 that ByteDance comply with any request it gives
10 to obtain that data that's in the hands of the
11 U.S. subsidiary.

12 CHIEF JUSTICE ROBERTS: Thank you.

13 JUSTICE ALITO: Suppose --

14 JUSTICE BARRETT: General Prelogar --
15 go ahead.

16 JUSTICE ALITO: Suppose that TikTok
17 had no connection whatsoever with any foreign
18 government. It was owned instead by an
19 immensely, immensely rich multinational
20 corporation, and Congress concluded that this
21 multinational corporation really has it in for
22 the United States and is going to use this
23 extremely popular platform to do everything it
24 can to undermine the United States in all the
25 ways in which you think that TikTok may -- may

1 pursue at the direction of the PRC.

2 Would this -- would that be the same
3 case?

4 GENERAL PRELOGAR: I think there would
5 be a first-order question of whether the
6 multinational -- corporation itself has First
7 Amendment rights.

8 JUSTICE ALITO: All right. It's a --
9 it's an American corporation.

10 GENERAL PRELOGAR: So, if it were an
11 American corporation, I think that -- and
12 Congress disagreed with the viewpoints or
13 content the corporation would display,
14 obviously, that's a direct regulation of
15 protected speech, and it would trigger strict
16 scrutiny.

17 I think that's different in kind from
18 what Congress was worried about here, which was
19 not regulating speech as such but instead
20 regulating foreign adversary control and --

21 JUSTICE ALITO: So your whole -- your
22 argument depends on the fact that what is at
23 bottom here is the -- the People's Republic of
24 China using TikTok. That's what your argument
25 depends on. If this were an American

1 corporation, it would be an entirely different
2 thing.

3 GENERAL PRELOGAR: Exactly. And the
4 reason we know this statute is different is
5 because all of the same speech that's happening
6 on TikTok could happen post-divestiture. The
7 Act doesn't regulate that at all. So it's not
8 saying you can't have pro-China speech, you
9 can't have anti-American speech. It's not
10 regulating the algorithm. TikTok, if it were
11 able to do so, could use precisely the same
12 algorithm to display the same content by the
13 same users.

14 All the Act is doing is trying to
15 surgically remove the ability of a foreign
16 adversary nation to get our data and to be able
17 to exercise control over the platform.

18 JUSTICE BARRETT: General Prelogar --
19 oh, sorry.

20 JUSTICE SOTOMAYOR: I'm sorry.

21 JUSTICE BARRETT: I just wanted you to
22 respond to Mr. Fisher's argument about the
23 rights of Americans to receive information, say,
24 from the PRC or anyone else and that even if
25 ByteDance did not itself have First Amendment

1 rights, that Americans would have a First
2 Amendment right to -- to receive that
3 information in the Lamont sense.

4 GENERAL PRELOGAR: Yes. So I -- I
5 think that Lamont reflected a principle that
6 there can be a right of American listeners to
7 receive information. And if Congress is
8 directly regulating that based on disagreement
9 with the speech that's being sent into this
10 country, that's obviously going to trigger
11 heightened scrutiny under the First Amendment.

12 But, here, I think the users have to
13 be asserting a different type of interest
14 because what Congress was safeguarding against
15 was not the ability of TikTok to continue to
16 operate or the users to post content. It was
17 focused only on foreign adversary control.

18 And so the users would have to
19 demonstrate that they have some unqualified
20 First Amendment right to post on a platform
21 that's controlled by a foreign adversary, which
22 could use that access to then threaten our
23 nation's security by gathering data on tens or
24 hundreds of millions of Americans and also use
25 it for covert influence operations of whatever

1 form.

2 And I don't think there's a First
3 Amendment right to do that.

4 JUSTICE KAGAN: I was trying to think
5 of whether there's a historical analog here, and
6 this is what I came up with, and you can tell me
7 whether it's fallacious.

8 You know, in the mid-20th century, we
9 were very concerned about the Soviet Union and
10 the -- what the Soviet Union was doing in this
11 country. And the Communist Party of the United
12 States at that time was integrally attached to
13 the Communist International, which was
14 essentially a Soviet operation, right?

15 So, if Congress had said: Well, it's
16 very nice, we can have the Communist Party
17 U.S.A., but it has to divest, it has to
18 completely divorce itself from the Comintern and
19 from any international ties that it has, do you
20 think that that would have been absolutely fine?
21 And so, if the answer is yes, yes, it would have
22 been fine, it's just like this case, or, if the
23 answer is no, why is it not like this case?

24 GENERAL PRELOGAR: So I guess I think
25 I would need to know info -- more information

1 about how the international organization is able
2 to exercise control over the American affiliate
3 and if it had the capacity, for example, to, in
4 an unqualified fashion, gather data from that
5 affiliate in a way that was going to jeopardize
6 our nation's security or --

7 JUSTICE KAGAN: Well, I -- I'm talking
8 more about --

9 GENERAL PRELOGAR: Yeah.

10 JUSTICE KAGAN: -- sort of the
11 content. Let's put --

12 GENERAL PRELOGAR: Yeah.

13 JUSTICE KAGAN: -- the data collection
14 piece of this aside, which seems not very
15 pertinent to my 1950s analog.

16 But, you know, we were very concerned
17 about the kind of speech that the Communist
18 Party was making in the United States, and it
19 turns out that that content was pretty well
20 scripted someplace else.

21 GENERAL PRELOGAR: I think, if it was
22 specifically a concern about the content, then
23 that would trigger heightened scrutiny under the
24 First Amendment. We're not trying to run away
25 from that principle here. Instead, we're

1 making, I think, a narrower argument.

2 JUSTICE KAGAN: Well, then I think
3 that -- that you're a little -- I think you've
4 just given your thing away because content
5 manipulation is a content-based rationale.

6 We think that this foreign government
7 is going to manipulate content in a way that
8 will -- that concerns us and may very well
9 affect our national security interests. Well,
10 that's exactly what they thought about Communist
11 Party speech in the 1950s, which was being
12 scripted in large part by international
13 organizations or directly by the Soviet Union.

14 GENERAL PRELOGAR: I disagree that the
15 concern with covert content manipulation is
16 itself content-based or that it looks anything
17 like the kinds of laws this Court has previously
18 said are content-based.

19 The Court most recently in *City of*
20 *Austin* said you only have a content-based law
21 when Congress is setting out to discriminate
22 against particular subject matters or particular
23 viewpoints.

24 So it's not enough that the law is --
25 is regulating in the space that involves content

1 in some way. You have to have this motive by --
2 Congress to actually want to suppress speech on
3 certain topics or certain viewpoints.

4 Here, Congress just wants to cut the
5 PRC out of the equation altogether, and all of
6 the same speech could continue to happen on the
7 platform.

8 It's like patching up a backdoor
9 vulnerability that the PRC has that we can't
10 totally see around all the corners to imagine
11 how it could use it against our interests, but
12 we know the PRC will do whatever it can to try.

13 And I think that is different in kind
14 from imputing to Congress some motive to
15 specifically get more speech on certain topics
16 or with certain viewpoints. You know, this law
17 was passed by broad bipartisan majorities in
18 both houses of Congress, and our legislatures --
19 our legislators don't always agree on
20 everything. I think it's unlikely that all of
21 them had exactly the same views about what's
22 good content on TikTok or what are good
23 viewpoints. They weren't united on that.

24 What they were united around was the
25 idea that it is a grave threat to our nation if

1 the PRC can itself behind the scenes be
2 controlling how this platform operates.

3 JUSTICE ALITO: Why doesn't this --
4 why doesn't this Act classify on the basis of
5 speaker?

6 GENERAL PRELOGAR: I do think that
7 when it comes to the PRC and ByteDance, you
8 could treat this as a speaker-based restriction.

9 JUSTICE ALITO: And -- and aren't
10 speech -- speaker-based restrictions almost
11 always viewpoint-based restrictions,
12 content-based restrictions?

13 GENERAL PRELOGAR: The Court has said
14 it depends. It hasn't applied an inflexible
15 rule that anytime you are regulating certain
16 speakers you are invariably regulating based on
17 content. Instead, the Court has said it
18 warrants closer consideration.

19 And, here, if you look at the U.S.
20 speakers, TikTok U.S. and the users, none of
21 them are being regulated in a way that suggests
22 its disagreement with their content. It's all
23 about what our foreign adversary is doing with
24 respect to the platform.

25 JUSTICE ALITO: It's hard for me to --

1 it's hard for me to think of situations, maybe
2 they exist, where a classification based on
3 speaker is not viewpoint- or content-based
4 restrictions.

5 I mean, somebody says Joe can't talk
6 anymore. We're going to shut Joe up. And we
7 don't know what he's going to say tomorrow or
8 two weeks from now. We don't know what he's
9 going to discuss. But whatever he says is bad
10 because Joe is a bad person.

11 I mean, that's -- that's viewpoint-
12 and content-based, isn't it?

13 GENERAL PRELOGAR: I think, when it
14 comes to a foreign adversary, it's not right to
15 view it that way, and the reason for that again
16 is this is a sophisticated adversary nation, and
17 we can't just simplistically say: Oh, what the
18 PRC is going to want is to see more pro-China
19 content on this app.

20 As Chief Judge Srinivasan observed,
21 there are various ways that the PRC could try to
22 create some kind of false flag operation and
23 actually promote anti-China content, not to
24 dictate how Americans should think about things
25 but simply to create some trumped-up

1 justification for a military or economic action
2 that the foreign adversary wants to take against
3 us.

4 And I don't think a concern with
5 trying to ward off that capability --

6 JUSTICE GORSUCH: Why -- why isn't
7 that -- why isn't that viewpoint or content
8 still? We don't know what the content's going
9 to be, but we know it -- Joe is bad.

10 GENERAL PRELOGAR: Because I think the
11 better classification is to recognize that what
12 we're trying to prevent is not the specific
13 subject matter, the specific viewpoints, but the
14 technical capability of a foreign adversary
15 nation to use a communications channel against
16 this.

17 JUSTICE GORSUCH: I guess I'm just
18 struggling how covert content manipulation isn't
19 content-based restriction.

20 GENERAL PRELOGAR: So, again, it's
21 because --

22 JUSTICE GORSUCH: I mean, the word --
23 it's kind of hard to avoid the word "content" --

24 GENERAL PRELOGAR: I don't --

25 JUSTICE GORSUCH: -- and it's kind of

1 hard to avoid the word "viewpoint" here, isn't
2 it?

3 GENERAL PRELOGAR: I don't dispute
4 that it's related to content, but I don't think
5 it reflects Congress seeking to set out in
6 advance what kind of speech we should have
7 reflecting certain views on certain topics.

8 Instead, it's about trying to close
9 off a vulnerability that our foreign adversary
10 nation could exploit.

11 And I would be remiss if I didn't
12 point out that even if you thought this was
13 content-based, all that means is that we're in
14 strict scrutiny. And, as the D.C. Circuit
15 recognized here, we think that this law serves
16 compelling national security concerns that sound
17 in some of the same arguments I'm making here
18 and that have a -- a longstanding correspondence
19 to history and tradition --

20 JUSTICE GORSUCH: And then we get to
21 the --

22 GENERAL PRELOGAR: -- of trying to
23 prevent foreign control.

24 JUSTICE GORSUCH: -- and then we get
25 to the question whether there's a -- less

1 restrictive means, I get that, and whether
2 disclosure might suffice.

3 On -- on -- on -- on the data security
4 point, your friends on the other side make the
5 argument that if that were the concern, Congress
6 could ban TikTok U.S. from sharing data with
7 anyone on -- on pains of penalties that would
8 put people in prison and shut the company down
9 in the future, as the government did, for
10 example, with Arthur Andersen.

11 Why -- why isn't that a less
12 restrictive means available?

13 GENERAL PRELOGAR: So I was surprised
14 to hear Petitioner offer that up today because
15 there was a long course of discussion between
16 the executive branch and ByteDance and TikTok
17 leading up to Congress's enactment of this Act
18 that spanned over four years, an extensive
19 conversation about what limitations could be
20 placed to protect Americans' data.

21 And it was never a suggestion that
22 there would be any way to create a true firewall
23 that would prevent the U.S. subsidiary from
24 sharing data with the corporate parent.

25 And the reason for that sounds in the

1 technological features of this application. I
2 think there can be no reasonable dispute that
3 the source code development and the maintenance
4 of this algorithm rests in China, which is why
5 China has sought to try to control export
6 restrictions with respect to the algorithm. And
7 what that means is you need substantial data
8 flows between the companies in order to continue
9 to modify that algorithm, refine it and so
10 forth.

11 So I don't think that that was an
12 option ever on the table, including with respect
13 to the proposed national security agreement that
14 was insufficient in -- in protecting our data
15 privacy and security concerns.

16 JUSTICE SOTOMAYOR: That didn't come
17 across enough in the briefs. If we are in the
18 world of data protection --

19 GENERAL PRELOGAR: Yeah.

20 JUSTICE SOTOMAYOR: -- as opposed to
21 content -- content control, I think the -- it's
22 hard to get around the post-divestiture
23 provision that says you can't do business with
24 them on the algorithm because that very much is
25 content-based. It's a content-based

1 restriction.

2 But what you're saying is you can't do
3 it for a data control reason, meaning that you
4 can't really run their algorithm without sharing
5 the very data that we are concerned about as a
6 threat, correct?

7 GENERAL PRELOGAR: That's right,
8 Justice Sotomayor. And you don't have to take
9 my word for it. You can look at the specific
10 terms of the national security agreement that
11 ByteDance itself proposed. The relevant
12 definition of the accepted data is at JA 239 to
13 240, and it references categories of information
14 that would of necessity, technological necessity
15 and business necessity, have to flow back to
16 China.

17 And the relevant categories are in the
18 sealed appendix, but I would really encourage
19 the Court to look this up because it's
20 eye-opening. It is at the court of appeals
21 sealed appendix, 249 to 252 and 254.

22 If you look at that information, it
23 was a wealth of data about Americans that was
24 going to have to go back to China in order for
25 the platform to just continue its basic

1 operations. And there's a legitimate commercial
2 justification for that, but it creates this
3 gaping vulnerability in the system because, once
4 that data is in China, the PRC can demand that
5 ByteDance turn it over and keep that assistance
6 secret.

7 And the one final point on this is
8 that ByteDance was not a trusted partner here.
9 It wasn't a company that the United States could
10 simply expect to comply with any requirements in
11 good faith. And there was actual factual
12 evidence to show that even during a period of
13 time when the company was representing that it
14 had walled off the U.S. data and it was
15 protected, there was a well-publicized incident
16 where ByteDance and China surveilled U.S.
17 journalists using their location data -- this is
18 the protected U.S. data -- in order to try to
19 figure out who was leaking information from the
20 company to those journalists.

21 CHIEF JUSTICE ROBERTS: General, you
22 want us to look at that and you get to look at
23 it, but your friends on the other side don't get
24 to look at it. That doesn't seem fair.

25 GENERAL PRELOGAR: That's the sealed

1 appendix, Mr. Chief Justice, so it's their
2 information. They can look at it. It's just
3 under seal to protect their proprietary business
4 information.

5 CHIEF JUSTICE ROBERTS: Okay.

6 JUSTICE BARRETT: General, so I want
7 to go back to the discussion about content
8 discrimination and, we're going to shut Joe up.
9 Here, it seems to me like we are saying to
10 ByteDance, we want to shut you up. And so let's
11 say that I think that that is content
12 discrimination based on speaker.

13 Tell me -- if -- if I think that, tell
14 me if I have to conclude that it is also
15 speaker-based discrimination and content-based
16 discrimination for TikTok.

17 GENERAL PRELOGAR: No, it is not, and
18 the reason for that is because it would be an
19 anomalous principle to say that an entity
20 outside the United States that can't assert its
21 own First Amendment rights can somehow
22 manufacture that right through the expediency of
23 forming a U.S. subsidiary, especially one that
24 it wholly controls.

25 JUSTICE BARRETT: So you don't have to

1 stand on that argument that you were having with
2 Justice Alito and Justice Gorsuch to still have
3 your point about content discrimination?

4 GENERAL PRELOGAR: That's right. And
5 I think, if you're focusing in on the relevant
6 U.S. entities here, TikTok U.S. and the users
7 themselves, this Act isn't regulating them in
8 any way. It's not trying to dictate the
9 algorithm that TikTok U.S. can use. And, in
10 fact, Congress, I think, was doing everything it
11 could to preserve access to TikTok in the United
12 States, in recognition that Americans enjoy
13 expressing themselves and building community on
14 the site.

15 JUSTICE BARRETT: One last quick
16 question --

17 JUSTICE ALITO: Well, I don't know,
18 General --

19 JUSTICE BARRETT: Sorry, just one last
20 quick question.

21 JUSTICE ALITO: No, no, go ahead.

22 JUSTICE BARRETT: Justice Gorsuch had
23 asked your friends on the other side whether the
24 new administration on January 20th could extend
25 the deadline. What's the -- your position on

1 that?

2 GENERAL PRELOGAR: So I think it tees
3 up a statutory interpretation question of
4 whether there can be an extension after the time
5 period for divestiture has lapsed. I would
6 think the Court might start with its decision in
7 the HollyFrontier case, which did recognize the
8 ability to get an extension after a lapse like
9 that.

10 JUSTICE BARRETT: So it's your
11 position that they could?

12 GENERAL PRELOGAR: We have not run it
13 to ground, in part, because it's simply not
14 presented here, and I'm not prepared to take a
15 position on that statutory interpretation
16 question.

17 I do want to emphasize, though, that
18 my friends have pointed to January 19th or nine
19 days from now as a moment when TikTok might go
20 dark. At the outset, of course, Congress was
21 hoping to prompt a divestiture, but I think the
22 more important thing to -- to focus on now is
23 that even if that were to happen, Congress
24 specifically anticipated it and provided
25 authority to lift these restrictions as soon as

1 there's a qualified divestiture.

2 And the reason for that is because
3 foreign adversaries do not willingly give up
4 their control over this mass communications
5 channel in the United States, and I think
6 Congress expected we might see something like a
7 game of chicken, ByteDance saying we can't do
8 it; China will never let us do it.

9 But, when push comes to shove and
10 these restrictions take effect, I think it will
11 fundamentally change the landscape with respect
12 to what ByteDance is willing to consider, and it
13 might be just the jolt that Congress expected
14 the company would need to actually move forward
15 with the divestiture process.

16 JUSTICE ALITO: Well, that's --

17 GENERAL PRELOGAR: So it's not
18 irrevocable.

19 JUSTICE ALITO: That -- that's an
20 interesting point, and I hope Mr. Francisco or
21 Mr. Fisher, whoever's delivering the rebuttal,
22 will address it.

23 So, if we were to affirm and TikTok
24 were forced to cease operations on January 19th,
25 you say that there could be divestiture after

1 that point and TikTok could again begin to
2 operate the way -- continue to operate?
3 GENERAL PRELOGAR: That's exactly
4 right. There's nothing permanent or irrevocable
5 that happens on January 19th. And I think that
6 Congress might have thought that we get in a
7 situation here where a foreign adversary is
8 doing whatever it can to just not comply. It's
9 hoping the United States is going to blink first
10 through our court system or through the
11 executive branch getting cold feet about
12 enforcing the law. But Congress set a deadline
13 and I think it thought that deadline would have
14 a forcing function.

15 JUSTICE ALITO: Let me ask you a
16 question about your -- your effort to draw a
17 distinction between ByteDance's speech and
18 TikTok's speech.

19 So suppose that the -- the People's
20 Republic of China funds a movie and -- and there
21 is a -- an entity in the United States, a U.S.
22 corporation, that thinks, wow, this is a great
23 movie. And while the PRC would not have a First
24 Amendment right to show it in the United States,
25 would you say that the American company would

1 not have a First Amendment right to do that
2 because whatever expression there is in that
3 movie, it's the PRC's expression; it's not their
4 expression?

5 GENERAL PRELOGAR: No. No, I wouldn't
6 make that argument. And I want to be really
7 careful --

8 JUSTICE ALITO: I thought that was the
9 argument that was being made. No?

10 GENERAL PRELOGAR: No. So our
11 argument is that this is not a direct regulation
12 of protected speech in the first place, or at
13 most, it would warrant intermediate scrutiny
14 because of the indirect effects that it might
15 have on the American users or on the U.S.
16 subsidiary. We're not suggesting that if
17 Congress sought to directly regulate and
18 prohibit speech in the United States based on
19 concerns about its content or viewpoint, that's
20 somehow immune from First Amendment scrutiny
21 just because it comes from a foreign source.

22 Obviously, that kind of law is going
23 to trigger strict scrutiny. And I imagine it
24 would be a different constitutional analysis
25 because it's hard to imagine the same profound

1 national security harms that would exist in that
2 scenario as compared to what we have here.

3 JUSTICE ALITO: Thank you.

4 JUSTICE JACKSON: General, isn't the
5 whole point of the divestiture requirement that
6 the content on TikTok would be different if it
7 was owned by a different company? I'm still
8 struggling with your insistence that this is
9 content-neutral versus content-based when we
10 have that kind of circumstance.

11 GENERAL PRELOGAR: The reason that I
12 am continuing to try to hold the line on that is
13 because there is nothing in the Act that would
14 directly dictate any different mix of content on
15 TikTok. The U.S. subsidiary could use the same
16 algorithm, show the same content by the same
17 users in exactly the same order. It's not about
18 trying to interfere with the U.S. subsidiary's
19 exercise of editorial judgment in any relevant
20 sense.

21 Instead, all Congress was doing was
22 homing in on the problems of having a foreign
23 adversary be able to interject itself and be
24 able to harvest the data or exercise --

25 JUSTICE JACKSON: But your friends on

1 the other side say -- that the motivation for
2 doing that is because the foreign adversary
3 might influence or change the content. So
4 content is -- I mean, content matters, doesn't
5 it?

6 GENERAL PRELOGAR: I -- certainly, I
7 think that content was relevant to Congress's
8 concern about an adversary having control over
9 the communications channel. I think not, again,
10 because of any particular concern about
11 viewpoints or subjects --

12 JUSTICE JACKSON: But isn't that
13 relevance --

14 GENERAL PRELOGAR: -- but just that
15 this would be a --

16 JUSTICE JACKSON: -- isn't that
17 relevance enough to trigger at least some
18 scrutiny, a heightened scrutiny, from the
19 standpoint of our legal tests?

20 GENERAL PRELOGAR: I certainly
21 understand that intuition, and if the Court
22 thought that it were prudent to simply try to
23 rule narrowly here and not dictate broader First
24 Amendment principles, we have no problem with
25 the Court assuming that heightened scrutiny

1 applies. We think the law easily satisfies it.
2 We do think that intermediate scrutiny is a more
3 appropriate framework for this kind of law
4 that's not directly targeting protected speech.

5 But, in any event, there's a
6 compelling national security interest here, and
7 the law isn't just narrowly tailored; it's
8 precisely tailored. It's trying to fix the
9 thing that's creating the problem, which is the
10 PRC's involvement and the Chinese government's
11 ability to exercise this control over the
12 corporate entities.

13 JUSTICE KAVANAUGH: How are we
14 supposed to think about the two different
15 rationales here and how they interact, the data
16 collection rationale, which seems to me at least
17 very strong; the covert content manipulation
18 rationale, as the hypotheticals have
19 illustrated, raise much more challenging
20 questions for you about how far that goes.

21 And if that alone -- if you didn't
22 have the data collection piece, you only had the
23 covert content manipulation piece, and then
24 Mr. Fisher's point, Mr. Francisco's, that
25 Congress would not have enacted this just based

1 on the data collection rationale alone, just
2 your understanding of how the two arguments fit
3 together.

4 GENERAL PRELOGAR: Sure. And -- and
5 let me walk through our defense of the data
6 protection rationale and why we think it's a
7 full justification for this law and the Court
8 could stop there and then be responsive to their
9 arguments that somehow the interest in
10 preventing covert manipulation somehow taints
11 it.

12 So just on data protection, I think
13 that it should be beyond dispute that, of
14 course, our nation has an enormous interest in
15 keeping the sensitive data out of the hands of
16 our foreign adversary. And it should also be
17 beyond dispute that our foreign adversary has an
18 existing capability through its laws and through
19 the way that these companies are integrated to
20 get its hands on that data.

21 There is no question that Congress was
22 sincerely motivated by that concern. There's a
23 whole lead-up to the statute here where the
24 executive branch across two different
25 presidential administrations was expressing

1 concerns about the data problems. Congress was
2 extensively briefed on those problems.

3 It passed a companion data protection
4 statute at the same time that was intended to
5 prevent selling data to foreign adversary
6 nations. The statute is shot-through with
7 protections that I think are key to this concern
8 about closing off the vulnerability of access to
9 the data.

10 So that's a sincere justification for
11 Congress's desire here to act. We think it's a
12 compelling interest and it's narrowly tailored.

13 Then you get to the question of what
14 to do about the fact that there's also this
15 interest in covert content manipulation. And in
16 the First Amendment context, this Court in cases
17 like Heffron has made clear that once you have a
18 justification that satisfies the First
19 Amendment, you don't need to go further and look
20 at other justifications to decide whether they
21 would independently satisfy First Amendment
22 scrutiny.

23 So I think it's not necessary for the
24 Court to go on and probe whether it thinks that
25 covert content manipulation itself independently

1 justifies the law.

2 Now my friends say that's all fine and
3 good, but they think covert content manipulation
4 is just per se illegitimate. And I honestly
5 don't understand how that argument could carry
6 the day because just imagine if Congress passed
7 a law that said the PRC can't covertly
8 manipulate TikTok. Obviously, that law's not
9 going to violate any constitutional principle.

10 It's a laudable goal, I think, for our
11 legislature to protect us from foreign adversary
12 interference like that. And so there's nothing
13 something -- there's nothing that's in --
14 inherently impermissible about wanting to guard
15 against that risk.

16 Maybe you could say that it sweeps in
17 too much protected speech in the way it's
18 operationalized in the Act here, but there's
19 certainly no fundamental taint -- taint or
20 anything akin to racial discrimination to call
21 into question whether Congress could seek to
22 vindicate that as one of many interests.

23 So I guess, to just kind of bring it
24 all together, what I would say to the Court is
25 they have basically acknowledged that data

1 protection is a compelling interest. That was
2 Congress's real interest. It provides a
3 sufficient basis on its own to uphold this law.
4 The Court could say just that and -- and affirm.

5 JUSTICE SOTOMAYOR: I don't know how
6 we do that unless we accept your argument that
7 the post-divestiture provision that stops them
8 from conferring on the algorithm is not a speech
9 impediment, meaning it -- it very hard for me to
10 say that it's not motivate -- to decide that
11 question, that it is a speech impediment and one
12 that on its face itself has to be analyzed
13 separately from the data.

14 GENERAL PRELOGAR: So, Justice
15 Sotomayor, let me begin by saying again that we
16 do think that an interest in preventing any
17 operational agreement between the U.S.
18 subsidiary and ByteDance, which is the relevant
19 provision you're talking about, is justified by
20 data protection alone. And that includes with
21 respect to cooperation on a content
22 recommendation algorithm specifically because of
23 the concern that it necessitates data flows
24 between the companies.

25 So I think that as a factual matter,

1 that could justify Congress enacting --

2 JUSTICE SOTOMAYOR: So, if it's --

3 GENERAL PRELOGAR: But -- but, to the
4 extent that you think that actually the
5 prohibition on coordinating with respect to an
6 algorithm reflects some kind of impermissible
7 content-based problem with the statute, the
8 statute has a severability clause.

9 And I certainly don't think that it
10 would give the Court a basis to invalidate this
11 law or to -- or to stop it from operating with
12 respect to all of the provisions that operate to
13 protect data security. At most, it would
14 suggest that that little piece of the law has to
15 be on its own severed from the rest of how the
16 statute operates.

17 JUSTICE SOTOMAYOR: How does that
18 affect whether we would apply -- because,
19 assuming it's data protection, then I would
20 think that strict scrutiny wouldn't necessarily
21 apply. I could understand applying intermediate
22 scrutiny.

23 But how do we do that with respect to
24 this part, the algorithm issue? How do we get
25 to intermediate scrutiny with respect to that?

1 GENERAL PRELOGAR: The way you get to
2 intermediate scrutiny there is to recognize that
3 prohibiting foreign adversary control over the
4 operations of the platform, including with
5 respect to the fundamental backbone of the
6 system, is not based on any protected speech
7 or -- or content-based in the relevant sense.

8 I've been thinking of it as akin to
9 something like a piece of software you might
10 have on your phone that would allow the Chinese
11 government to listen in on every American
12 conversation. If Congress wanted to enact a law
13 that patched up that vulnerability and said you
14 can't use that piece of software or you can't
15 coordinate with Chinese companies with respect
16 to it, clearly, we would recognize that closing
17 off that capability of China is a laudable and,
18 in fact, compelling government interest.

19 And I think, when it comes to the
20 risks that foreign adversary control pose here,
21 it's similar in kind. It's simply trying to
22 prevent access by the Chinese government to the
23 TikTok system writ large, and that includes
24 through the use of the algorithm.

25 JUSTICE SOTOMAYOR: Thank you.

1 JUSTICE KAVANAUGH: Could the
2 president say that we're not going to enforce
3 this law?

4 GENERAL PRELOGAR: I think, as a
5 general matter, of course, the president has
6 enforcement discretion.

7 JUSTICE KAVANAUGH: And would that
8 then adequately -- would that be binding, in
9 other words, protect the regulated community
10 such that it could rely on that under due
11 process principles going forward?

12 GENERAL PRELOGAR: That raises a
13 tricky question, so I think there would be a
14 strong --

15 JUSTICE KAVANAUGH: Well, then it's
16 not going to be adequate, right?

17 GENERAL PRELOGAR: Well, I think -- I
18 think there is a strong due process argument
19 that the third-party service providers could
20 invoke if there were enforcement action based on
21 a period of time when the president said the law
22 wouldn't be enforced. The con -- kind of
23 canonical case --

24 JUSTICE KAVANAUGH: They're not going
25 to take that risk unless they have the assurance

1 that a presidential statement of non-enforcement
2 is, in fact, something that can be fully relied
3 on because the risk is too severe otherwise,
4 right?

5 GENERAL PRELOGAR: I think that they
6 might judge that based on this Court's precedent
7 in the due process space and principles of
8 entrapment by estoppel, maybe they have a
9 sufficient safeguard here to allow them to
10 continue to operate.

11 I would think, even before a
12 non-enforcement policy were announced, of
13 course, the President-Elect would want to review
14 all of the updated national security information
15 that has come in over the last four years that
16 undergird Congress's judgment here.

17 But the final thing I would say is
18 that even if you think the third-party providers
19 are simply going to choose not to continue to
20 provide these services because it's too much of
21 a risk to take on, again, that's not anything
22 permanent or irrevocable, and that might be just
23 what the PRC and ByteDance need to start taking
24 seriously some of the -- the public reporting
25 about interest in acquiring the company.

1 JUSTICE ALITO: At one point, Mr.
2 Francisco suggested that what we might want to
3 do and what he would regard as certainly
4 preferable to a decision affirming on the merits
5 was -- is to issue an injunction pending, I
6 guess, consideration of what we now regard as
7 the -- as the cert petition that was filed here.
8 What do you think of that suggestion?

9 GENERAL PRELOGAR: So I think this
10 Court doesn't have any basis to enter a
11 temporary injunction unless it thinks
12 Petitioners are likely to succeed on the merits
13 of their First Amendment claim.

14 And, to be honest, you know, I -- I
15 would -- I think that there is no argument to be
16 made that you should find that likely success.
17 This is an act of Congress. This isn't some
18 unilateral action by the executive branch, but
19 it actually was action in parallel between the
20 Executive and Congress where Congress took
21 action to close up a loophole in some of our
22 laws. The Executive had tried to force
23 divestiture of TikTok under the Trump
24 administration, but that had gotten tied up in
25 litigation about those authorities.

1 So Congress came in and provided
2 additional authority based on a substantial
3 record, including with respect to the data harm.
4 And I don't see any basis for this Court to
5 displace the deadline that Congress set without
6 finding that actually there is a potential First
7 Amendment problem here.

8 JUSTICE ALITO: Do -- do you think we
9 have the authority to issue an administrative
10 stay, as we have done in -- in other cases, or
11 do you think that the January 20 deadline
12 prohibits us from doing that?

13 GENERAL PRELOGAR: I don't think this
14 Court has a formal basis to not issue an
15 administrative stay if it believed that that was
16 necessary to assist in the Court's own
17 consideration of the case.

18 I would obviously defer to the Court
19 and whether it has a sufficient time to resolve
20 the case, but we are here ready to submit the
21 case today. And I think it is in the interest
22 of Congress's work and our national security to
23 resolve the case and allow the statute to take
24 effect.

25 JUSTICE ALITO: Can I just test

1 your -- to see whether your recollection of what
2 Mr. Francisco said about a warning is consistent
3 with mine? I did not hear him say -- he can
4 address this in -- in rebuttal -- that it would
5 be acceptable to his client if Congress had said
6 there has to be a stark warning on every TikTok
7 such as: Warning, Communist China -- Communist
8 China is using TikTok to manipulate your
9 thinking and to gather potential blackmail
10 material. Did you hear him say that that would
11 be okay?

12 GENERAL PRELOGAR: I don't think he's
13 made that concession, but, even if he had, I
14 don't think that would address the government's
15 national security concerns.

16 And one of the -- the points here is
17 that it's not just data privacy. So, even if
18 you could somehow put users on notice that the
19 PRC could obtain their data and they choose to
20 disregard that, it's not a data privacy
21 interest. It's a national security interest.

22 There's a distinct sovereign harm to
23 the United States if our foreign adversary could
24 collect this massive data set about 170 million
25 Americans. And, as Justice Kavanaugh touched

1 on, you know, there are a lot of teenagers using
2 TikTok today who might ignore a warning like
3 that and not really care, but they're going to
4 grow up and they might become members of our
5 military, they might become senior government
6 officials. And for the -- the Chinese
7 government to have this vast trove of incredibly
8 sensitive data about them I think obviously
9 exposes our nation as a whole to a -- a risk of
10 espionage and blackmail.

11 JUSTICE ALITO: Thank you.

12 GENERAL PRELOGAR: I did want to touch
13 briefly on the questions about history and
14 tradition here because my friends have said
15 several times that the Communications Act of
16 1934, which we think is roughly analogous to the
17 type of restriction that Congress was seeking to
18 enact here, is justified entirely by concerns
19 about scarcity, how you can't have sufficient
20 bandwidth.

21 And I, of course, recognize that
22 scarcity is what created the need for a
23 licensing regime in the first place, but I think
24 it's important to clarify the historical record
25 here that in choosing to limit foreign control

1 of radio stations, of broadcast stations,
2 Congress specifically cited a concern about
3 national security. That is written into the
4 statute. National defense was one of the listed
5 purposes of having that kind of restriction.

6 And so I don't think my friends can
7 succeed in being dismissive of that concern
8 about history and tradition and what it shows
9 about the national security judgments that
10 undergird this law.

11 The one other factual point I wanted
12 to make to be responsive to a few points that my
13 friends have touched on relates to whether
14 TikTok U.S. has the ability to alter this
15 algorithm, whether divestiture is feasible, how
16 ByteDance has manipulated the platform in the
17 past.

18 With respect to the algorithm, I think
19 we're simply talking past each other. We don't
20 dispute that TikTok U.S. might engage in some
21 functions in the United States to customize the
22 algorithm for a U.S. audience. The thing we're
23 worried about is happening long before that,
24 over in China, where ByteDance is developing the
25 source code, creating the basic backbone and

1 functioning of the system, and is then blasting
2 out the algorithm for use by the various
3 subsidiaries in their home country.

4 So we're not seeking to regulate any
5 activity that TikTok U.S. is engaged in here.
6 Instead, what Congress is doing is trying to
7 close off the vulnerability of PRC access
8 abroad.

9 With respect to the feasibility of
10 divestiture, my friends have said it would have
11 been impossible to do this within 270 days. You
12 know, at the outset, obviously, there's no
13 inherent impediment to divesting a social media
14 company. We just saw Elon Musk buy X, or
15 Twitter, in about six months from offer to
16 completion.

17 And even with respect to this
18 particular company, I think my friends are not
19 well positioned to complain about the timeline
20 because they've been on notice since 2020 that
21 unless they could satisfy the federal
22 government's national security concerns,
23 divestiture might be required.

24 But, in any event, I don't think that
25 the Court should fault Congress for trying to

1 balance competing interests here in making sure
2 that there was a period for compliance and
3 trying to preserve access to the platform for
4 Americans while taking steps to safeguard
5 against the risk to national security.

6 Finally, with respect to the question
7 of whether ByteDance has taken action on the
8 PRC's demands, there is evidence in the record
9 that Congress consulted to demonstrate that
10 outside of China, ByteDance has taken action to
11 misappropriate data at the PRC's request. That
12 included efforts to track dissidents in Hong
13 Kong, protestors there, to track Uyghurs in
14 China itself. We know that ByteDance has
15 misappropriated U.S. data with respect to
16 surveilling of U.S. journalists. And there was
17 evidence in the record reinforcing the
18 conclusion that ByteDance has been asked by the
19 PRC to undertake efforts to censor content and
20 manipulate the platform at the behest of the
21 Chinese government.

22 So I don't think there is a factual
23 basis to dispute the record that Congress had
24 before it.

25 If the Court has no further questions.

1 CHIEF JUSTICE ROBERTS: Justice
2 Thomas?

3 JUSTICE SOTOMAYOR: I have a question.
4 General, if I understood correctly,
5 under President-Elect's first term, he passed an
6 executive order requiring divestiture, correct?

7 GENERAL PRELOGAR: That's right.

8 JUSTICE SOTOMAYOR: And this -- that
9 was challenged in court and stayed as a result
10 of him exceeding his executive power to do that.
11 But this bill followed a bipartisan
12 investigation, correct?

13 GENERAL PRELOGAR: Yes, that's right.

14 JUSTICE SOTOMAYOR: I am a little
15 concerned that a suggestion that a
16 president-elect or anyone else should not
17 enforce the law when a law is in effect and has
18 prohibited certain action, that a company would
19 choose to ignore enforcement on any assurance
20 other than the change in that law. But putting
21 that aside, on the 19th, if it doesn't shut
22 down, there is a violation of law, correct?

23 GENERAL PRELOGAR: Yes.

24 JUSTICE SOTOMAYOR: And whatever the
25 new president does doesn't change that reality

1 for these companies?

2 GENERAL PRELOGAR: That's right.

3 JUSTICE SOTOMAYOR: How long is the
4 statute of limitations in effect? Assuming that
5 they violated it that day and later continued to
6 violate it, but how long does the statute of
7 limitations exist for a civil violation --

8 GENERAL PRELOGAR: It --

9 JUSTICE SOTOMAYOR: -- of this sort?

10 GENERAL PRELOGAR: It would be a
11 five-year statute of limitations.

12 JUSTICE SOTOMAYOR: All right. Thank
13 you.

14 CHIEF JUSTICE ROBERTS: Thank you,
15 counsel.

16 Rebuttal?

17 REBUTTAL ARGUMENT OF NOEL J. FRANCISCO
18 ON BEHALF OF PETITIONERS TIKTOK, INC., ET AL.

19 MR. FRANCISCO: Thank you, Mr. Chief
20 Justice. Four points, all of which go to why we
21 think this would law -- law would fail whether
22 you applied intermediate scrutiny or strict
23 scrutiny.

24 I'd like to begin with the least
25 restrictive alternative, simply prohibiting

1 TikTok, Incorporated, from disseminating any of
2 the sensitive user data to anyone, including
3 ByteDance, under the threat of massive
4 penalties. That is definitely a less
5 restrictive alternative.

6 Now my friend pointed to the NSA
7 negotiations. Well, the sensitive user data
8 that we're talking about and that were of
9 concern in the NSA negotiations were not the
10 type of technical data that she's talking about.
11 The NSA did allow certain types of nonsensitive
12 technical data to go back and forth, but that
13 wasn't anybody's concern. And, as we say in
14 20 -- page 23 of our briefs, they simply cut off
15 the negotiations without ever raising those
16 concerns.

17 But, to be clear, if that's a concern,
18 sweep that into the ban too. Put in that
19 nonsensitive technical data into the ban too.
20 We'll deal with that. It's a lot better than
21 simply being forced to shut down. So that is
22 most definitely a less restrictive alternative
23 that would address data security.

24 We talked about the
25 under-inclusiveness in Temu and Shein, the two

1 large e-commerce sites. Justice Kagan, you
2 might have seen Temu during the Super Bowl. It
3 was heavily advertised. It's got -- it's one of
4 the most popular e-commerce applications in the
5 United States. It's got 70 million users.

6 Justice Sotomayor, you were asking
7 what they collect. This is from Joint Appendix
8 339 to 343, the U.S./China Economic and Security
9 Commission Review Report. Shein relies on
10 tracking and analyzing user data, draws on
11 customer data and search history with the
12 assistance of artificial intelligence
13 algorithms. It requests users share their data
14 and activity from other apps, including social
15 media. So they apparently go into your social
16 media apps and suck up all of the information.
17 Because they're e-commerce apps, they take
18 names, addresses, and credit card information.

19 If you look at the privacy policies on
20 their website, they were -- they collect
21 location data. It -- it looks like they might
22 even collect at some level GPS location data.
23 So they collect massive amounts of data.

24 Point 3: Their mere covertness
25 argument makes no sense for the reasons that the

1 Court explored. If mere covertness were the
2 issue, a disclosure would make perfect sense.
3 Yet they're not concerned about mere covertness.
4 They're concerned, as my friend suggested, with
5 getting Americans to argue with each other.
6 Well, you know, as far as I can tell, that's
7 what news organizations do in this country every
8 single day. That's what we call editorial
9 content. That's what we call content itself.
10 And so it's trained directly on the content.

11 But, even if you thought somehow that
12 the mere covertness were the issue, that
13 definitely could be addressed through a risk
14 disclosure. So the data-sharing ban, the risk
15 disclosure, those are obvious less restrictive
16 alternatives. And had the government considered
17 them and rejected them, we would be in a
18 different position. But, if you look at this
19 record, those are two less restrictive
20 alternatives that the government did not address
21 at all.

22 Whether you apply strict scrutiny or
23 intermediate scrutiny, that is fatal because,
24 under both standards, restricting speech has to
25 be the last resort, not the first one. And when

1 you fail to consider less restrictive
2 alternatives, you fail under either standard.

3 My final substantive point is we
4 absolutely think this Court has the authority to
5 enter an administrative stay. I didn't
6 understand my friend to disagree with that. We
7 think that given the enormity of this decision,
8 given the complexity of this case, it would make
9 perfect sense for this Court to enter an
10 administrative stay.

11 I also think you could enter a
12 preliminary injunction. Yes, likelihood of
13 success is one standard, but you don't have to
14 determine ultimate success. And, as you do in
15 other related contexts, like with respect to
16 stays, you often make clear that you're not
17 addressing the merits of the case. I think you
18 could do that here.

19 The bottom line, Your Honor, is this
20 case ultimately boils down to speech. What
21 we're talking about is ideas. And my friends on
22 the other side, when you cut through everything
23 else, are ultimately worried that the ideas that
24 appear on the TikTok platform could in the
25 future somehow manipulate Americans, could

1 somehow persuade them, could somehow get them to
2 think something that they ought not be thinking.

3 Well, that whole notion is at war with
4 the First Amendment. If the First Amendment
5 means anything, it means that the government
6 cannot restrict speech in order to protect us
7 from speech.

8 That's precisely what this law does
9 from beginning to end, whether you look at its
10 text, whether you look at the government's
11 justifications in its brief, where they talk
12 about being worried about speech criticizing our
13 leaders or undermining democracy.

14 It's what you see in the House report,
15 which turns specifically on the dangers of
16 misinformation, disinformation, and propaganda.
17 And it's what you see in this legislative record
18 writ large, which is saturated with objections
19 to -- to TikTok's existing content.

20 We ask that you reverse the Court
21 below. Thank you, Your Honor.

22 CHIEF JUSTICE ROBERTS: Thank you,
23 counsel.

24 The case is submitted.

25

1 (Whereupon, at 12:38 p.m., the case
2 was submitted.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Official

<p>1</p> <p>1 ^[1] 60:16</p> <p>10 ^[4] 1:18 33:25 34:1 83:25</p> <p>10:08 ^[2] 1:22 4:2</p> <p>100 ^[1] 71:17</p> <p>117 ^[1] 3:12</p> <p>12:38 ^[1] 178:1</p> <p>15 ^[1] 83:25</p> <p>170 ^[7] 56:14 73:11 83:1,23 117:24 129:19 166:24</p> <p>172 ^[1] 3:16</p> <p>1934 ^[1] 167:16</p> <p>1950s ^[2] 136:15 137:11</p> <p>19th ^[9] 57:1,14,15,18 98:3 149:18 150:24 151:5 171:21</p>	<p>11 168:14</p> <p>able ^[14] 32:11 36:21 70:7 89:2 98:1 107:21 111:7 123:15 124:16 133:11,16 136:1 153:23,24</p> <p>above-entitled ^[1] 1:20</p> <p>Abrams ^[4] 78:21 79:8 94:12,14</p> <p>abroad ^[1] 169:8</p> <p>absent ^[1] 62:6</p> <p>absolute ^[1] 108:17</p> <p>absolutely ^[5] 29:3 32:19 89:17 135:20 176:4</p> <p>accept ^[1] 159:6</p> <p>acceptable ^[1] 166:5</p> <p>accepted ^[1] 145:12</p> <p>access ^[12] 8:21 24:25 25:1 30:5 83:21 88:20 134:22 148:11 157:8 161:22 169:7 170:3</p> <p>accessing ^[1] 53:23</p> <p>account ^[3] 6:19 20:5 60:8</p> <p>accusation ^[1] 26:20</p> <p>accused ^[1] 109:12</p> <p>achieve ^[1] 120:18</p> <p>acknowledge ^[5] 55:5,12 113:19 119:10 127:25</p> <p>acknowledged ^[1] 158:25</p> <p>acquiring ^[1] 163:25</p> <p>acquisition ^[1] 9:18</p> <p>across ^[2] 144:17 156:24</p> <p>Act ^[48] 4:11,15,21 5:7,21 6:1,12 14:7 34:12 43:1,10 58:9 73:21 74:3,5,7 80:19 81:7,7,20 85:23 86:1 91:18 92:9 95:25 99:22,25 100:1,15 113:20 114:17,20,21 118:23 119:6,13 120:1 125:4 133:7,14 139:4 143:17 148:7 153:13 157:11 158:18 164:17 167:15</p> <p>Act's ^[1] 23:19</p> <p>acted ^[1] 97:17</p> <p>acting ^[2] 99:5 100:3</p> <p>action ^[9] 15:5 141:1 162:20 164:18,19,21 170:7,10 171:18</p> <p>activities ^[1] 121:1</p> <p>activity ^[5] 12:23 13:3 130:24 169:5 174:14</p> <p>actor ^[1] 34:21</p> <p>actors ^[1] 110:4</p> <p>acts ^[1] 34:11</p> <p>actual ^[3] 45:15 125:8</p>	<p>146:11</p> <p>actually ^[23] 10:13 15:25 19:18 22:13 50:17 51:12 52:8 89:11 99:17 104:21 111:5 114:1 123:18 124:9,24 128:9 129:13 138:2 140:23 150:14 160:4 164:19 165:6</p> <p>add ^[2] 93:9 110:12</p> <p>addition ^[2] 38:4 58:8</p> <p>additional ^[1] 165:2</p> <p>address ^[10] 14:4 54:12 55:8 85:22 119:7 150:22 166:4,14 173:23 175:20</p> <p>addressed ^[5] 5:12 17:15 29:12 56:3 175:13</p> <p>addresses ^[2] 118:23 174:18</p> <p>addressing ^[1] 176:17</p> <p>adequate ^[3] 50:23 129:4 162:16</p> <p>adequately ^[1] 162:8</p> <p>administration ^[3] 97:25 148:24 164:24</p> <p>administrations ^[1] 156:25</p> <p>administrative ^[4] 165:9,15 176:5,10</p> <p>admits ^[1] 25:12</p> <p>advance ^[2] 118:20 142:6</p> <p>advantage ^[1] 111:2</p> <p>adversaries ^[5] 67:24 70:7 74:21 79:20 150:3</p> <p>adversary ^[37] 19:4 71:14 82:25 84:15 118:24 119:15 120:3,9,16,22 121:2 122:8 125:22 127:15 129:21 130:14 132:20 133:16 134:17,21 139:23 140:14,16 141:2,14 142:9 151:7 153:23 154:2,8 156:16,17 157:5 158:11 161:3,20 166:23</p> <p>adversary's ^[1] 118:19</p> <p>advertised ^[1] 174:3</p> <p>advocate ^[1] 96:3</p> <p>affect ^[4] 85:6,8 137:9 160:18</p> <p>affected ^[1] 37:9</p> <p>affecting ^[5] 11:17 35:23,23 36:1 39:23</p> <p>affects ^[2] 39:19 41:3</p> <p>affiliate ^[3] 64:25 136:2,5</p> <p>affirm ^[2] 150:23 159:4</p>	<p>affirming ^[1] 164:4</p> <p>Agent ^[1] 95:24</p> <p>agents ^[2] 96:2 125:4</p> <p>ago ^[3] 73:24 84:21 130:3</p> <p>agree ^[9] 15:6 29:17 30:3 31:3 50:4 59:4 99:2 116:9 138:19</p> <p>agreed ^[1] 22:14</p> <p>agreement ^[5] 22:14 54:16 144:13 145:10 159:17</p> <p>ahead ^[5] 91:24 103:18 129:25 131:15 148:21</p> <p>aiming ^[1] 128:9</p> <p>air ^[1] 81:4</p> <p>akin ^[2] 158:20 161:8</p> <p>AL ^[12] 1:3,10 2:3,5 3:5,9,16 4:8 18:19 73:17 102:9 172:18</p> <p>alerting ^[1] 95:1</p> <p>algorithm ^[64] 6:11 7:3,13 21:9 22:6,8 27:10,13,14 28:8,17 30:15 32:11,12 33:22 34:22 36:2,22 46:5 52:25 53:2,5,9 59:15 65:6,8,9,18 66:1,2,14 67:7 81:13 84:20 86:14 90:22,25 100:7,18 111:24 112:10 114:24 121:8,10,24 125:15 133:10,12 144:4,6,9,24 145:4 148:9 153:16 159:8,22 160:6,24 161:24 168:15,18,22 169:2</p> <p>algorithms ^[4] 28:3 83:20 122:22 174:13</p> <p>ALITO ^[55] 17:1,9,17,20 18:21,25 19:3,22 20:1 33:3 43:8,9 44:1,10,13,22 45:3,8,25 46:16,20,24 47:24 48:1 110:16 111:4,9,22 112:17,20,25 113:1,8 114:11,16 115:4 131:13,16 132:8,21 139:3,9,25 148:2,17,21 150:16,19 151:15 152:8 153:3 164:1 165:8,25 167:11</p> <p>Alito's ^[2] 48:16 52:18</p> <p>Alliance ^[1] 33:6</p> <p>allies ^[1] 96:23</p> <p>allow ^[5] 6:3 161:10 163:9 165:23 173:11</p> <p>allowed ^[1] 77:19</p> <p>allowing ^[1] 18:1</p> <p>almost ^[1] 139:10</p> <p>alone ^[9] 69:18 70:2 85:23 86:5 87:13 108:25 155:21 156:1 159:25</p>	<p>20</p> <p>alongside ^[2] 55:16 69:21</p> <p>already ^[1] 130:24</p> <p>alter ^[4] 21:8 23:11 36:5 168:14</p> <p>alternative ^[13] 5:23 37:22 50:5 54:25 55:4 56:16,24 72:24,25 128:21 172:25 173:5,22</p> <p>alternatives ^[8] 50:7,17,23 51:12,16 175:16,20 176:2</p> <p>altogether ^[2] 128:22 138:5</p> <p>amassing ^[1] 117:12</p> <p>Amazon ^[1] 54:22</p> <p>AMC ^[2] 19:11,14</p> <p>Amendment ^[76] 4:20 5:17 8:5,6 11:3,11,21 12:2,12 14:24 17:14 18:2 20:2,6,16 22:17 29:18 33:11,12,13,14 34:13 36:15,25 37:3,5,6,11,16 43:18,22 44:17 56:12 60:17 61:21 65:22 72:10,19 73:22 74:5,22 75:24 76:15 92:24 101:9,18,24 102:16,25 103:4,11 105:25 107:22 108:11 119:6,16 120:9 132:7 133:25 134:2,11,20 135:3 136:24 147:21 151:24 152:1,20 154:24 157:16,19,21 164:13 165:7 177:4,4</p> <p>America ^[4] 73:2 74:2 103:12 127:9</p> <p>America's ^[1] 4:11</p> <p>American ^[29] 28:13 40:13 43:15 53:4 64:24 73:22 74:10 76:5 87:25 89:22 102:7 103:7 104:1 106:16 110:6,12 116:3 117:24 124:15 127:2 130:23 132:9,11,25 134:6 136:2 151:25 152:15 161:11</p> <p>Americans ^[38] 5:14 14:16 53:24,24 56:15 73:11 74:13 75:14 77:15 78:1 83:23 86:20 95:1,5 96:1 100:13,14 105:3,18 107:2 109:12 117:13 118:5 119:11 120:23 122:3 130:5 131:7 133:23 134:1,24 140:24 145:23 148:12 166:25 170:4 175:5 176:25</p> <p>Americans' ^[1] 143:</p>	<p>20</p> <p>among ^[1] 18:3</p> <p>amount ^[3] 6:18 10:25 16:9</p> <p>amounts ^[3] 89:16 117:22 174:23</p> <p>analog ^[2] 135:5 136:15</p> <p>analogize ^[1] 91:5</p> <p>analogous ^[1] 167:16</p> <p>analysis ^[9] 9:5 10:9 15:7 20:11 31:1 60:16 70:21 75:24 152:24</p> <p>analyze ^[2] 20:11 90:21</p> <p>analyzed ^[1] 159:12</p> <p>analyzing ^[1] 174:10</p> <p>Andersen ^[1] 143:10</p> <p>announced ^[2] 114:9 163:12</p> <p>anomalous ^[1] 147:19</p> <p>another ^[11] 19:11 22:19 40:3 41:19 64:8 67:13 87:24 112:16 120:24 121:17 122:4</p> <p>answer ^[13] 20:2 47:14 81:9 82:13 84:17,25 86:5 88:4 95:17 100:11 104:19 135:21,23</p> <p>answer's ^[1] 86:15</p> <p>answers ^[1] 32:8</p> <p>ante ^[1] 130:19</p> <p>Anthem ^[1] 131:4</p> <p>anti-American ^[4] 36:7 62:9 115:17 133:9</p> <p>anti-China ^[1] 140:23</p> <p>anti-democracy ^[1] 80:15</p> <p>anticipated ^[1] 149:24</p> <p>antitrust ^[4] 92:21 93:13 105:22,23</p> <p>anybody ^[7] 37:16 54:19,22 56:6,20,21 124:3</p> <p>anybody's ^[1] 173:13</p> <p>anytime ^[1] 139:15</p> <p>apart ^[3] 69:1 73:20 80:8</p> <p>apologize ^[1] 32:16</p> <p>app ^[4] 58:6,7,7 140:19</p> <p>apparent ^[2] 121:13 122:25</p> <p>apparently ^[3] 113:12 122:5 174:15</p> <p>appeals ^[2] 97:22 145:20</p> <p>appear ^[2] 121:16 176:24</p> <p>APPEARANCES ^[1]</p>
--	---	---	--	---	---

Official

<p>2:1 appendix [4] 145:18, 21 147:1 174:7 appetite [1] 131:6 applicable [1] 13:13 application [4] 29:16 43:13 100:17 144:1 applications [1] 174:4 applied [4] 68:3,5 139:14 172:22 applies [9] 4:20,22 29:20 48:23 59:5,8 71:2 119:6 155:1 apply [11] 12:6 16:21 45:19 54:25 60:21 70:23 113:16 128:23 160:18,21 175:22 applying [1] 160:21 approach [1] 115:2 appropriate [1] 155:3 approval [1] 18:11 apps [4] 45:23 174:14, 16,17 Arcara [10] 41:15,15 45:11 46:2,7,8,10,12 47:17,18 Archibald [1] 105:7 area [6] 16:17,25 93:13 97:18,20,20 aren't [2] 34:15 139:9 argue [4] 72:23 105:12 130:5 175:5 argued [3] 22:21 104:25 105:2 arguing [3] 120:23 126:8,9 argument [63] 1:21 3:2,6,10,13 4:4,7 11:10 17:5,7 20:3 33:5,8 35:15,17,18 42:3 45:4,5 47:1,8 48:11,12,22 50:13 69:4 71:7 73:16 76:3,20 80:9,11,13, 13,20 92:6,23 105:2, 10,16,18 106:19 113:3 116:19,22 117:5 124:15 127:23 132:22, 24 133:22 137:1 143:5 148:1 152:6,9,11 158:5 159:6 162:18 164:15 172:17 174:25 arguments [13] 44:15 45:18 49:4,6,9 80:7, 10 97:2 106:22 108:1 142:17 156:2,9 arises [2] 16:1 118:18 arose [1] 113:4 around [7] 32:2 62:8 63:17 96:14 138:10, 24 144:22 arsenal [1] 43:14 Arthur [1] 143:10 article [3] 111:12 127:</p>	<p>7,7 articles [2] 27:7,7 articulate [1] 127:17 articulated [1] 115:24 articulating [3] 64:21 65:13,17 artificial [1] 174:12 asbestos [4] 38:2,3,5, 7 aside [6] 35:14 52:14 88:11 95:3 136:14 171:21 aspect [2] 89:21 95:14 aspects [1] 101:23 assert [4] 37:10 68:13 107:21 147:20 asserted [3] 29:5 45:14,16 asserting [1] 134:13 assessment [2] 11:2 54:7 assist [2] 8:18 165:16 assistance [2] 146:5 174:12 associate [5] 65:6,18 79:5 93:3 102:20 associated [1] 67:8 associating [2] 77:15 78:2 association [10] 64:22 65:22 67:10,12,14, 16,17,22,23 69:2 assume [5] 18:6 48:21 100:23 110:22 123:23 assuming [9] 12:3 34:11 52:16 62:15 71:1 90:15 154:25 160:19 172:4 assurance [2] 162:25 171:19 AT&T [1] 76:21 attached [1] 135:12 attachment [1] 111:12 attack [1] 14:8 attempt [1] 96:18 attention [1] 97:21 ATTORNEY [2] 1:7, 14 audience [2] 111:7 168:22 audiences [1] 110:15 Austin [1] 137:20 author [1] 6:18 authorities [1] 164:25 authority [10] 21:8,21 22:10,11 37:10 57:13 149:25 165:2,9 176:4 automatically [1] 63:19 available [7] 34:22 58:7 83:22 84:10 87:17</p>	<p>100:10 143:12 average [1] 124:15 avoid [3] 114:2 141:23 142:1 aware [2] 40:13 125:18 away [4] 46:21 104:10 136:24 137:4 <hr/> B<hr/> back [14] 15:17 37:7 39:10 42:8,21 64:13 86:17 91:21 99:1 129:20 145:15,24 147:7 173:12 backbone [2] 161:5 168:25 backdoor [1] 138:8 background [1] 131:1 bad [4] 22:7 140:9,10 141:9 balance [2] 56:10 170:1 balancing [1] 73:5 ban [7] 4:18 96:4,6 143:6 173:18,19 175:14 bandwidth [3] 16:2, 23 167:20 banning [1] 5:23 bar [1] 119:16 bare [1] 73:8 BARRETT [57] 27:1,9, 17,20 28:5,12,19,24 29:13,16,22 30:2,19 31:4 32:9,22,25 59:1, 2,7,14 60:3,6,11,18 61:6,9,12 62:10,13,24 63:14,21 64:4,14 103:15,17,20,22 104:9 105:20 106:10,14 107:3,8,13 129:22,25 131:14 133:18,21 147:6, 25 148:15,19,22 149:10 barring [1] 119:3 base [1] 86:2 based [26] 35:2 40:7 41:24 42:18,19 43:2 45:8 47:6 60:24 71:11 86:1,2,11 97:9 115:2 129:12 134:8 139:16 140:2 147:12 152:18 155:25 161:6 162:20 163:6 165:2 basic [5] 33:24 38:21 62:19 145:25 168:25 basically [3] 27:15 35:10 158:25 basis [9] 16:10 45:9 139:4 159:3 160:10 164:10 165:4,14 170:23</p>	<p>battleships [1] 79:14 BBC [1] 102:8 bear [1] 89:11 become [2] 167:4,5 becomes [2] 12:1 52:20 began [3] 8:11 9:8 126:12 begin [3] 151:1 159:15 172:24 beginning [2] 4:22 177:9 behalf [14] 2:3,5,7 3:4, 8,12,15 4:8 73:17 106:19,22 109:16 117:6 172:18 behest [1] 170:20 behind [11] 74:8 120:17 121:13,19 122:13, 14 123:8,10 126:22 129:13 139:1 believe [5] 14:24 15:8 37:2 48:22 106:13 believed [1] 165:15 believes [1] 90:9 below [1] 177:21 benefit [1] 58:23 benefits [2] 56:15 110:3 best [9] 6:12 34:22 38:25 66:1,3 100:21 123:23 124:11,14 better [3] 92:19 141:11 173:20 between [14] 38:19 61:10 82:4 104:13 119:21,24 120:12 129:6 143:15 144:8 151:17 159:17,24 164:19 beyond [2] 156:13,17 Bezos [11] 8:2 10:13, 15,20 11:4,20 27:4 28:10 30:9 106:1,3 Bezos's [3] 7:22 8:4 10:22 Biden [1] 57:15 big [2] 109:11 129:16 bill [1] 171:11 binding [1] 162:8 bipartisan [2] 138:17 171:11 bit [8] 10:10 32:7 53:10 63:6 78:25 86:21 103:23 123:5 black [3] 123:5,6,7 blackmail [3] 54:4 166:9 167:10 blasting [1] 169:1 blink [1] 151:9 Bluesky [1] 122:24 body [1] 39:13 boil [1] 77:5 boils [1] 176:20 bona [1] 19:18</p>	<p>books [2] 8:9 16:21 bookstore [1] 103:12 bookstores [2] 46:12 47:19 both [7] 11:4 41:21 42:23 65:24 70:4 138:18 175:24 bottom [4] 50:14 77:13 132:23 176:19 bought [1] 65:8 bounce [1] 31:19 Bowl [1] 174:2 box [2] 123:5,6 boxes [1] 123:7 branch [4] 143:16 151:11 156:24 164:18 brand-new [1] 63:10 Brandeis [1] 78:20 breach [2] 130:25 131:3 break [2] 11:10 17:2 breakup [1] 76:21 breathing [1] 57:24 BRIAN [4] 1:10 2:5 3:8 73:17 brief [15] 20:17 21:11 25:18 31:25 64:23 78:7 80:11,17 86:4 89:5 105:9 114:4,5 116:11 177:11 briefed [1] 157:2 briefing [2] 85:12 104:24 briefly [1] 167:13 briefs [3] 88:18 144:17 173:14 bright-line [1] 127:17 bring [2] 104:20 158:23 bringing [1] 77:22 broad [1] 138:17 broadcast [5] 76:23 77:2 108:14,21 168:1 broader [1] 154:23 broadly [1] 14:7 brokers [1] 82:10 brought [1] 125:3 build [1] 118:4 building [3] 38:5 112:12 148:13 buildings [1] 38:3 built [3] 27:14,22 37:21 burden [20] 4:19 6:15, 16 7:6,8,19 8:8 29:25 38:20 52:21 61:18,19 64:19,21 68:23 75:25 82:23 105:5,12,15 burdening [2] 31:2,6 burdens [1] 45:12 business [9] 4:24 22:7 31:14 35:3 43:25 100:6 144:23 145:15 147:3</p>	<p>businesses [1] 7:23 buy [4] 57:23 92:6 111:16 169:14 Byte [1] 130:3 ByteDance [75] 4:16 6:13,23 7:4,17 8:15 9:24 10:8 25:15 28:20 32:11,13,23 33:2 34:2,10 35:24 36:5,19 37:1 51:18 54:20 56:7,20,21 59:17,18,20, 24 60:1 62:4 65:6,19 66:5,8 67:8,18 100:2, 4,5,18,25 101:4,7,15, 17 104:5,6,9,18 106:23 111:20,23 117:16 130:4 131:9 133:25 139:7 143:16 145:11 146:5,8,16 147:10 150:7,12 159:18 163:23 168:16,24 170:7, 10,14,18 173:3 ByteDance's [6] 7:12 21:10 34:4 60:4 65:18 151:17 <hr/> C<hr/> cable [1] 108:20 calculus [1] 74:19 California [1] 2:4 call [4] 4:17 158:20 175:8,9 called [1] 73:24 came [8] 1:20 55:18 65:8 69:23 104:25 113:11 135:6 165:1 campaigns [1] 74:21 cancer [1] 124:23 candidate [1] 110:13 cannot [13] 5:20 6:13 7:2 14:16 34:2 37:17 54:18,22 66:10 81:13 109:4 112:15 177:6 canonical [1] 162:23 capability [7] 123:15 126:18,23 141:5,14 156:18 161:17 capacity [3] 118:19 129:20 136:3 card [1] 174:18 care [8] 30:20,23 41:18 42:9 69:25 82:17, 18 167:3 careful [1] 152:7 carefully [1] 6:3 carry [3] 72:9 117:17 158:5 carveout [1] 108:19 Case [55] 4:4,5 6:6,17 20:18 26:23 37:17,20, 21 39:9 40:3,12 41:7 48:6 50:18 51:14 57:1 65:22 69:19 72:8 74:7,14 75:23 78:1,5</p>
--	---	---	---	--	--

Official

79:5 89:13,24 91:4 96:19 97:9 101:10 104:13,15,21,24 105: 15 106:24 107:23 108: 25 124:3 132:3 135: 22,23 149:7 162:23 165:17,20,21,23 176: 8,17,20 177:24 178:1 cases [24] 16:11,12,17 41:15,17,21,25 49:21, 24 64:24 67:19,21 68: 3 70:3 72:20 77:2 86: 6 94:14 106:15 108:5, 6,14 157:16 165:10 cast [1] 113:23 cat [4] 30:24 85:5 116: 17 124:16 catch [1] 112:6 categorically [1] 45: 23 categories [2] 145:13, 17 causes [2] 96:3 124: 22 cease [2] 46:4 150:24 censor [3] 19:14 25: 16 170:19 century [1] 135:8 cert [1] 164:7 certain [13] 6:18 16:9 77:16 96:3 138:3,3, 15,16 139:15 142:7,7 171:18 173:11 certainly [12] 12:8 47: 11 55:12 77:2 96:13 98:8 107:23 154:6,20 158:19 160:9 164:3 cetera [2] 85:14 115: 18 chains [1] 16:22 challenged [1] 171:9 challenges [2] 89:13 106:4 challenging [1] 155: 19 chance [3] 95:11 96: 25 98:12 change [9] 10:8 19:6 21:25 67:1 74:19 150: 11 154:3 171:20,25 changes [1] 9:4 changing [3] 35:20 44:23,23 channel [6] 42:11 128: 5 130:18 141:15 150: 5 154:9 channels [1] 119:4 chaos [1] 120:24 characterize [1] 116: 8 charge [1] 36:8 chicken [1] 150:7 CHIEF [53] 4:3,9 7:10 8:10,14 9:7,12,17,23	10:1 15:11 38:13,17 39:7,11,21 40:25 41: 9 42:2 43:5 48:2,5 53: 17 58:25 64:11 73:13, 18 82:16 83:3,9,16,19 84:8,13 108:4 112:22 115:6,10 117:2,7 129: 24 130:1,8,12 131:12 140:20 146:21 147:1, 5 171:1 172:14,19 177:22 Chief's [1] 52:18 children [3] 10:13 11: 20 14:2 China [43] 5:3 7:21,25 10:6,17 11:5 17:4 24: 13 25:16 26:6,8 28: 15,15 29:4 36:4 45: 24 53:22 54:20 56:21 102:15 121:25 122:14 123:8,10,14 124:2 129:13 130:13 132:24 144:4,5 145:16,24 146:4,16 150:8 151: 20 161:17 166:7,8 168:24 170:10,14 China's [2] 121:19 122:13 Chinese [35] 5:16 7: 23 8:17,18,20,25 9:14 10:12 11:21 19:12,19, 20 22:13,21 23:1,7 41:10 42:5,8 52:24 62:16 82:20 86:22 87: 17 117:9,19 118:3,11 119:1 155:10 161:10, 15,22 167:6 170:21 choice [6] 22:6 28:22 34:4 60:4 76:6 100: 20 choices [3] 60:9,11 109:14 choose [9] 11:18,19 36:2 64:25 89:3 109: 7 163:19 166:19 171: 19 chooses [1] 104:10 choosing [2] 100:9 167:25 chose [2] 11:22 55:8 chosen [1] 54:11 CIA [1] 54:6 Circuit [8] 15:12 22: 20 85:18 95:10 97:2, 7 105:13 142:14 circumstance [2] 129:1 153:10 cited [2] 106:14 168:2 cites [1] 21:22 citing [1] 41:14 citizen [4] 6:24 28:13 75:20 110:12 citizens [3] 43:15 109: 12 110:6	City [1] 137:19 civil [2] 6:20 172:7 claim [5] 32:20 76:15 79:7 106:11 164:13 clarification [1] 65:14 clarify [1] 167:24 classification [2] 140: 2 141:11 classified [1] 97:5 classify [1] 139:4 clause [2] 114:17 160: 8 clear [18] 4:18 22:22 28:9 33:7 39:15 41: 21 42:23 45:11 50:23 51:1 52:10 76:4 78:4 91:23 101:23 157:17 173:17 176:16 clearances [1] 131:2 clearly [3] 22:11 27:5 161:16 client [2] 28:25 166:5 clients [8] 75:12 106: 5 107:1 109:17 110:3, 20,24 111:5 close [5] 8:9 126:17 142:8 164:21 169:7 closer [1] 139:18 closing [2] 157:8 161: 16 clothing [1] 111:13 CNN [2] 70:15 71:21 code [15] 23:5 24:15 27:24,25 28:1 30:6 59:21 62:21,21 63:4, 7,11 104:11 144:3 168:25 coercion [3] 10:25 14: 1,14 cold [1] 151:11 collaborate [1] 14:17 collect [5] 166:24 174: 7,20,22,23 collecting [1] 129:18 collection [12] 53:21 55:22 88:16 90:16 95: 3 112:11,13,14 136: 13 155:16,22 156:1 collects [1] 117:21 colloquy [4] 65:3 69:6 71:9 78:15 combination [1] 30: 16 come [16] 8:1 10:20, 23 31:19 36:4 37:12 39:10 46:13 57:19 66: 14 79:4 112:2 116:18 120:21 144:16 163:15 comes [14] 27:23 42:3 61:23 62:21 77:24 89: 14 97:11 104:2 121: 12 139:7 140:14 150: 9 152:21 161:19 coming [1] 42:7	Comintern [1] 135:18 command [1] 131:8 commentating [1] 76: 14 commercial [1] 146:1 Commission [1] 174: 9 communicate [1] 75: 11 communication [3] 42:12 106:25 128:5 communications [7] 75:11 119:3 130:18 141:15 150:4 154:9 167:15 Communist [8] 103: 10 135:11,13,16 136: 17 137:10 166:7,7 community [2] 148: 13 162:9 companies [15] 18:16, 18 76:23 81:21 82:1 87:13 111:25 112:5 117:16 125:11 144:8 156:19 159:24 161:15 172:1 companies' [1] 73:20 companion [1] 157:3 company [45] 4:15 7: 13 8:11,15,22 9:9 11: 12 17:16 19:13,19,25 21:23,24 22:6,16 32: 24 33:3,9,17 34:17 39:16 40:4 44:9 46:4 65:9 75:21 86:15 101: 25 106:23 111:1 115: 1 119:22,22 127:4 143:8 146:9,13,20 150:14 151:25 153:7 163:25 169:14,18 171: 18 company's [2] 39:19, 23 comparable [1] 45:24 compared [1] 153:2 comparison [1] 114: 5 compelled [1] 72:11 compelling [23] 12: 21 13:8,25 20:8,12 69:8,14 71:4,16,19 81:2,2 93:21 94:2 117:16 119:8 126:9 128:17 142:16 155:6 157:12 159:1 161:18 competing [1] 170:1 compiled [1] 89:15 complain [1] 169:19 complaining [1] 65:5 complaint [2] 20:19 32:10 complete [2] 19:23 20:2 completely [2] 50:4	135:18 completion [1] 169: 16 complexity [1] 176:8 compliance [1] 170:2 complications [1] 72: 10 comply [3] 131:9 146: 10 151:8 component [2] 22:25 65:25 compulsion [2] 12:15 14:1 con [1] 162:22 concede [3] 20:3 40: 11 69:7 conceded [1] 19:18 concedes [1] 61:4 concern [30] 9:13 28: 16 42:4,4,10,10 44:25 50:8,9 52:20 55:23 56:1,2 96:1,21 120: 15 136:22 137:15 141: 4 143:5 154:8,10 156: 22 157:7 159:23 168: 2,7 173:9,13,17 concerned [24] 29:8, 9 30:10 31:17 41:22 53:11,12,22 55:7 71: 11 75:17 84:5,9,14,14 91:11 96:17 126:15 135:9 136:16 145:5 171:15 175:3,4 concerning [1] 126: 13 concerns [12] 71:8 75: 18 90:16 137:8 142: 16 144:15 152:19 157: 1 166:15 167:18 169: 22 173:16 concession [2] 35:5 166:13 conclude [3] 37:4 107:17 147:14 concluded [2] 87:20 131:20 concludes [1] 44:2 conclusion [3] 113: 12 128:14 170:18 condition [1] 34:5 conduct [5] 38:20,23 39:4 121:5 128:10 conferring [1] 159:8 confront [1] 17:11 Congress [102] 8:16 9:14 10:19 19:13,15, 16 40:14 43:9,12 44: 1,2,20 50:16 53:21 54:8 55:6 56:9,11 65: 19 67:20,22 69:23 73: 4 76:8 77:15,25 81:4 82:8,16,23 84:4 85:1 86:10,18,23 87:6,18 91:21 92:7,18 96:9,	11 97:17,21 99:5,11, 17,21 100:3 101:6 102:10 103:13 105:25 108:17,24 113:21 114: 13 118:14 119:17 126: 15 127:14 131:20 132: 12,18 134:7,14 135: 15 137:21 138:2,4,14, 18 142:5 143:5 148: 10 149:20,23 150:6, 13 151:6,12 152:17 153:21 155:25 156:21 157:1 158:6,21 160:1 161:12 164:17,20,20 165:1,5 166:5 167:17 168:2 169:6,25 170:9, 23 Congress's [10] 47:5 90:17,17 120:15 143: 17 154:7 157:11 159: 2 163:16 165:22 congressional [3] 44: 24 84:4 113:17 Congresspersons [1] 85:17 conjunction [1] 74: 11 connection [4] 38:19 41:3 86:21 131:17 consequence [1] 58: 19 consequences [3] 56:13 58:11 110:19 consequential [1] 58: 21 consider [8] 6:3 39: 10 50:7 55:3 56:13 72:24 150:12 176:1 consideration [3] 139:18 164:6 165:17 considered [6] 51:13, 20 54:24 56:9,23 175: 16 consistent [1] 166:2 consolidated [1] 4:5 constitute [1] 74:23 constitutes [1] 38:22 constitutional [4] 110:17 113:11 152:24 158:9 constitutionally [1] 91:17 consulted [1] 170:9 contact [4] 42:15 88: 20,21 89:19 contacts [2] 88:24 117:25 contemplating [1] 125:1 contends [1] 71:13 content [143] 4:24 6: 12 9:15,18 12:25 20: 14,19 24:22,25 25:14, 16 26:4,8,12 27:5 28:
---	---	--	---	--	---

Official

3,17 29:3,11,23 30:11, 16,23 31:12,13,15,21 35:2,2,20 36:3,6 41: 23,24 42:15,16,24 43: 10,24 44:25 47:5,6,12 59:9 61:15 62:1,7 63: 13,19 64:7 66:2,3 69: 20 70:8,9,12,14,17 71: 18,23 80:12,15 81:12, 16 82:3 83:5,11,12,14 84:14,19 85:2 86:13 87:20 90:15 91:14 93: 19,19,24 94:4 95:2,6, 6 99:3,6,23 108:7 110:7,9 114:23 115:3, 17 118:15 119:21 120: 2 121:15 122:17 125: 8,11 128:10 132:13 133:12 134:16 136:11, 19,22 137:4,7,15,25 138:22 139:17,22 140: 19,23 141:7,18,23 142:4 144:21,21 147: 7,11 148:3 152:19 153:6,14,16 154:3,4,4, 7 155:17,23 157:15, 25 158:3 159:21 170: 19 175:9,9,10 177:19 content's ^[1] 141:8 content-based ^[4] 4: 21,25 31:7,9 32:2 35: 16 36:8 40:19 60:23, 23,24 61:1,3,4,13,23, 25 64:9 66:25 70:13, 22 93:6,11 99:4 115: 21 128:2 137:5,16,18, 20 139:12 140:3,12 141:19 142:13 144:25, 25 147:15 153:9 160: 7 161:7 content-moderatio n ^[1] 100:8 content-neutral ^[4] 15:5 70:22 90:16 153: 9 contesting ^[2] 101:20, 22 context ^[8] 15:25 16:1, 2 45:20 74:18 113:5 128:3 157:16 contexts ^[1] 176:15 continue ^[8] 67:6 134: 15 138:6 144:8 145: 25 151:2 163:10,19 continued ^[1] 172:5 continuing ^[3] 46:17, 20 153:12 contrary ^[2] 105:11 113:15 contrived ^[1] 19:7 control ^[35] 8:21 10:2, 18 11:6 15:14 21:23 23:1 42:18 48:18,21 49:1 87:17 117:9 118:	11,24 119:1,3,15 120: 10 125:22 130:17 132: 20 133:17 134:17 136: 2 142:23 144:5,21 145:3 150:4 154:8 155:11 161:3,20 167: 25 controlled ^[4] 18:10 54:13 96:2 134:21 controlling ^[2] 82:21 139:2 controls ^[2] 8:15 147: 24 convention ^[1] 113: 11 conversation ^[4] 85: 18 107:20 143:19 161: 12 converted ^[1] 62:22 converting ^[1] 7:12 cooperate ^[1] 8:18 cooperation ^[1] 159: 21 coordinate ^[1] 161:15 coordinating ^[1] 160: 5 coordination ^[1] 24: 18 core ^[4] 32:20 70:18 81:15 106:23 corners ^[1] 138:10 corporate ^[8] 10:2 19: 7 39:2,6 40:8 107:18 143:24 155:12 corporation ^[16] 36: 14 99:18,23 101:10, 18 102:21,24 103:4 131:20,21 132:6,9,11, 13 133:1 151:22 correct ^[11] 11:23 30: 14 48:13,14 49:6 53: 2 66:21 145:6 171:6, 12,22 correctly ^[2] 80:6 171: 4 correspondence ^[1] 142:18 couldn't ^[10] 8:1 12: 24 25:5 62:16 63:3, 24 77:14 90:23 112:1, 2 Counsel ^[13] 8:10 11: 9 38:14,18 73:14 92: 1 96:20,22 112:23 117:3 129:24 172:15 177:23 counter-speech ^[3] 123:24 126:14,20 countries ^[2] 25:17 96:23 country ^[17] 18:17 25: 14 55:24 63:18 75:2, 21 78:4 95:24 101:25 108:23 109:8 116:16	127:15 134:10 135:11 169:3 175:7 couple ^[4] 9:5 21:4 45: 17 94:19 course ^[9] 33:5 105:3 129:16 143:15 149:20 156:14 162:5 163:13 167:21 COURT ^[51] 1:1,21 4: 10 6:16 17:15,21 21: 5 73:19,24 75:3 97: 11,14 102:16 105:8, 18 106:14 108:20 113: 10,25 117:8 127:17 128:1,7,14 137:17,19 139:13,17 145:19,20 149:6 151:10 154:21, 25 156:7 157:16,24 158:24 159:4 160:10 164:10 165:4,14,18 169:25 170:25 171:9 175:1 176:4,9 177:20 Court's ^[7] 72:8 74:7 75:4 104:23 119:19 163:6 165:16 courts ^[1] 72:9 cover ^[1] 26:11 covered ^[4] 81:21 82: 1 86:15 114:25 covers ^[1] 87:25 covert ^[41] 25:14 26: 12 28:16 30:10,11 43: 11 52:16,19 53:10 55: 16 79:20 93:19,25 95: 2,6,16 117:14 118:12, 21 120:2,12,15 121:7, 7,11,20 122:1,7 123:6, 7,11 129:14 134:25 137:15 141:18 155:17, 23 156:10 157:15,25 158:3 covertly ^[2] 124:2 158: 7 covertness ^[10] 5:11 29:6,8,10 53:11 70: 19 174:24 175:1,3,12 coworkers ^[1] 118:6 Cox ^[1] 105:7 create ^[5] 110:7 120: 24 140:22,25 143:22 created ^[4] 24:23,24 82:4 167:22 creates ^[2] 131:7 146: 2 creating ^[4] 75:13 102:14 155:9 168:25 creator ^[2] 100:13 109:17 creators ^[10] 37:5 73: 23 74:10 75:12,16 76: 5 101:15 102:7 104:6 106:20 creators' ^[1] 75:7 credit ^[1] 174:18	criminal ^[2] 12:15,22 critical ^[4] 20:20 31: 23 119:4,17 criticizing ^[1] 177:12 curated ^[1] 116:25 cure ^[1] 126:13 curiosity ^[1] 110:18 curious ^[2] 87:12 115: 22 current ^[7] 42:23 76:9, 10,14 77:8,9,10 customer ^[1] 174:11 customers ^[1] 27:15 customize ^[1] 168:21 cut ^[3] 138:4 173:14 176:22 cutout ^[1] 19:20 <hr/> D D.C ^[11] 1:17 2:2,7 15: 12 22:20 85:18 95:10 97:2,7 105:13 142:14 dance ^[2] 85:5 116:17 danger ^[1] 78:4 dangers ^[1] 177:15 dark ^[5] 4:16 8:9 57:4 110:20 149:20 data ^[130] 5:19,25 8:21 44:11 45:17 47:20 48: 18,21,25 50:9 51:18 52:3 53:20 54:13,13, 19 55:19,22 56:6,19 69:18,21,22,25 70:1 71:8 75:18 79:21 80: 6,25 81:5,6,7,14,18, 22,24 82:7,8,9,13 83: 6 84:21,22 85:8,15,19 86:7,10 87:7,11,14 88:15,24 89:4 90:16 91:11,22 92:11,12,13, 15 95:3 115:3 117:13, 17,22 118:2,8 130:22 131:4,4,10 133:16 134:23 136:4,13 143: 3,6,20,24 144:7,14,18 145:3,5,12,23 146:4, 14,17,18 153:24 155: 15,22 156:1,5,12,15, 20 157:1,3,5,9 158:25 159:13,20,23 160:13, 19 165:3 166:17,19, 20,24 167:8 170:11, 15 173:2,7,10,12,19, 23 174:10,11,13,21, 22,23 data-sharing ^[1] 175: 14 day ^[4] 107:1 158:6 172:5 175:8 days ^[8] 4:13 24:5 33: 25 34:1 62:15 98:14 149:19 169:11 deadline ^[6] 98:2 148: 25 151:12,13 165:5,	11 deal ^[1] 173:20 decade ^[1] 73:24 decide ^[3] 97:9 157: 20 159:10 deciding ^[2] 20:5 121: 14 decision ^[9] 5:17 22:8 58:22 60:25 89:22 97: 8 149:6 164:4 176:7 decisions ^[2] 125:13, 17 declarations ^[1] 111: 4 deeper ^[1] 76:25 defense ^[2] 156:5 168: 4 defer ^[1] 165:18 definitely ^[5] 34:10 68: 5 173:4,22 175:13 definition ^[4] 16:7 37: 23 70:12 145:12 defy ^[1] 74:8 degree ^[1] 114:2 delivering ^[1] 150:21 demand ^[2] 110:22 146:4 demands ^[2] 25:15 170:8 democracy ^[6] 20:22 31:24 74:25 78:10 94: 10 177:13 democratic ^[2] 18:4 91:9 demonstrate ^[2] 134: 19 170:9 deny ^[1] 25:17 Department ^[2] 2:7 54:6 depends ^[3] 132:22, 25 139:14 derivative ^[1] 40:7 designates ^[1] 127: 15 designed ^[1] 37:23 desire ^[1] 157:11 detailed ^[1] 118:4 determine ^[1] 176:14 determined ^[1] 82:25 determines ^[1] 84:23 develop ^[1] 54:3 developing ^[1] 168: 24 development ^[1] 144: 3 devised ^[2] 65:9 111: 23 devoid ^[1] 56:8 dictate ^[4] 140:24 148: 8 153:14 154:23 difference ^[8] 93:4 110:17 119:21 120:5, 8,12,12 129:16 different ^[39] 14:4 17:	11 18:12,14 27:4 33: 5,8 44:15 47:17 49:4 51:14 52:1 55:18 57: 20 59:11 63:15 64:6, 7 68:22 69:19 78:6 84:1,2 110:14 113:5, 22 116:5 132:17 133: 1,4 134:13 138:13 152:24 153:6,7,14 155:14 156:24 175:18 differently ^[3] 46:13 68:17 116:25 difficult ^[4] 24:10 25: 9 26:18 113:20 difficulty ^[1] 121:23 dig ^[2] 76:25 79:6 diminish ^[1] 106:21 direct ^[16] 6:15 38:22 39:3 40:5,17 41:5,13 42:4 54:12 56:5 68: 18,23 82:22 91:3 132: 14 152:11 directing ^[1] 122:6 direction ^[1] 132:1 directives ^[2] 21:10 117:18 directly ^[22] 7:5,19 11: 4 32:4 36:8,24 38:11 39:19,23 56:3 64:9 66:6 73:21 75:10 78: 19 103:25 134:8 137: 13 152:17 153:14 155: 4 175:10 disagree ^[5] 21:11 34: 24 42:21 137:14 176: 6 disagreed ^[1] 132:12 disagreement ^[2] 134:8 139:22 disclaimer ^[1] 124:1 disclaiming ^[1] 28:25 disclose ^[3] 10:24 13: 17 125:8 disclosure ^[19] 5:12 29:12 72:4,8,12 90:4 95:1,18 96:5,12 124: 8,18 125:1 128:23 129:4 143:2 175:2,14, 15 disclosures ^[2] 72:22 73:4 discourse ^[1] 116:4 discretion ^[8] 16:10, 24 27:18,22 28:7 109: 7 127:6 162:6 discriminate ^[1] 137: 21 discrimination ^[9] 27: 5 29:23 59:10 147:8, 12,15,16 148:3 158: 20 discuss ^[2] 90:25 140: 9 discussed ^[1] 89:5
--	--	---	--	--	--

Official

<p>discussion [2] 143:15 147:7</p> <p>disentangle [1] 53:14</p> <p>disentanglement [1] 63:25</p> <p>disinformation [1] 177:16</p> <p>dismissive [1] 168:7</p> <p>displace [1] 165:5</p> <p>display [3] 61:15 132:13 133:12</p> <p>displays [2] 30:15,23</p> <p>disproportionate [1] 29:25</p> <p>disproportionately [1] 45:12</p> <p>dispute [14] 9:23 10:5 21:5 24:4 61:9 82:6 85:20 126:14 142:3 144:2 156:13,17 168:20 170:23</p> <p>disputes [2] 117:11,15</p> <p>disputing [2] 54:10,10</p> <p>disregard [1] 166:20</p> <p>disruption [1] 130:7</p> <p>disseminate [2] 5:5 37:15</p> <p>disseminates [1] 100:21</p> <p>disseminating [1] 173:1</p> <p>dissent [3] 79:8,9 130:7</p> <p>dissidents [1] 170:12</p> <p>distinct [4] 110:1 129:9,15 166:22</p> <p>distinction [5] 70:13 103:24 104:12 119:23 151:17</p> <p>distinguishable [1] 78:23</p> <p>distract [1] 121:1</p> <p>distraction [1] 120:24</p> <p>distributor [1] 103:7</p> <p>divest [12] 22:23 33:17 34:17 48:12 59:17 62:15 63:3 81:11 90:18 100:5 106:1 135:17</p> <p>divested [2] 59:18,24</p> <p>divesting [1] 169:13</p> <p>divestiture [4] 4:17,18 6:14 7:4 23:18 24:9,17,21 34:3 43:17 46:3 57:7,9 61:14,24 62:6 65:20 66:6,9,15 81:11,16 87:7,10 90:24 91:8 92:21 105:22 118:25 119:2 149:5,21 150:1,15,25 153:5 164:23 168:15 169:10,23 171:6</p>	<p>divestment [1] 22:23</p> <p>divorce [2] 24:21 135:18</p> <p>documentaries [1] 102:8</p> <p>doing [24] 8:25 12:16 14:19 30:22 35:19 71:14 84:15 99:7,11,24 100:5 103:14 116:15 121:24 127:7 133:14 135:10 139:23 148:10 151:8 153:21 154:2 165:12 169:6</p> <p>dole [1] 16:6</p> <p>doling [1] 16:4</p> <p>domestic [1] 125:15</p> <p>done [5] 25:25 38:16 73:9 113:13 165:10</p> <p>doubt [4] 74:24 86:16 110:25 124:3</p> <p>doubtful [1] 22:9</p> <p>doubts [2] 78:10 85:14</p> <p>down [34] 4:12 6:16 7:9 8:3 10:21 11:10 17:2 22:12 37:13 40:14,18,22 42:3 44:9 56:14 57:5,18 58:2 59:15,16 60:2 67:16 68:10 72:25 73:11 76:11 77:5 91:7 105:14 127:8 143:8 171:22 173:21 176:20</p> <p>dramatic [1] 86:19</p> <p>dramatically [2] 45:22 111:8</p> <p>draw [4] 17:18 41:19 128:14 151:16</p> <p>drawing [1] 18:23</p> <p>draws [1] 174:10</p> <p>due [3] 162:10,18 163:7</p> <p>during [2] 146:12 174:2</p> <hr/> <p>E</p> <hr/> <p>e-commerce [5] 45:23 86:19 174:1,4,17</p> <p>each [4] 122:7 130:5 168:19 175:5</p> <p>earlier [2] 107:20 109:10</p> <p>earth [1] 116:13</p> <p>easily [2] 29:11 155:1</p> <p>economic [2] 141:1 174:8</p> <p>ed [1] 109:21</p> <p>editor [2] 100:20 125:12</p> <p>editorial [10] 27:17,21 28:7 38:8 110:1 125:12,17 127:6 153:19 175:8</p> <p>editors [3] 93:4 112:11,13</p> <p>eds [1] 106:7</p> <p>effect [8] 36:12,16 37:18 92:9 150:10 165:24 171:17 172:4</p> <p>effective [1] 14:10</p> <p>effectively [4] 10:17 11:6 47:20 120:16</p> <p>effectiveness [1] 14:21</p> <p>effects [4] 34:10,14,24 152:14</p> <p>effort [1] 151:16</p> <p>efforts [2] 170:12,19</p> <p>either [4] 8:2 10:20 58:10 176:2</p> <p>election [1] 110:13</p> <p>elements [1] 27:23</p> <p>ELIZABETH [3] 2:6 3:11 117:5</p> <p>Elon [1] 169:14</p> <p>else's [1] 40:19</p> <p>embodied [1] 23:6</p> <p>emphasis [2] 35:9 40:1</p> <p>emphasize [3] 37:19 68:14 149:17</p> <p>emphasized [2] 15:13 119:10</p> <p>empire [1] 7:22</p> <p>empirically [1] 112:5</p> <p>employees [3] 54:18 56:17 131:2</p> <p>employer's [1] 113:6</p> <p>enact [2] 161:12 167:18</p> <p>enacted [2] 114:10 155:25</p> <p>enacting [1] 160:1</p> <p>enactment [2] 113:17 143:17</p> <p>encourage [1] 145:18</p> <p>end [2] 4:22 177:9</p> <p>ends [1] 102:24</p> <p>enemies [2] 14:17 75:1</p> <p>Enemy [1] 14:6</p> <p>enforce [2] 162:2 171:17</p> <p>enforced [1] 162:22</p> <p>enforcement [3] 162:6,20 171:19</p> <p>enforcing [1] 151:12</p> <p>engage [7] 68:20,21,21,23 109:14 126:20 168:20</p> <p>engaged [3] 25:13 114:1 169:5</p> <p>engagement [1] 111:7</p> <p>engaging [7] 35:1 76:14 87:15 117:14 118:1 129:10,13</p> <p>engine [6] 21:9 22:24,</p>	<p>25 122:5,21 129:12</p> <p>engineering [1] 30:6</p> <p>engineers [4] 24:13,18 63:8,10</p> <p>enjoin [1] 6:2</p> <p>enjoy [2] 119:11 148:12</p> <p>enjoyed [1] 74:11</p> <p>enormity [1] 176:7</p> <p>enormous [3] 17:25 58:11 156:14</p> <p>enormously [4] 43:13 47:13 57:25 58:21</p> <p>enough [12] 50:24 51:1 79:11 95:10 105:12 108:9 109:20 114:19 125:19 137:24 144:17 154:17</p> <p>ensure [2] 8:19 12:17</p> <p>enter [4] 164:10 176:5,9,11</p> <p>enterprises [1] 109:11</p> <p>entire [2] 80:19 114:20</p> <p>entirely [3] 113:5 133:1 167:18</p> <p>entities [5] 37:8,9,10 148:6 155:12</p> <p>entity [5] 28:13 44:2,4 147:19 151:21</p> <p>entrapment [1] 163:8</p> <p>equal [1] 45:4</p> <p>equally [1] 87:16</p> <p>equating [2] 70:6,8</p> <p>equation [1] 138:5</p> <p>Equifax [1] 131:3</p> <p>equivalent [1] 124:25</p> <p>escrow [1] 6:19</p> <p>especially [1] 147:23</p> <p>espionage [2] 118:10 167:10</p> <p>ESQ [4] 3:3,7,11,14</p> <p>ESQUIRE [2] 2:2,4</p> <p>essence [4] 48:11,11 77:5,7</p> <p>essential [1] 32:10</p> <p>essentially [5] 56:17 57:4 58:13,16 135:14</p> <p>estoppel [1] 163:8</p> <p>ET [12] 1:3,10 2:3,5 3:5,9,16 4:8 73:17 85:14 115:18 172:18</p> <p>Europe [1] 24:14</p> <p>even [44] 5:15 10:6 14:24 30:23 41:6 51:20,24 52:13 54:24 56:23 62:15 68:15 69:13 73:5 74:13 80:21,24 86:7 90:1 92:5,9 98:2 101:25 102:13,14 105:9,17,24 106:18 108:19 117:25 123:25 124:17 133:24 142:12 146:</p>	<p>12 149:23 163:11,18 166:13,17 169:17 174:22 175:11</p> <p>event [3] 126:19 155:5 169:24</p> <p>events [1] 76:14</p> <p>everybody [6] 57:23 70:14 100:9 109:2 122:13 123:9</p> <p>everything [8] 25:20 28:15 87:19 100:9 131:23 138:20 148:10 176:22</p> <p>evidence [14] 25:13 26:22 44:18 56:4,8 73:3 89:7 96:17,18 97:5,22 146:12 170:8,17</p> <p>ex [2] 98:19 130:18</p> <p>exact [1] 102:25</p> <p>Exactly [14] 6:8 75:6 93:14,17 100:19 111:16 121:15 125:16 130:19 133:3 137:10 138:21 151:3 153:17</p> <p>example [22] 12:13 13:12 18:14 19:11 24:23 27:4 30:9 38:25 40:7 41:4 51:16 78:2 92:22 95:21 108:23 109:6 124:10 125:3 128:4 130:25 136:3 143:10</p> <p>examples [3] 28:9 31:24 120:20</p> <p>exceeding [1] 171:10</p> <p>exceedingly [1] 24:10</p> <p>except [2] 4:24 35:3</p> <p>exchange [1] 62:18</p> <p>excuse [1] 67:3</p> <p>executable [2] 27:25 28:1</p> <p>execute [1] 63:24</p> <p>executed [1] 62:23</p> <p>executes [4] 4:16 6:14 7:4 34:2</p> <p>executive [8] 143:16 151:11 156:24 164:18,20,22 171:6,10</p> <p>exempts [1] 45:23</p> <p>exercise [8] 10:6 66:8 123:16 133:17 136:2 153:19,24 155:11</p> <p>exercises [2] 57:13 66:5</p> <p>exercising [1] 127:6</p> <p>exfiltrate [1] 131:1</p> <p>exist [4] 69:12 140:2 153:1 172:7</p> <p>existing [2] 156:18 177:19</p> <p>exists [1] 108:21</p> <p>expect [1] 146:10</p>	<p>expected [2] 150:6,13</p> <p>expediency [1] 147:22</p> <p>explain [2] 110:19 111:5</p> <p>explained [2] 6:5 91:3</p> <p>explaining [1] 67:13</p> <p>explanation [1] 23:4</p> <p>explicitly [1] 105:9</p> <p>exploit [2] 120:10 142:10</p> <p>exploiting [1] 122:9</p> <p>explored [1] 175:1</p> <p>export [1] 144:5</p> <p>exposes [1] 167:9</p> <p>expressed [2] 78:8 96:21</p> <p>expressing [3] 119:11 148:13 156:25</p> <p>expression [9] 40:4 41:5 42:19 82:18,23,24 152:2,3,4</p> <p>expressive [3] 38:20,23 39:4</p> <p>expunge [1] 92:13</p> <p>extend [5] 16:17 57:13 98:2 108:20 148:24</p> <p>extended [1] 98:15</p> <p>extension [4] 57:11 98:16 149:4,8</p> <p>extensive [1] 143:18</p> <p>extensively [1] 157:2</p> <p>extent [3] 37:1 128:7 160:4</p> <p>extortion [1] 12:16</p> <p>extraordinarily [1] 25:9</p> <p>extreme [2] 109:5 113:9</p> <p>extremely [1] 131:23</p> <p>eye-opening [1] 145:20</p> <hr/> <p>F</p> <hr/> <p>face [4] 22:12 60:24 61:2 159:12</p> <p>faced [1] 74:20</p> <p>facial [1] 35:15</p> <p>facially [1] 35:15</p> <p>fact [29] 8:23,24 9:24 10:24 21:1,15,25 22:2,3,5,19 23:11,22 25:11 32:2 47:13 49:24 61:22 67:2,3 84:9 118:18 121:12 123:8 132:22 148:10 157:14 161:18 163:2</p> <p>facto [1] 98:20</p> <p>factor [1] 20:4</p> <p>facts [2] 21:5 71:12</p> <p>factual [7] 72:16,17,18 146:11 159:25 168:</p>
--	--	--	--	--

Official

<p>11 170:22 fail ^[4] 51:24 172:21 176:1,2 fails ^[1] 74:5 fair ^[2] 93:7 146:24 faith ^[1] 146:11 fall ^[4] 59:24 61:19 67:25 107:5 fall-back ^[1] 5:10 fallacious ^[1] 135:7 fallen ^[1] 111:8 falls ^[5] 7:5,19 55:17 61:19 64:9 false ^[1] 140:22 famous ^[1] 110:4 far ^[4] 11:12 111:10 155:20 175:6 FARA ^[1] 125:4 fashion ^[1] 136:4 fatal ^[1] 175:23 fault ^[1] 169:25 FBI ^[1] 54:6 fear ^[3] 5:14 20:19 36:3 fears ^[1] 5:3 feasibility ^[1] 169:9 feasible ^[6] 23:19 24:2,5 25:7 33:18 168:15 feature ^[2] 30:7 81:15 features ^[1] 144:1 federal ^[1] 169:21 feed ^[3] 84:24 124:16,16 feeding ^[1] 129:11 feet ^[1] 151:11 few ^[3] 112:6 130:2 168:12 fide ^[1] 19:19 field ^[1] 97:17 figure ^[10] 29:19,23 36:20 49:19 59:8,9 60:8 121:8 124:16 146:19 figuring ^[1] 121:23 filed ^[1] 164:7 files ^[1] 131:1 filled ^[1] 112:13 final ^[3] 146:7 163:17 176:3 Finally ^[2] 5:7 170:6 financial ^[1] 131:3 find ^[10] 34:22 62:7 81:23 82:1,2,3 109:1,17,17 164:16 finding ^[1] 165:6 fine ^[9] 30:21 59:22 68:8 82:24,24 103:19 135:20,22 158:2 finer ^[1] 56:18 finger ^[2] 50:9 89:3 fingertips ^[2] 39:9,12 finish ^[1] 94:22 Finland ^[1] 63:17</p>	<p>FIREBAUGH ^[4] 1:10 2:5 3:8 73:17 firewall ^[1] 143:22 First ^[100] 4:14,19 5:17 8:4,6 11:3,11,21 12:2,12 14:24 17:13 18:2 20:2,6,16 22:17 24:12 25:24 29:18 31:2 33:11,11,13,14 34:12 36:15,25 37:2,4,6,10,16 43:18,22 44:17 45:21 56:2,12 60:13,17 61:18,20 62:20 65:22 72:10,19 73:5,22 74:4,22 75:9,24 76:3,15 80:9,11 83:10 85:24 91:11 92:24 100:15 101:8,18,24 102:16,25 103:4,11 105:25 107:22 108:11 119:5,16 120:8 130:21 132:6 133:25 134:1,11,20 135:2 136:24 147:21 151:9,23 152:1,12,20 154:23 157:16,18,21 164:13 165:6 167:23 171:5 175:25 177:4,4 first-order ^[1] 132:5 FISA ^[1] 97:18 FISHER ^[97] 2:4 3:7 73:15,16,18 75:8,22 76:17,24 77:21,24 79:1,17 80:1,4 83:3,13,18 84:6,12,16 86:25 87:9 88:2,8,12,22 89:9 90:2,12,19 91:1 92:3,18,20 93:2,8,14,17,23 94:3,9,13,16,18,21 95:4,13 96:6,9,11 97:1,14 98:5,13,19,22,25 99:2,14,20 100:11 101:1,5,13,16,21 102:5,22 103:2,5,16,19 104:8,14 106:9,13 107:6,9,12,16 111:3,21 112:4,18 113:7,24 114:15,18 115:5,19 116:2,6,9 119:9,23 150:21 Fisher's ^[2] 133:22 155:24 fit ^[1] 156:2 five-year ^[1] 172:11 fix ^[1] 155:8 flag ^[1] 140:22 flexes ^[1] 126:4 floor ^[2] 25:11 112:15 floors ^[1] 112:12 flow ^[1] 145:15 flows ^[2] 144:8 159:23 flurry ^[1] 97:3 focus ^[3] 29:5 118:24 149:22</p>	<p>focused ^[5] 20:18 42:23 43:3,23 134:17 focusing ^[2] 80:12 148:5 follow ^[2] 20:25 21:10 followed ^[1] 171:11 following ^[2] 59:3 110:5 follows ^[2] 25:21 119:2 foment ^[1] 130:7 force ^[5] 7:23 10:15 39:18 90:25 164:22 forced ^[4] 13:18 22:23 150:24 173:21 forcing ^[1] 151:14 foreign ^[98] 5:5,9 15:14 17:12,21,24 18:8,10,11,17 19:3 23:9 28:13 32:23 33:2,9,9,16 34:17 36:14 64:25 67:24 70:7 71:14 74:12,12,15,15,21 76:22,22 77:1,3,16 79:20 82:25 84:15 95:24 96:2 99:18,19,23 101:9,18,25,25 102:21,23 103:3 108:23 109:12 115:25,25 116:16 118:18,24 119:3,14 120:3,9,16,22 121:2 122:8 125:4,16,21 126:18 127:4,4,15 129:20 130:14 131:17 132:20 133:15 134:17,21 137:6 139:23 140:14 141:2,14 142:9,23 150:3 151:7 152:21 153:22 154:2 156:16,17 157:5 158:11 161:3,20 166:23 167:25 foreign-owned ^[1] 127:10 foremost ^[1] 130:22 Forget ^[3] 93:21 102:4,5 foring ^[1] 76:22 form ^[5] 31:13 45:18 61:23 118:21 135:1 formal ^[1] 165:14 forming ^[1] 147:23 forms ^[1] 106:25 forth ^[2] 144:10 173:12 forum ^[2] 74:1 129:6 162:11 forward ^[2] 150:14 fostering ^[1] 18:3 found ^[1] 8:16 four ^[3] 143:18 163:15 172:20 Fox ^[3] 70:15 71:21 77:9 framework ^[2] 113:17</p>	<p>155:3 FRANCISCO ^[186] 2:2 3:3,14 4:6,7,9 6:10 7:1,15,18 8:13 9:2,11,16,19,25 10:4 11:14,24 12:5,8 13:1,6,19,23 14:11,15,22 15:3,6,16,19,24 16:16 17:1,6,10,19 18:13,24 19:2,9,24 20:7,24 21:2,12,17 22:4 23:2,16,20,23 24:1,7 25:4,8,19 26:13,18,24 27:1,8,11,19,21 28:11,18,21 29:2,15,21 30:1,13,25 31:5 32:14,19 33:19,23 34:7,19,23 35:25 36:18,23 38:15 39:5,8,14 40:10 41:8,12 42:20 43:21 44:6,11,14 45:1,6,10 46:6,18,22 47:9,25 48:14,19,24 49:2,7,12,16,25 50:3,20,25 51:4,8,11,23 52:4,7,11 53:3,7,16,25 54:9 55:9,11,25 57:3,8,12,17 58:4,6 59:6,13,23 60:5,10,14,19 61:8,11,16 62:11,17 63:5,15 64:3,5,17 65:2,15,23 66:17,20,24 67:11 68:2,9 69:1,16 70:11,25 71:5,17 72:1,14 73:8 78:16 86:4 91:3 98:1 99:15 107:4,21 110:21 150:20 164:2 166:2 172:17,19 Francisco's ^[2] 106:22 155:24 free ^[6] 9:22 12:14 17:22 19:5 64:25 91:22 freed ^[1] 119:14 Friday ^[1] 1:18 friend ^[4] 119:9 173:6 175:4 176:6 friends ^[15] 118:6,13 120:4 143:4 146:23 148:23 149:18 153:25 158:2 167:14 168:6,13 169:10,18 176:21 front ^[3] 7:25 10:16 106:24 Full ^[2] 66:10 156:7 full-throated ^[1] 107:22 fully ^[2] 5:15 163:2 function ^[1] 151:14 functioning ^[1] 169:1 functions ^[1] 168:21 fundamental ^[5] 46:7 78:13 90:14 158:19 161:5 fundamentally ^[3] 64:6 78:6 150:11</p>	<p>funds ^[1] 151:20 further ^[5] 43:7 81:10 112:25 157:19 170:25 furthering ^[1] 18:4 future ^[8] 5:4 31:21,22 42:24 55:23 81:14 143:9 176:25 G game ^[1] 150:7 gaping ^[1] 146:3 GARLAND ^[3] 1:6,13 4:5 gather ^[3] 89:1 136:4 166:9 gathering ^[3] 43:14 83:1 134:23 gathers ^[1] 89:6 gave ^[2] 32:8 55:14 GEN ^[3] 2:6 3:11 117:5 GENERAL ^[99] 1:7,14 2:6 37:22 38:12 98:7 105:8 117:4,7 119:25 120:7,14,25 121:4,11,21 122:2,16 123:13,14,21 124:6,12,20 125:7,20 126:4,6,11 127:1,12,16,21,24 128:13,18 129:1,22 130:6,11 131:14 132:4,10 133:3,18 134:4 135:24 136:9,12,21 137:14 139:6,13 140:13 141:10,20,24 142:3,22 143:13 144:19 145:7 146:21,25 147:6,17 148:4,18 149:2,12 150:17 151:3 152:5,10 153:4,11 154:6,14,20 156:4 159:14 160:3 161:1 162:4,5,12,17 163:5 164:9 165:13 166:12 167:12 171:4,7,13,23 172:2,8,10 General's ^[1] 114:5 generalized ^[1] 124:7 generally ^[4] 13:12 113:15 125:18 128:6 generate ^[2] 35:11 111:6 generation ^[1] 54:5 generic ^[1] 124:7 genius ^[1] 112:15 geniuses ^[1] 111:24 geopolitical ^[2] 118:20 120:18 German ^[1] 18:18 Germany ^[1] 127:11 gets ^[9] 11:7 16:25 31:10 48:4,10 92:10 110:7 114:12,12 getting ^[5] 87:4 88:18</p>	<p>124:17 151:11 175:5 give ^[15] 19:11 54:19,20,21,21,22 88:19 95:11 96:24,25 98:12 109:4 118:8 150:3 160:10 Given ^[9] 5:19 12:1 18:15,16 97:22 99:16 137:4 176:7,8 gives ^[3] 95:20 118:11 131:9 glad ^[1] 77:21 global ^[4] 24:12,18,22,25 goal ^[1] 158:10 goals ^[3] 117:15 118:20 120:19 Google ^[1] 54:21 GORSUCH ^[75] 20:24 21:3,13 22:1,18 23:14,17,21,24 24:2 25:3,6,10 26:10,16,21,25 53:18 62:19,25 71:11 82:15 89:12 92:2,17,20 93:3,12,15,18 94:1,8,11,15,17,19,22 95:5 96:4,8,10,13,16 97:1,12,16 98:8,11,18,21,24 115:11 123:21 124:11,14 125:5,9 126:2,6,24 127:3,13,19,22 128:11,16,19 141:6,17,22,25 142:20,24 148:2,22 Gorsuch's ^[1] 105:21 got ^[16] 17:16 23:14,17 25:3 28:5 55:3 56:12 63:20 72:24 83:17 94:15,15,17 98:24 174:3,5 gotten ^[3] 69:13,14 164:24 govern ^[1] 127:18 government ^[90] 5:3,8 8:1,20 9:1 10:13 12:13,20,24 13:16,21 14:3 16:3,25 17:12,21,24 18:8,10,12,20 19:4,20 20:12,21 21:7 22:21 23:7 24:3 25:12 30:19,21,21 35:5,19 37:12,24 41:10 42:8 52:24 61:4,13 62:2,16 71:4,13,16 74:16 78:6,17 79:3 80:10,19,21 85:1,3 91:6 94:6 95:9 97:4,23 99:8,19 101:11 104:24 105:2,17 108:3 109:5 115:23 116:10,12 117:20 118:3 119:1 126:18 127:5 131:2,18 137:6 143:9 161:11,18,22 167:5,7 170:21 175:16,20 177:</p>
--	---	---	--	---	---

Official

<p>5 government's ^[18] 5: 13,19 8:19 20:17 30: 10 31:25 36:3 71:7 85:11 96:18 115:16 116:21 117:9 118:11 155:10 166:14 169:22 177:10 governmental ^[7] 13: 4 20:9 71:19,20 85: 21 86:12 95:14 governments ^[2] 23: 10 74:15 GPS ^[1] 174:22 grant ^[1] 80:25 grappling ^[1] 60:20 grave ^[2] 117:10 138: 25 great ^[2] 110:22 151: 22 greater ^[2] 16:24 105: 2 grossly ^[1] 5:21 ground ^[1] 149:13 grounded ^[2] 108:15, 16 grounds ^[3] 81:8,19 82:13 group ^[2] 67:25 112: 16 grow ^[2] 83:25 167:4 guard ^[2] 123:19 158: 14 guess ^[13] 33:13 36: 12 64:13 72:7 78:22 114:25 115:22 121:3 126:12 135:24 141:17 158:23 164:6</p> <hr/> <p>H</p> <p>hack ^[1] 130:25 half ^[1] 87:25 hammer ^[1] 31:17 hand ^[1] 105:5 hand-in-hand ^[1] 109: 9 handling ^[1] 72:6 hands ^[4] 131:6,10 156:15,20 happen ^[7] 4:13 25:5 52:2 104:7 133:6 138: 6 149:23 happened ^[2] 66:15 105:13 happening ^[5] 78:24 123:18 124:10 133:5 168:23 happens ^[6] 41:19 42: 18 44:4 56:25 85:7 151:5 harassment ^[1] 118:9 hard ^[12] 79:9 116:18 121:8 126:19 130:18 139:25 140:1 141:23</p>	<p>142:1 144:22 152:25 159:9 harm ^[10] 14:2 37:24 79:12 117:21 118:17 123:20 125:25 130:20 165:3 166:22 harms ^[1] 153:1 harsh ^[1] 5:2 harvest ^[1] 153:24 harvesting ^[3] 9:18 83:12,14 hate ^[4] 38:7 70:1,9 99: 6 health ^[1] 124:25 healthcare ^[1] 131:4 Healthy ^[4] 55:18 113: 3,4,16 hear ^[8] 4:3 36:11 69: 11 105:19 119:23 143: 14 166:3,10 heavily ^[1] 174:3 Heffron ^[1] 157:17 heightened ^[4] 134: 11 136:23 154:18,25 held ^[1] 17:21 help ^[2] 10:11 20:8 helps ^[2] 7:20 91:9 hidden ^[1] 19:6 himself ^[1] 109:6 historical ^[2] 135:5 167:24 history ^[14] 15:11,22 16:1 40:13 74:8,20 78:18 87:22 105:11 108:11 142:19 167:13 168:8 174:11 history-and-traditio n ^[1] 95:22 hitching ^[1] 28:14 Hobby ^[1] 37:21 hold ^[3] 9:8 17:22 153: 12 Holder ^[2] 77:18 78: 24 holding ^[1] 129:5 holds ^[1] 8:22 HollyFrontier ^[1] 149: 7 Hollywood ^[1] 110:5 Holmes ^[2] 78:21 79: 7 home ^[3] 31:17 114: 14 169:3 homing ^[1] 153:22 honest ^[1] 164:14 honestly ^[2] 123:9 158:4 Hong ^[1] 170:12 Honor ^[46] 6:10 8:13 9:2 10:4 12:9 13:6,23 15:3 17:7 18:14 20:7, 23 21:17 22:4 23:2 24:7 25:8,20 26:13, 24 27:11 28:21 29:15</p>	<p>30:14 32:16 33:23 36: 23 39:8 40:10 42:20 46:23 49:7 50:6 51:9 53:16 54:9 55:25 59: 23 60:15 65:24 66:21 67:11 69:16 72:14 176:19 177:21 hope ^[1] 150:20 hoping ^[2] 149:21 151: 9 hostage ^[1] 10:14 hostile ^[1] 77:17 House ^[1] 177:14 houses ^[1] 138:18 however ^[4] 5:16 33: 20 41:22 99:9 huge ^[1] 55:23 Humanitarian ^[1] 77: 19 hundred ^[2] 32:14 88: 10 hundreds ^[1] 134:24 Hunter ^[6] 86:5 91:4 113:3,8,25 114:2 hypoetical ^[13] 7: 20 10:10 13:25 18:15 44:7,24 46:19,21 47: 15,20 68:16 79:25 127:18 hypotheticals ^[1] 155:18</p> <hr/> <p>I</p> <p>ID ^[1] 89:3 idea ^[3] 35:9 108:6 138:25 ideas ^[4] 74:22 78:8 176:21,23 identifying ^[1] 37:25 ideological ^[1] 74:21 ignore ^[4] 8:23 9:3 167:2 171:19 ignores ^[1] 5:22 ignoring ^[1] 9:13 II ^[1] 96:1 illegitimate ^[1] 158:4 illustrate ^[2] 7:20 10: 11 illustrated ^[1] 155:19 images ^[2] 75:11 82:3 imagine ^[10] 76:7 103: 6 112:10,12,14 124: 20 138:10 152:23,25 158:6 immense ^[1] 118:8 immensely ^[2] 131:19, 19 immune ^[1] 152:20 impeded ^[2] 75:7 107: 20 impediment ^[3] 159:9, 11 169:13 impermissible ^[15] 55:16 71:20,24 78:16</p>	<p>80:18,22 81:17 85:25 86:1 87:23 91:13,23 94:4 158:14 160:6 impinged ^[1] 14:25 implicate ^[1] 44:16 implicated ^[5] 11:5 29:18 33:15,24 80:14 implicating ^[1] 92:24 implication ^[1] 74:17 implications ^[1] 74:5 important ^[12] 15:22, 25 20:4 47:13 82:7 99:9 104:21,22 119: 12 120:1 149:22 167: 24 imposed ^[2] 34:7 39: 18 imposes ^[2] 7:6 40:16 imposition ^[1] 40:5 impossible ^[3] 62:14 109:4 169:11 imputing ^[1] 138:14 inability ^[1] 65:5 INC ^[6] 1:3 2:3 3:4,15 4:8 172:18 incident ^[1] 146:15 incidental ^[3] 34:14, 15,24 included ^[1] 170:12 includes ^[2] 159:20 161:23 including ^[10] 7:23 28: 10 54:1 56:7 96:23 144:12 161:4 165:3 173:2 174:14 incorporated ^[16] 4: 14 5:24 9:20 22:5,16 23:13 26:1 42:25 43: 4 51:17 54:17 56:5 62:5 64:10 66:8 173: 1 Incorporated's ^[1] 68:24 incorrect ^[2] 52:7 55: 8 incorrectly ^[1] 47:8 increased ^[1] 97:22 incredibly ^[3] 22:7 118:2 167:7 indeed ^[3] 74:6,15 76: 13 independent ^[2] 19: 24 64:1 independent-makin g ^[1] 21:21 independently ^[4] 5: 20 11:23 157:21,25 indirect ^[1] 152:14 indirectly ^[3] 5:4 42:6 104:7 inescapably ^[2] 74:3 85:1 infeasible ^[1] 24:4 infer ^[1] 128:8</p>	<p>inflexible ^[1] 139:14 influence ^[6] 11:19 117:14 118:12 123:18 134:25 154:3 info ^[1] 135:25 information ^[32] 43: 14 53:23 54:3 74:14 83:1,17,21,22 88:18 89:2,3,16,18,23 90:7 104:2 105:1 106:17 129:18 131:6 133:23 134:3,7 135:25 145: 13,22 146:19 147:2,4 163:14 174:16,18 informed ^[4] 5:15 89: 25 90:1,3 infrastructure ^[1] 119:4 inherent ^[1] 169:13 inherently ^[2] 99:4 158:14 initially ^[1] 80:12 injecting ^[1] 44:24 injunction ^[4] 57:23 164:5,11 176:12 insistence ^[1] 153:8 Instagram ^[1] 109:24 instead ^[10] 109:23 118:17 122:8 131:18 132:19 136:25 139:17 142:8 153:21 169:6 insufficient ^[1] 144: 14 integrally ^[1] 135:12 integrated ^[1] 156:19 intellectual ^[1] 23:6 intelligence ^[3] 8:19, 25 174:12 intended ^[1] 157:4 intent ^[2] 99:22 113: 16 interact ^[1] 155:15 interest ^[47] 5:9 12:21 13:8,25 20:9,13 32:5 45:14,15,16 53:21 69: 8,14 71:4,19,20 78:13, 17 80:19 85:21 86:12 87:8,11 91:12,23 93: 6,21 95:14 99:10 108: 10 116:14 126:9 128: 17 134:13 155:6 156: 9,14 157:12,15 159:1, 2,16 161:18 163:25 165:21 166:21,21 interested ^[1] 35:18 interesting ^[3] 97:12, 16 150:20 interests ^[22] 18:2 20: 11 29:6 32:4 68:12 71:16 73:21 77:17 91: 16,20 92:25 94:5 101: 8 117:12 118:6 125: 25 129:9 130:20 137: 9 138:11 158:22 170:</p>	<p>1 interfere ^[2] 99:22 153:18 interference ^[4] 42:5, 6 116:1 158:12 interfering ^[1] 38:21 interject ^[1] 153:23 intermediate ^[16] 45: 20 46:14 47:23 48:22 49:10,19,23 51:24 55: 1 152:13 155:2 160: 21,25 161:2 172:22 175:23 international ^[5] 7:22 135:13,19 136:1 137: 12 interpretation ^[3] 24: 16 149:3,15 interpreted ^[1] 24:9 interpreting ^[1] 24:20 interrupt ^[1] 126:7 intrigued ^[1] 113:2 intuition ^[1] 154:21 invalidate ^[1] 160:10 invariably ^[1] 139:16 invent ^[1] 30:22 invented ^[2] 32:12,13 investigation ^[1] 171: 12 invoke ^[1] 162:20 involved ^[4] 34:13 44: 4 46:8 113:9 involvement ^[1] 155: 10 involves ^[1] 137:25 Ireland ^[2] 24:24 63: 17 Irish ^[1] 25:1 irrelevant ^[2] 103:1,6 irrevocable ^[3] 150: 18 151:4 163:22 Isn't ^[23] 12:7 32:24 34:13 50:24 64:22 65: 21 67:9 100:3 105:12 116:4 123:21 140:12 141:6,7,18 142:1 143: 11 148:7 153:4 154: 12,16 155:7 164:17 isolate ^[1] 87:3 issue ^[16] 6:4 12:7,11 48:7 52:17 57:22 64: 16 72:4 90:7,10 160: 24 164:5 165:9,14 175:2,12 issues ^[2] 12:9 79:9 itself ^[29] 5:14 7:6 19: 21 31:7 45:11 64:10 68:18 80:10 81:12 84: 22 85:2,3 93:11 104: 10,16,25 123:20 129: 6 132:6 133:25 135: 18 137:16 139:1 145: 11 153:23 157:25 159: 12 170:14 175:9</p>
---	---	--	---	---	---

Official

<p>J</p> <p>JA ^[1] 145:12</p> <p>Jackson ^[40] 64:12, 13, 18 65:3, 16 66:11, 18, 22 67:2, 15 68:7, 25 69:3 70:5, 20 71:1, 6, 25 72:2 73:7, 12 77:14, 23 78:5, 22 79:15, 18 80:2, 25 81:22 115:13, 14, 20 116:3, 7 117:1 153:4, 25 154:12, 16</p> <p>jail ^[1] 56:18</p> <p>January ^[13] 1:18 57:1, 14, 15, 18, 19 97:25</p> <p>98:3 148:24 149:18 150:24 151:5 165:11</p> <p>Jazeera ^[2] 18:19 102:9</p> <p>Jeff ^[3] 7:22 8:2 106:1</p> <p>JEFFREY ^[3] 2:4 3:7 73:16</p> <p>jeopardize ^[1] 136:5</p> <p>jeopardizing ^[1] 124:24</p> <p>jobs ^[1] 84:1</p> <p>Joe ^[6] 140:5, 6, 10 141:9 147:8</p> <p>Joint ^[1] 174:7</p> <p>jolt ^[1] 150:13</p> <p>Journal ^[2] 70:16 109:21</p> <p>journalists ^[3] 146:17, 20 170:16</p> <p>Judge ^[3] 15:11 140:20 163:6</p> <p>judgment ^[3] 6:21 153:19 163:16</p> <p>judgments ^[1] 168:9</p> <p>jump ^[1] 111:1</p> <p>jurisprudence ^[1] 68:1</p> <p>Justice ^[452] 2:7 4:3, 9 6:8, 22 7:10, 11, 16 8:10, 14 9:7, 12, 17, 23 10:1 11:9, 16, 25 12:6, 10 13:2, 14, 20 14:9, 12, 20, 23 15:4, 10, 17, 20 16:14 17:1, 9, 17, 20 18:21, 25 19:3, 22 20:1, 24 21:3, 13 22:1, 18 23:14, 17, 21, 24 24:2 25:3, 6, 10 26:10, 16, 21, 25 27:1, 9, 17, 20 28:5, 12, 19, 24 29:13, 16, 22 30:2, 18, 19 31:4 32:6, 9, 17, 21, 24 33:2, 3, 20 34:6, 9, 20 35:8 36:11, 19 38:13, 17 39:7, 11, 21 40:25 41:9 42:2 43:5, 7, 8, 9 44:1, 10, 13, 22 45:3, 8, 25 46:16, 20, 24 47:24 48:1, 2, 2, 4, 5, 5, 15, 16, 20, 25 49:3, 11,</p>	<p>14, 17 50:1, 11, 22 51:2, 6, 10, 21, 25 52:5, 9, 13, 18 53:6, 13, 17, 17, 18, 19, 20 54:1 55:5, 10, 21 56:25 57:6, 10, 16 58:1, 5, 24, 25, 25 59:2, 3, 7, 14 60:3, 6, 7, 11, 18 61:6, 9, 12 62:10, 13, 18, 24, 25 63:14, 21 64:4, 11, 11, 13, 14, 15, 18 65:3, 4, 16 66:11, 18, 22 67:2, 15 68:7, 25 69:3, 6 70:5, 20 71:1, 6, 9, 11, 25 72:2 73:7, 12, 13, 18 75:6, 8, 15 76:16, 19 77:1, 14, 23 78:5, 20, 21, 22 79:7, 15, 15, 18, 18 80:2, 5, 25 81:1, 21 82:15, 16 83:4, 9, 16, 19 84:8, 13 86:23 87:1, 2, 24 88:4, 6, 10, 13, 23 89:9, 12, 25 90:5, 13, 20 91:25 92:2, 4, 17, 20 93:3, 12, 15, 18 94:1, 8, 11, 15, 17, 18, 19, 22 95:5 96:4, 8, 10, 13, 16 97:1, 12, 16 98:8, 11, 18, 21, 24 99:1, 15, 21 100:16, 22 101:2, 6, 14, 17 102:4, 6, 18, 23 103:3, 15, 17, 20, 21, 22 104:3, 9 105:20, 21 106:10, 13 107:3, 8, 13 108:4, 13 110:16 111:4, 9, 22 112:17, 20, 22, 24, 25 113:1, 8 114:11, 16 115:4, 6, 6, 8, 10, 10, 11, 12, 13, 14, 20 116:3, 7 117:1, 2, 7, 23 119:20 120:5, 11 121:3, 6, 18, 22 122:11, 20 123:4, 21 124:11, 14 125:5, 9 126:2, 6, 24 127:3, 13, 19, 22 128:11, 16, 19 129:22, 24, 25 130:1, 8, 12 131:12, 13, 14, 16 132:8, 21 133:18, 20, 21 135:4 136:7, 10, 13 137:2 139:3, 9, 25 141:6, 17, 22, 25 142:20, 24 144:16, 20 145:8 146:21 147:1, 5, 6, 25 148:2, 2, 15, 17, 19, 21, 22, 22 149:10 150:16, 19 151:15 152:8 153:3, 4, 25 154:12, 16 155:13 159:5, 14 160:2, 17 161:25 162:1, 7, 15, 24 164:1 165:8, 25 166:25 167:11 171:1, 1, 3, 8, 14, 24 172:3, 9, 12, 14, 20 174:1, 6 177:22</p> <p>justification ^[7] 41:24 102:3 141:1 146:2 156:7 157:10, 18</p>	<p>justifications ^[2] 157:20 177:11</p> <p>justified ^[2] 159:19 167:18</p> <p>justifies ^[2] 16:24 158:1</p> <p>justify ^[2] 55:15 160:1</p> <p>K</p> <p>KAGAN ^[45] 30:18 32:6, 17, 21 33:2, 20 34:6, 9, 20 35:8 36:11, 19 53:17 64:15 65:4 94:18 99:1, 15, 21 100:16, 22 101:2, 6, 14, 17 102:4, 7, 18, 23 103:3, 21 115:10 121:3, 6, 18, 22 122:11, 20 123:4 135:4 136:7, 10, 13 137:2 174:1</p> <p>Kagan's ^[2] 60:7 104:4</p> <p>Karl ^[1] 103:11</p> <p>KAVANAUGH ^[33] 15:10, 17, 20 16:14 53:19, 20 54:1 55:5, 10, 21 56:25 57:6, 10, 16 58:1, 5, 24 69:6 71:10 79:16, 18 80:5 81:1 86:23 87:2 108:13 115:12 155:13 162:1, 7, 15, 24 166:25</p> <p>Kavanaugh's ^[1] 59:3</p> <p>keep ^[6] 16:14 50:12 59:15 92:10 106:6 146:5</p> <p>keeping ^[1] 156:15</p> <p>key ^[7] 22:25 51:5, 11, 15 126:1 130:17 157:7</p> <p>keystrokes ^[1] 89:2</p> <p>kidnapped ^[2] 12:19 14:13</p> <p>kidnapping ^[1] 12:16</p> <p>kind ^[41] 14:1 19:7 24:17 27:23 29:3 46:14 52:20 56:4 59:3 63:16 64:2 67:25 68:22 75:1 81:23 89:18 98:22 104:3 105:14 106:11 111:6 112:18 116:11 118:21 125:22 129:14 132:17 136:17 138:13 140:22 141:23, 25 142:6 152:22 153:10 155:3 158:23 160:6 161:21 162:22 168:5</p> <p>kinds ^[4] 94:5 99:12 127:18 137:17</p> <p>known ^[1] 76:8</p> <p>knows ^[3] 87:5 122:13 125:16</p> <p>Kong ^[1] 170:13</p>	<p>L</p> <p>Lamont ^[8] 74:14 102:13 103:24 104:13, 20 106:14 134:3, 5</p> <p>Lamont's ^[2] 104:21 105:15</p> <p>land ^[1] 99:7</p> <p>lands ^[1] 28:4</p> <p>landscape ^[1] 150:11</p> <p>lapse ^[1] 149:8</p> <p>lapsed ^[1] 149:5</p> <p>large ^[4] 137:12 161:23 174:1 177:18</p> <p>larger ^[1] 72:21</p> <p>largest ^[1] 73:1</p> <p>laser-like ^[1] 118:24</p> <p>Last ^[17] 25:10, 10 37:19 51:7 52:14 62:14 63:21, 22 72:3 78:15 90:13 97:24 110:13 148:15, 19 163:15 175:25</p> <p>later ^[2] 26:23 172:5</p> <p>laudable ^[2] 158:10 161:17</p> <p>Laughter ^[8] 11:15 33:1 96:15 98:10 107:11 122:15 123:3 130:10</p> <p>law ^[105] 7:1, 5 8:8 24:5 31:2, 5, 7, 9, 10 34:1, 8, 25 36:13 37:9, 20 38:2 39:19 40:16 41:6, 16, 18, 22 43:23 44:20 45:11, 21 46:9, 10, 18 51:16 54:17 55:15, 19 58:19 59:16, 24, 25, 25 60:1, 12, 23 61:22, 24 65:10 66:4, 7 68:8, 11 69:24 70:2 72:8, 9 74:7 76:9 77:19 80:23 81:23 82:8, 12 86:9, 11 87:7, 10 91:22 92:7, 10, 12, 14 93:6, 16 95:19, 19 98:4, 14, 20 99:5 104:16 108:25 114:6 137:20, 24 138:16 142:15 151:12 152:22 155:1, 3, 7 156:7 158:1, 7 159:3 160:11, 14 161:12 162:3, 21 168:10 171:17, 17, 20, 22 172:21, 21 177:8</p> <p>law's ^[1] 158:8</p> <p>laws ^[8] 8:17 13:13 14:5 95:23 130:25 137:17 156:18 164:22</p> <p>lay ^[1] 86:4</p> <p>lead-up ^[1] 156:23</p> <p>leaders ^[5] 74:25 80:16 85:14 94:7 177:13</p> <p>leadership ^[1] 78:9</p> <p>leading ^[1] 143:17</p> <p>leaking ^[1] 146:19</p>	<p>least ^[21] 24:8 35:17 38:9 44:19 46:14 47:23 49:22 50:5, 6 55:2, 3 56:13 57:3 68:2 83:21 84:3 95:7 114:20 154:17 155:16 172:24</p> <p>leave ^[1] 86:19</p> <p>leaves ^[4] 5:17 34:17 74:16 119:13</p> <p>left ^[1] 124:3</p> <p>legal ^[2] 73:20 154:19</p> <p>legislative ^[2] 113:16 177:17</p> <p>legislators ^[1] 138:19</p> <p>legislature ^[1] 158:11</p> <p>legislatures ^[1] 138:18</p> <p>legitimate ^[2] 78:13 146:1</p> <p>lens ^[1] 92:16</p> <p>less ^[14] 5:22 6:15 7:7 37:21 51:11, 15 73:24 142:25 143:11 173:4, 22 175:15, 19 176:1</p> <p>level ^[14] 12:4 15:2, 8, 21 29:14, 19 33:25 42:6 43:20 59:5, 8 74:6 119:5 174:22</p> <p>leverage ^[2] 7:21 10:14</p> <p>licenses ^[2] 16:5, 7</p> <p>licensing ^[4] 108:18, 21 109:4 167:23</p> <p>lie ^[1] 33:12</p> <p>lift ^[1] 149:25</p> <p>likelihood ^[1] 176:12</p> <p>likely ^[5] 79:23 110:20 129:17 164:12, 16</p> <p>limit ^[2] 115:25 167:25</p> <p>limitations ^[5] 76:22 143:19 172:4, 7, 11</p> <p>limited ^[3] 16:4, 7 89:16</p> <p>limiting ^[2] 16:20 26:14</p> <p>line ^[6] 17:18 18:23 20:25 108:2 153:12 176:19</p> <p>lines ^[1] 41:13</p> <p>list ^[3] 88:20, 21 89:20</p> <p>listed ^[1] 168:4</p> <p>listen ^[1] 161:11</p> <p>listeners ^[2] 106:16 134:6</p> <p>listening ^[1] 102:15</p> <p>litigation ^[1] 164:25</p> <p>little ^[17] 10:10 21:6 23:3 27:3 32:7 49:13 53:10 57:24 63:6 73:24 76:25 78:25 103:23 123:5 137:3 160:14 171:14</p> <p>live ^[2] 118:5 123:25</p> <p>lives ^[1] 12:19</p>	<p>living ^[1] 76:13</p> <p>Lobby ^[1] 37:21</p> <p>located ^[2] 6:24 79:14</p> <p>location ^[3] 146:17 174:21, 22</p> <p>lodge ^[1] 96:18</p> <p>long ^[10] 15:13 33:20 67:7 74:10 119:2 127:14 143:15 168:23 172:3, 6</p> <p>longer ^[2] 106:2 110:24</p> <p>longstanding ^[2] 95:19 142:18</p> <p>look ^[41] 7:17 9:6 20:16 21:21 31:6 35:18 42:22 50:17 63:18 70:14 72:15 75:24 78:12, 17 81:10, 20 84:3 86:13 91:21 95:22, 24 104:15, 23, 23 108:22 109:18 114:3 116:22 139:19 145:9, 19, 22 146:22, 22, 24 147:2 157:19 174:19 175:18 177:9, 10</p> <p>looked ^[1] 113:10</p> <p>looking ^[4] 11:1 71:12 91:19 92:15</p> <p>looks ^[3] 130:14 137:16 174:21</p> <p>loophole ^[1] 164:21</p> <p>lose ^[4] 57:1 98:3 107:5, 14</p> <p>losers ^[1] 16:8</p> <p>lot ^[14] 14:4 18:16 27:13 28:9 35:8 76:2 88:9, 11 89:4, 10 106:18 110:5 167:1 173:20</p> <p>lots ^[5] 23:5 55:13, 14 70:15 97:18</p> <p>love ^[1] 111:14</p> <p>lower ^[1] 72:9</p> <p>lucrative ^[1] 111:2</p> <p>M</p> <p>made ^[10] 22:21 65:4 97:2, 23 121:15 125:17 152:9 157:17 164:16 166:13</p> <p>magazines ^[1] 16:22</p> <p>magical ^[2] 111:23 112:2</p> <p>maintain ^[2] 24:15 63:8</p> <p>maintenance ^[1] 144:3</p> <p>major ^[2] 9:13 40:14</p> <p>majorities ^[1] 138:17</p> <p>Manifesto ^[1] 103:10</p> <p>manipulate ^[8] 70:7 118:19 123:16 137:7 158:8 166:8 170:20 176:25</p>
--	---	---	--	---	---

Official

<p>manipulated [6] 75: 18 122:18 124:2,17, 19 168:16</p> <p>manipulates [1] 70: 14</p> <p>manipulating [3] 70: 17 71:22 126:21</p> <p>manipulation [42] 9: 14 20:13 25:14 26:12 28:17 29:4 30:11 43: 11 52:16,19 53:10 55: 17 69:21 70:12 71:8, 15,18 79:21 80:13 81: 17 83:6,11 87:21 93: 20,24 94:5 95:2,7 99: 3,6,23 119:21 120:2 137:5,15 141:18 155: 17,23 156:10 157:15, 25 158:3</p> <p>manufacture [1] 147: 22</p> <p>many [5] 63:9 88:15 89:1 111:4 158:22</p> <p>march [1] 20:10</p> <p>market [2] 100:10 111: 2</p> <p>Marx [1] 103:11</p> <p>mass [1] 150:4</p> <p>massive [5] 54:23 56: 18 166:24 173:3 174: 23</p> <p>material [2] 68:4 166: 10</p> <p>matter [13] 1:20 15:21 85:7 87:22 101:12 104:12 112:1 119:5 120:25 123:14 141:13 159:25 162:5</p> <p>matters [3] 10:6 137: 22 154:4</p> <p>mean [45] 22:24 29:17 30:4,20 33:6 55:11 58:1 59:15 60:6,7 61: 7 66:12 67:21 69:10 77:18,20 83:14 86:24 87:8 89:4 92:14 94:4 97:18 101:11 106:21 107:9,14 111:14 113: 4 117:19 120:11 121: 6,7,8 122:21,24 123:6, 7,9,22 125:11 140:5, 11 141:22 154:4</p> <p>meaning [2] 145:3 159:9</p> <p>means [21] 23:3,4 37: 11 49:20,20,23 50:2,5 54:11 55:2,7 121:20 122:1,2,12 142:13 143:1,12 144:7 177:5, 5</p> <p>mechanism [2] 96:19 125:22</p> <p>mechanisms [2] 88: 16 96:22</p>	<p>media [16] 4:23 15:14 31:11 77:6,6 82:5 108:24 109:11 111:1, 25 116:4 125:11 129: 8 169:13 174:15,16</p> <p>members [2] 113:23 167:4</p> <p>Menlo [1] 2:4</p> <p>mental [1] 20:13</p> <p>mere [8] 29:8 70:19 74:22 77:1 174:24 175:1,3,12</p> <p>merely [1] 5:10</p> <p>merits [3] 164:4,12 176:17</p> <p>MERRICK [2] 1:6,13</p> <p>Meta [1] 111:24</p> <p>mid-20th [1] 135:8</p> <p>might [46] 23:3 36:12 51:1 57:20 72:15 73: 25 74:24 78:8,9,10,10 87:4 92:8,25 97:21 98:1 110:12 115:17 117:25 118:22 121:4 123:15 128:2 129:3 130:4,6,11 143:2 149: 6,19 150:6,13 151:6 152:14 154:3 161:9 163:6,22 164:2 167:2, 4,5 168:20 169:23 174:2,21</p> <p>military [2] 141:1 167: 5</p> <p>million [12] 56:15 73: 11 83:2,23 86:20 88: 8,11 117:24 124:22 131:2 166:24 174:5</p> <p>million-plus [1] 129: 19</p> <p>millions [6] 53:23,24 87:14 107:1 119:10 134:24</p> <p>mind [3] 93:5 94:12 120:21</p> <p>minds [1] 112:1</p> <p>mine [1] 166:3</p> <p>minimum [5] 6:2 38: 16 56:11 58:8 73:8</p> <p>minutes [1] 130:3</p> <p>misappropriate [1] 170:11</p> <p>misappropriated [1] 170:15</p> <p>misinformation [3] 5: 5,16 177:16</p> <p>mix [10] 6:12 36:3,6 47:16 62:6,8 66:1,3 85:5 153:14</p> <p>Mm-hmm [37] 7:15 9: 11,16 12:5 13:1 14: 22 15:24 17:19 19:2 21:2 23:20 27:8 28: 11,18 33:19 41:8 48: 19,24 49:2,25 51:10</p>	<p>53:25 57:16 59:6,13 60:10 62:17 64:17 65: 2,15 66:17 70:25 88: 22 90:12,19 99:14 113:24</p> <p>moderation [4] 27:23 28:2,3 43:11</p> <p>modern [1] 73:25</p> <p>modify [1] 144:9</p> <p>moment [4] 77:3 84: 21 93:22 149:19</p> <p>momentous [1] 6:4</p> <p>monopolize [1] 50:13</p> <p>months [1] 169:15</p> <p>moot [1] 6:6</p> <p>morning [1] 4:4</p> <p>most [17] 4:11 5:22 33: 24 35:17 51:15 54:11, 24 55:3 68:5 74:1 78: 19 88:19 137:19 152: 13 160:13 173:22 174: 4</p> <p>motion [1] 97:3</p> <p>motions [1] 97:5</p> <p>motivate [1] 159:10</p> <p>motivated [3] 93:6 114:13 156:22</p> <p>motivation [8] 61:3,5 113:6,13 115:16,25 116:5 154:1</p> <p>motivations [4] 31:8 47:5,12 113:22</p> <p>motive [5] 80:23 85: 25 86:2 138:1,14</p> <p>move [1] 150:14</p> <p>movie [5] 19:12,14 151:20,23 152:3</p> <p>movies [2] 19:14,15</p> <p>MSNBC [1] 77:10</p> <p>Mt [5] 55:17 70:3 113: 2,4,16</p> <p>much [19] 6:15 7:7,7 34:24 36:1,7 46:2,7 70:19 89:17 91:10,14 105:4 108:1 131:6 144:24 155:19 158:17 163:20</p> <p>multinational [3] 131: 19,21 132:6</p> <p>muscle [1] 126:5</p> <p>Musk [1] 169:14</p> <p>must [1] 21:9</p> <p>mute [2] 66:9 67:5</p>	<p>8 130:14 133:16 138: 25 140:16 141:15 142: 10 156:14 167:9</p> <p>nation's [3] 119:18 134:23 136:6</p> <p>national [40] 22:14 54: 15 74:18,23 75:19 77: 25 79:2,4,6,11 80:14 85:3,6,9 101:7 102:1 116:13,18,20 117:10 118:17 119:8 123:19 129:15 130:16 137:9 142:16 144:13 145:10 153:1 155:6 163:14 165:22 166:15,21 168: 3,4,9 169:22 170:5</p> <p>nations [1] 157:6</p> <p>nature [4] 49:9 66:25 79:2 121:12</p> <p>necessarily [2] 26:11 160:20</p> <p>necessary [4] 58:15, 23 157:23 165:16</p> <p>necessitates [1] 159: 23</p> <p>necessity [3] 145:14, 14,15</p> <p>need [14] 8:2 10:24 24: 25 25:1 49:19 108:17 114:8 127:8 135:25 144:7 150:14 157:19 163:23 167:22</p> <p>negotiations [3] 173: 7,9,15</p> <p>neither [2] 37:4 106:3</p> <p>NetChoice [1] 28:7</p> <p>never [9] 17:21 54:24 56:9 63:3 73:5 97:5 104:25 143:21 150:8</p> <p>New [14] 38:1,4,7,10 46:4 64:5,5 70:16 97: 24 109:22 110:14 122: 24 148:24 171:25</p> <p>News [5] 70:16 71:21 76:14 77:9 175:7</p> <p>newspaper [6] 125: 12 127:3 128:4,5 129: 2,17</p> <p>newspapers [2] 16: 22,22</p> <p>next [4] 12:3 51:7 87:5 88:14</p> <p>nice [1] 135:16</p> <p>nine [2] 4:12 149:18</p> <p>nobody [1] 125:16</p> <p>NOEL [5] 2:2 3:3,14 4: 7 172:17</p> <p>non-covert [1] 120: 13</p> <p>non-enforcement [2] 163:1,12</p> <p>non-U.S [1] 119:22</p> <p>non-user [1] 117:25</p> <p>none [5] 37:7,9 122: 24,25 139:20</p>	<p>nonsensitive [2] 173: 11,19</p> <p>nor [1] 106:3</p> <p>normally [2] 92:24 123:23</p> <p>noted [2] 96:21 117: 23</p> <p>nothing [13] 21:18 43: 10 51:19 56:22 65:10 81:14 84:21 86:24 87: 1 151:4 153:13 158: 12,13</p> <p>notice [6] 92:8 123:17 124:9,23 166:18 169: 20</p> <p>noticed [1] 97:8</p> <p>notion [1] 177:3</p> <p>notwithstanding [1] 11:5</p> <p>NSA [5] 52:10,12 173: 6,9,11</p> <p>number [8] 16:4,7 71: 3 79:19 91:10 102:10 109:10 120:18</p> <p>numbers [1] 88:3</p>	<p>O</p> <p>O'Brien [1] 41:17</p> <p>objectionable [1] 62: 7</p> <p>objections [1] 177:18</p> <p>observed [1] 140:20</p> <p>obtain [2] 131:10 166: 19</p> <p>obvious [5] 5:22 51: 15 54:25 55:3 175:15</p> <p>obviously [8] 89:13 132:14 134:10 152:22 158:8 165:18 167:8 169:12</p> <p>odd [1] 53:10</p> <p>offender [3] 43:16,17 44:3</p> <p>offer [2] 143:14 169: 15</p> <p>office [1] 112:12</p> <p>officials [1] 167:6</p> <p>often [3] 92:21 96:24 176:16</p> <p>okay [26] 11:13 22:18 23:14,16 25:6,10 26: 17 32:17 45:1 50:14 51:2 62:10 63:21 67: 15 71:1,25 90:8 93: 18 96:8 98:18 103:22 112:17 115:5 127:14 147:5 166:11</p> <p>old [4] 111:12,14,15, 17</p> <p>once [9] 16:19 80:22 87:19,20 98:15 108:6 119:14 146:3 157:17</p> <p>one [81] 4:11,18 6:16</p>	<p>7:8 8:7 12:8 17:25 18: 11 28:10 30:4 31:10, 16,18,19 32:8,14 35:6, 17 38:6 39:12 41:17 44:8 47:4,11 48:8 51: 9 52:14,17 54:11 55: 13,19 57:21 58:7 62: 2,3,14 69:24 71:3 72: 3,25 80:11 82:6 84: 19 85:25 87:25 89:12, 21 90:11,17 91:8 92: 3 104:15,19 111:4 113:1,1 114:4 115:14 117:11,15 120:21,23 121:13 122:4 124:22, 22 125:25 130:3 146: 7 147:23 148:15,19 158:22 159:11 164:1 166:16 168:4,11 174: 3 175:25 176:13</p> <p>one-way [1] 128:5</p> <p>ones [2] 75:12 122:24</p> <p>online [1] 77:6</p> <p>only [32] 4:22 12:17 13:15,21 33:11 34:16 35:1 36:13 41:6 43: 23 44:8 46:12 75:17 85:7 87:7,11 88:18 89:15 93:9 95:14 100: 24 105:16 106:18 111: 19 113:12 114:7,18 116:20 118:25 134:17 137:20 155:22</p> <p>op [2] 106:7 109:21</p> <p>Open [3] 33:7 36:20 100:10</p> <p>operate [9] 26:6 31: 11 66:16 67:6 134:16 151:2,2 160:12 163: 10</p> <p>operated [1] 23:12</p> <p>operates [3] 26:6 139: 2 160:16</p> <p>operating [5] 8:11 9:9, 21 58:17 160:11</p> <p>operation [9] 104:17, 17 118:21 120:15 123: 18,20 129:14 135:14 140:22</p> <p>operational [1] 159: 17</p> <p>operationalized [1] 158:18</p> <p>operations [6] 117:14 118:13 134:25 146:1 150:24 161:4</p> <p>opinion [2] 15:12 104: 23</p> <p>opinions [1] 78:20</p> <p>OPM [1] 130:25</p> <p>opportunity [2] 97:19 130:15</p> <p>opposed [3] 35:23 119:22 144:20</p>
--	---	--	---	--	--	---

Official

opposing ^[1] 96:20 option ^[1] 144:12 Oracle ^[1] 54:14 oral ^[7] 1:21 3:2,6,10 4:7 73:16 117:5 order ^[11] 10:14 19:14 24:25 120:18,24 144: 8 145:24 146:18 153: 17 171:6 177:6 ordinary ^[4] 21:23 89: 14 110:6,11 organically ^[2] 122:6 129:11 organization ^[2] 10:3 136:1 organizations ^[7] 65: 1 67:23 77:16 78:3,3 137:13 175:7 original ^[1] 24:15 other ^[69] 18:3 21:19 24:19 25:16 26:5,6, 21 27:7 34:21 36:10 38:23,24 39:12 41:10 42:7 43:24 49:6 56:9 58:9 65:9 71:15 72:9 75:14,19 78:3 82:9 86:6 87:13 89:1,6,17, 21 91:20 92:3 96:23 100:14 102:11 103:1 106:15,25 107:2 108: 23 109:24 110:25 111: 6,25 112:5 113:1,2 119:4 122:7 127:10 129:6,16 130:5 143:4 146:23 148:23 154:1 157:20 162:9 165:10 168:11,19 171:20 174: 14 175:5 176:15,22 others ^[1] 106:17 others' ^[1] 40:4 otherwise ^[1] 163:3 ought ^[2] 112:8 177:2 out ^[47] 5:1 16:4,6 26: 9 29:19,23 35:4,6 36: 20 45:13,14 46:13 47: 16 49:18,19 57:2 58: 3 59:8,9 60:8 64:16 76:1 81:2 86:4,19 87: 13 89:11,12,20 90:21 110:18 111:16 114:25 117:17 120:21 121:8, 24 124:16 129:6 136: 19 137:21 138:5 142: 5,12 146:19 156:15 169:2 outright ^[2] 17:3 85: 12 outset ^[2] 149:20 169: 12 outside ^[3] 25:16 147: 20 170:10 over ^[21] 7:22 11:6 21: 24 22:6 54:3 79:5,10 117:17 118:11 120:10	130:17 133:17 136:2 143:18 146:5 150:4 154:8 155:11 161:3 163:15 168:24 overwhelming ^[1] 10: 7 own ^[19] 9:22 11:2 21: 20 22:17 41:10 65:8 66:14 67:6,7 72:9 78: 7 87:14 103:12 106:2 116:21 147:21 159:3 160:15 165:16 owned ^[11] 17:4 18:8, 19,19 19:12 23:6 100: 17 127:4,11 131:18 153:7 owner ^[7] 76:10,10 77: 6,9,9,10 109:7 owners ^[2] 18:17 109: 11 ownership ^[13] 7:13 15:14 38:22 48:7 75: 17 76:2,23 77:1,3,12 107:18 108:24 128:3 Oxford ^[2] 127:8 128: 24 <hr/> <p style="text-align: center;">P</p> <hr/> p.m ^[1] 178:1 PAGE ^[5] 3:2 7:25 10: 16 38:8 173:14 pages ^[1] 120:21 pains ^[1] 143:7 paper ^[1] 11:1 parallel ^[1] 164:19 parent ^[3] 8:24 21:23 143:24 Park ^[1] 2:4 part ^[17] 39:12 44:19 69:15 76:3 83:7,10 95:3,16 102:2 106:18 114:13,18,24 128:4 137:12 149:13 160:24 partially ^[1] 102:12 participate ^[1] 73:23 particular ^[22] 27:7 30:5 40:20,23 42:11 44:2 47:22 76:18 77: 4,10,11 87:3 108:16 109:13 112:15 126:16, 16,22 137:22,22 154: 10 169:18 particularly ^[6] 17:25 19:4 31:16 44:17 110: 2 114:16 parties ^[3] 21:5 39:24 60:12 partly ^[2] 18:19 67:12 partner ^[2] 102:20 146:8 parts ^[5] 23:5 26:5,6 100:12 114:20 party ^[6] 40:17 91:9 135:11,16 136:18 137:	11 pass ^[2] 87:6 91:22 passed ^[16] 34:1 44: 20 55:19 60:13 76:9 86:9 87:10 92:7 95: 25,25 99:5 113:21 138:17 157:3 158:6 171:5 passes ^[1] 38:1 passing ^[1] 69:24 past ^[6] 48:16 52:5 69: 13,14 168:17,19 patched ^[1] 161:13 patching ^[1] 138:8 paternalistic ^[1] 123: 22 path ^[1] 67:16 pay ^[1] 97:21 penalties ^[3] 54:23 143:7 173:4 pending ^[1] 164:5 people ^[34] 5:18 11:1 12:18 14:13 35:20 38: 24 42:9 54:2,4,4 70: 15 75:16 76:12 79:23 83:2,14,25 84:23 87: 14 88:19 92:25 106: 25 110:3,4,5,15 112: 16 121:25 122:12 129: 7,10,19 143:8 People's ^[3] 17:4 132: 23 151:19 per ^[2] 71:24 158:4 percent ^[2] 32:14 71: 17 perfect ^[4] 57:22 72: 22 175:2 176:9 perfectly ^[1] 82:10 period ^[6] 6:20 66:10 146:12 149:5 162:21 170:2 permanent ^[2] 151:4 163:22 permissible ^[5] 55:10 82:10 85:25 86:2 95: 15 permission ^[1] 88:19 permit ^[5] 11:22 22:23 52:24 53:4 104:10 permitted ^[2] 88:21 108:25 person ^[1] 140:10 personal ^[3] 83:21 117:22 129:18 perspective ^[6] 65:11 77:4,11 100:12 110:2 115:16 persuade ^[1] 177:1 persuaded ^[1] 5:15 pertinent ^[1] 136:15 petition ^[1] 164:7 Petitioner ^[1] 143:14 Petitioners ^[11] 1:4, 11 2:3,5 3:4,8,15 4:8	73:17 164:12 172:18 phone ^[1] 161:10 phrase ^[1] 74:18 phrases ^[1] 80:17 physical ^[1] 12:22 pick ^[2] 16:8 127:9 piece ^[8] 28:17 130:23 136:14 155:22,23 160: 14 161:9,14 pieces ^[1] 13:7 pill ^[2] 91:12 92:6 place ^[8] 60:13 73:6 78:18 110:15 114:8, 12 152:12 167:23 placed ^[1] 143:20 places ^[2] 71:15 84:2 platform ^[51] 22:12 24:22 26:4 28:4,23 30:17 31:11,22 40:15, 23 56:14 57:5 61:15 62:1,12 63:20 64:7, 10 70:8 76:11,12 77: 12 82:5 100:14 107:2 109:8,24 110:7,11 118:1,20 119:12 120: 10,17 122:3 123:16 125:23,24 126:22 131: 23 133:17 134:20 138: 7 139:2,24 145:25 161:4 168:16 170:3, 20 176:24 platforms ^[8] 4:12,23 73:1 79:21 109:14 111:6 116:4 129:8 playbook ^[1] 120:22 Playboy ^[1] 37:20 Pleasant ^[1] 70:3 please ^[3] 4:10 73:19 117:8 point ^[34] 7:21 10:11 14:6,23 21:22 36:10 37:19 48:17 50:4 51: 14 52:22 60:7 63:22 64:16 75:9 76:1 78: 19 93:23 96:17 123: 15,22 130:13 142:12 143:4 146:7 148:3 150:20 151:1 153:5 155:24 164:1 168:11 174:24 176:3 pointed ^[2] 149:18 173:6 pointing ^[1] 89:12 points ^[4] 89:20 166: 16 168:12 172:20 poison ^[2] 91:12 92:6 policies ^[2] 100:8 174: 19 policy ^[2] 11:21 163: 12 Politico ^[3] 18:18 127: 10 128:24 politics ^[1] 76:15 popular ^[5] 4:12 16:	21 43:13 131:23 174: 4 population ^[1] 88:1 pose ^[2] 78:3 161:20 poses ^[1] 117:10 posited ^[1] 44:21 position ^[11] 16:4 37: 7,18 38:21 42:17 79: 3 102:19 148:25 149: 11,15 175:18 positioned ^[1] 169:19 possibility ^[2] 95:2 124:4 possible ^[8] 57:19 72: 5 95:8 98:4 107:4,7, 13 131:7 possibly ^[3] 29:7 37: 17 68:12 Post ^[25] 7:24,25 8:3 10:9,15,17,21 11:4,8, 18 13:17 27:6 76:7, 12 98:19 104:6 106:2, 3,4,5,7,8 109:19 134: 16,20 Post's ^[2] 8:6 10:22 post-divestiture ^[4] 66:13 133:6 144:22 159:7 posted ^[1] 82:5 posting ^[2] 75:13 107: 1 potent ^[2] 118:12 131: 8 potential ^[5] 42:5,24 79:19 165:6 166:9 potentially ^[4] 6:5 46: 15 56:18 113:14 power ^[3] 8:20 10:7 171:10 powerful ^[3] 43:13 110:10 118:9 powers ^[1] 13:4 practical ^[3] 104:16, 17 110:19 practice ^[1] 97:3 PRC ^[30] 25:15 117:11, 15,17 118:3,9 121:13, 17 122:8 126:1,23 130:24 131:5,8 132:1 133:24 138:5,9,12 139:1,7 140:18,21 146:4 151:23 158:7 163:23 166:19 169:7 170:19 PRC's ^[4] 152:3 155: 10 170:8,11 pre-divestiture ^[1] 66:14 precedent ^[7] 39:1 41: 2,13 42:13 74:9 95: 23 163:6 precedents ^[1] 41:14 precisely ^[3] 133:11 155:8 177:8	predicate ^[3] 72:16, 17,18 predict ^[2] 27:15 130: 18 prefer ^[2] 7:3 30:16 preferable ^[1] 164:4 preference ^[2] 128:2, 3 preferences ^[1] 125: 15 preliminarily ^[1] 6:2 preliminary ^[2] 57:22 176:12 PRELOGAR ^[85] 2:6 3:11 117:4,5,7 119: 25 120:7,14 121:4,11, 21 122:2,16 123:13 124:6,12,20 125:7,20 126:4,11 127:1,12,16, 21,24 128:13,18 129: 1,22 130:6,11 131:14 132:4,10 133:3,18 134:4 135:24 136:9, 12,21 137:14 139:6, 13 140:13 141:10,20, 24 142:3,22 143:13 144:19 145:7 146:25 147:17 148:4 149:2, 12 150:17 151:3 152: 5,10 153:11 154:6,14, 20 156:4 159:14 160: 3 161:1 162:4,12,17 163:5 164:9 165:13 166:12 167:12 171:7, 13,23 172:2,8,10 premise ^[1] 126:14 prepared ^[2] 22:2 149: 14 present ^[1] 78:4 presented ^[2] 79:19 149:14 presents ^[1] 101:7 preserve ^[2] 148:11 170:3 President ^[10] 53:22 54:8 55:6 57:12,15 109:6 162:2,5,21 171: 25 President-Elect ^[3] 6: 5 163:13 171:16 President-Elect's ^[1] 171:5 presidential ^[4] 57:10 110:13 156:25 163:1 press ^[3] 103:23 127: 9 128:24 pressed ^[1] 85:11 pressing ^[1] 104:4 pressure ^[3] 5:4 22: 13 36:4 pretty ^[6] 33:7 34:14 40:12 108:1 123:22 136:19 prevent ^[12] 5:11 100:
---	---	--	---	---	--

Official

<p>16 102:10 103:14 104:18 119:1 129:15 141:12 142:23 143:23 157:5 161:22</p> <p>preventing [8] 5:9 14:1 15:14 30:4 43:12 93:24 156:10 159:16</p> <p>previously [1] 137:17</p> <p>primarily [2] 46:3 81:22</p> <p>primary [1] 80:18</p> <p>principal [2] 24:11 32:5</p> <p>principle [5] 16:20 134:5 136:25 147:19 158:9</p> <p>principles [3] 154:24 162:11 163:7</p> <p>print [1] 77:6</p> <p>printed [1] 11:7</p> <p>prior [1] 93:9</p> <p>prison [1] 143:8</p> <p>privacy [4] 144:15 166:17,20 174:19</p> <p>private [1] 8:21</p> <p>privileged [1] 110:8</p> <p>pro-American [1] 108:9</p> <p>pro-Catholic [1] 91:14</p> <p>pro-China [4] 78:11 115:18 133:8 140:18</p> <p>pro-Chinese [2] 36:6 62:9</p> <p>pro-Democrat [1] 37:14</p> <p>pro-foreign [1] 108:10</p> <p>pro-Republican [1] 37:14</p> <p>probably [2] 25:7 97:8</p> <p>probe [1] 157:24</p> <p>problem [25] 25:20 32:23 40:24 41:1 43:19, 22 47:4 52:1 65:12, 16 69:8 71:14 72:22 85:19 86:17 87:3 95:18 114:1,3 123:13 130:3 154:24 155:9 160:7 165:7</p> <p>problematic [1] 123:24</p> <p>problems [8] 14:8 47:21 72:12,19 75:20 153:22 157:1,2</p> <p>proceeds [2] 6:19 15:7</p> <p>process [6] 38:12 87:15 150:15 162:11,18 163:7</p> <p>procure [1] 84:22</p> <p>procured [1] 81:24</p> <p>product [5] 4:24 31:</p>	<p>13 35:3 43:25 124:24</p> <p>products [1] 124:22</p> <p>profiles [1] 118:4</p> <p>profound [1] 152:25</p> <p>prohibit [6] 24:17 46:11 53:3 77:15 78:1 152:18</p> <p>prohibited [2] 65:19 171:18</p> <p>prohibiting [4] 67:22, 23 161:3 172:25</p> <p>prohibition [3] 56:5 103:25 160:5</p> <p>prohibits [2] 51:17 165:12</p> <p>Project [1] 77:19</p> <p>prolong [1] 46:1</p> <p>promote [7] 11:20 19:15 52:25 53:1,7,8 140:23</p> <p>prompt [1] 149:21</p> <p>prong [1] 71:3</p> <p>propaganda [3] 5:6,9 177:16</p> <p>proper [1] 109:7</p> <p>properly [1] 84:17</p> <p>property [1] 23:6</p> <p>proposed [3] 46:24 144:13 145:11</p> <p>proprietary [1] 147:3</p> <p>prostitution [2] 46:11 47:19</p> <p>protect [8] 37:23 119:18 143:20 147:3 158:11 160:13 162:9 177:6</p> <p>protected [10] 18:1 70:18 120:8 132:15 146:15,18 152:12 155:4 158:17 161:6</p> <p>protecting [1] 144:14</p> <p>protection [9] 15:1 45:4 144:18 156:6,12 157:3 159:1,20 160:19</p> <p>protections [1] 157:7</p> <p>protestors [1] 170:13</p> <p>provide [3] 58:10 110:24 163:20</p> <p>provided [3] 24:5 149:24 165:1</p> <p>providers [4] 58:10, 12 162:19 163:18</p> <p>provides [2] 110:23 159:2</p> <p>providing [2] 58:15 96:19</p> <p>provision [11] 24:9 37:23 44:8 49:1 81:11,16,21 86:14 144:23 159:7,19</p> <p>provisions [6] 86:13, 15 90:17,24 115:1 160:12</p>	<p>prudent [1] 154:22</p> <p>public [6] 13:17 22:22 53:4 73:25 97:10 163:24</p> <p>publication [3] 77:7,8 103:13</p> <p>publicational [1] 110:2</p> <p>publications [1] 102:11</p> <p>publish [6] 10:16 102:1 106:7 109:21,22,24</p> <p>publisher [3] 76:6,18 100:20</p> <p>publisher's [2] 128:7 129:3</p> <p>publishers [1] 74:13</p> <p>pull [2] 31:24 80:7</p> <p>pulling [2] 121:14,25</p> <p>punished [1] 14:18</p> <p>pure [1] 48:7</p> <p>purpose [2] 35:20 46:25</p> <p>purposes [2] 110:17 168:5</p> <p>pursue [1] 132:1</p> <p>pursues [1] 117:15</p> <p>push [1] 150:9</p> <p>put [27] 6:19 26:9 28:23 35:14 36:20 45:1 50:9 52:3,21 70:18 88:7,7,11 90:9 102:2 103:9 107:16,17 110:21 112:1 123:17 124:8,23 136:11 143:8 166:18 173:18</p> <p>puts [1] 35:8</p> <p>putting [3] 52:14 95:2 171:20</p> <p>puzzling [1] 123:2</p>	<p>25 21:1</p> <p>questions [15] 6:7 21:1 23:22 26:22 52:19 59:4 64:14 75:5 99:12 104:4 105:21 119:19 155:20 167:13 170:25</p> <p>quick [4] 94:23 115:14 148:15,20</p> <p>quite [5] 39:15 42:22 61:7 105:8 113:14</p> <p>quote [1] 8:16</p>	<p>R</p> <p>racial [1] 158:20</p> <p>racism [1] 113:12</p> <p>radio [2] 15:18 168:1</p> <p>raise [3] 105:5 129:9 155:19</p> <p>raises [1] 162:12</p> <p>raising [1] 173:15</p> <p>ratchet [1] 10:10</p> <p>rather [1] 5:13</p> <p>rational [1] 45:8</p> <p>rationale [10] 5:20 30:11 69:23 99:4 115:24 137:5 155:16,18 156:1,6</p> <p>rationales [1] 155:15</p> <p>re-create [1] 64:1</p> <p>reach [1] 110:14</p> <p>read [5] 25:21 47:7 67:4 96:22 98:4</p> <p>readily [2] 83:22 128:8</p> <p>ready [1] 165:20</p> <p>real [9] 5:13 40:24 41:1 71:13 79:12 89:13 94:22 125:21 159:2</p> <p>real-time [1] 75:11</p> <p>realistic [1] 54:7</p> <p>realities [1] 117:19</p> <p>reality [2] 60:8 171:25</p> <p>realize [1] 34:6</p> <p>really [35] 16:12,16,19, 21,24 20:18 33:15 37:12 61:17 63:1,2 64:22 65:5,7,21 67:9 69:9,25 77:20 85:13 86:18 87:5 101:4 106:5, 6,7 110:24 111:14 123:9 125:16 131:21 145:4,18 152:6 167:3</p> <p>rearranged [2] 116:23,24</p> <p>rearranging [1] 116:17</p> <p>reason [24] 16:20 18:22 19:1,17 24:19 47:17 56:3,7 60:12 63:15 64:8 73:3 91:1 109:1 110:25 111:19 114:22 133:4 140:15 143:25 145:3 147:18</p>	<p>150:2 153:11</p> <p>reasonable [2] 50:2 144:2</p> <p>reasonably [2] 81:5 124:9</p> <p>reasons [27] 4:13 6:4 9:5 24:11 31:20 35:6 38:6 40:20 50:24 55:13,14 57:21 62:3,19 69:24 74:8 86:3,10 87:21 91:8 92:22 93:11 104:14 105:23,25 111:3 174:25</p> <p>REBUTTAL [6] 3:13 39:14 150:21 166:4 172:16,17</p> <p>recall [1] 64:4</p> <p>receive [8] 74:14 102:17 105:1,4 106:17 133:23 134:2,7</p> <p>receiving [1] 106:6</p> <p>recent [2] 97:23 106:15</p> <p>recently [1] 137:19</p> <p>recognition [1] 148:12</p> <p>recognize [9] 104:22 113:18 119:12 120:1 141:11 149:7 161:2, 16 167:21</p> <p>recognized [3] 106:16 128:1 142:15</p> <p>recollection [1] 166:1</p> <p>recommendation [11] 21:9 22:24,25 30:6 81:13 84:19 86:14 114:23 122:5 129:12 159:22</p> <p>reconstruct [1] 63:9</p> <p>record [32] 20:17 21:16,18,19,22 25:23,24 26:2,15,17 40:21 42:22 45:24 50:22,25 51:19 52:1 56:4,7,22 73:4 84:4 85:17 89:14 97:10 165:3 167:24 170:8,17,23 175:19 177:17</p> <p>records [1] 113:10</p> <p>recruitment [1] 118:10</p> <p>redacted [1] 25:21</p> <p>Reed [1] 41:25</p> <p>references [1] 145:13</p> <p>refine [1] 144:9</p> <p>reflect [2] 128:2 129:3</p> <p>reflected [1] 134:5</p> <p>reflecting [1] 142:7</p> <p>reflects [6] 6:11 36:2 66:1,2 142:5 160:6</p> <p>regard [3] 129:9 164:3, 6</p> <p>regime [1] 167:23</p> <p>Registration [2] 95:</p>	<p>24 125:4</p> <p>regular [1] 26:9</p> <p>regulate [4] 71:22 133:7 152:17 169:4</p> <p>regulated [5] 82:8 97:19 108:24 139:21 162:9</p> <p>regulates [2] 75:10 76:1</p> <p>regulating [12] 40:3 42:11 93:10 108:7 132:19,20 133:10 134:8 137:25 139:15,16 148:7</p> <p>regulation [10] 38:19, 23 39:2,3,5 40:8,17 128:8 132:14 152:11</p> <p>reinforcing [1] 170:17</p> <p>rejected [1] 175:17</p> <p>related [2] 142:4 176:15</p> <p>relates [1] 168:13</p> <p>relevance [3] 15:11 154:13,17</p> <p>relevant [8] 27:2 145:11,17 148:5 153:19 154:7 159:18 161:7</p> <p>relied [1] 163:2</p> <p>relies [1] 174:9</p> <p>rely [4] 97:4 114:8 128:22 162:10</p> <p>remains [1] 52:17</p> <p>remedy [7] 13:21 14:21 82:19 84:10 119:2 123:24 129:5</p> <p>remember [2] 102:13 106:17</p> <p>remiss [1] 142:11</p> <p>remove [1] 133:15</p> <p>removed [3] 26:3,7, 10</p> <p>repeat [2] 28:13 30:8</p> <p>repeatedly [1] 115:15</p> <p>replicate [1] 112:7</p> <p>replicated [1] 112:16</p> <p>reply [3] 21:11 25:17 116:11</p> <p>Report [2] 174:9 177:14</p> <p>reporting [1] 163:24</p> <p>reports [2] 26:3,9</p> <p>represent [3] 23:18 106:5 128:6</p> <p>representation [1] 22:3</p> <p>representing [1] 146:13</p> <p>reprieve [1] 58:20</p> <p>Republic [3] 17:4 132:23 151:20</p> <p>request [4] 26:8 104:1 131:9 170:11</p> <p>requests [1] 174:13</p>
---	--	---	---	---	--	---

Official

require [7] 8:17 43:16 92: 13,21 96: 7,12 105: 5 required [3] 72:12 96: 5 169: 23 requirement [1] 153:5 requirements [1] 146:10 requires [5] 4:16 46:4 52: 23 60: 1 118: 25 requiring [3] 65:20 91: 8 171: 6 resist [1] 29:3 resolve [2] 165:19,23 resolved [1] 97:6 resort [1] 175:25 resources [2] 17:25 108: 18 respect [27] 26:1 33:8 63: 11,12 72: 3 99: 18 100: 1,1,4 139: 24 144: 6,12 150: 11 159: 21 160: 5,12,23,25 161: 5, 15 165: 3 168: 18 169: 9,17 170: 6,15 176: 15 respond [4] 26:19 50: 3 95: 12 133: 22 responded [1] 25:15 Respondent [5] 1:8, 15 2: 8 3:12 117: 6 response [2] 15:23 26: 14 responses [1] 56:1 responsive [2] 156:8 168: 12 rest [4] 20:17 81: 20 89: 15 160: 15 restrict [3] 23:8 42:15 177: 6 restricted [4] 26:4,7, 11 49: 23 Restricting [2] 74:24 175: 24 restriction [16] 6:23, 25 7: 12,14,17 32: 3 41: 5 64: 9 67: 1 68: 19 115: 21 139: 8 141: 19 145: 1 167: 17 168: 5 restrictions [8] 35:11 139: 10,11,12 140: 4 144: 6 149: 25 150: 10 restrictive [14] 5:22 37: 22 50: 5 51: 12,15 55: 2 143: 1,12 172: 25 173: 5,22 175: 15,19 176: 1 restricts [2] 23:8 73: 21 rests [1] 144:4 result [1] 171:9 results [1] 40:18 reverse [2] 75:3 177: 20	review [7] 28:2 31:14 40: 6 41: 4 96: 20 163: 13 174: 9 reviews [3] 4:25 35:4 43: 25 rich [1] 131:19 rid [1] 92:13 rights [34] 8:5,6 9:22 10: 22,22 11: 3 14: 25 17: 14,22 19: 5 22: 17 33: 11,12,13,15,24 36: 15 37: 1,3,5,6,11 61: 21 73: 22,22 101: 9,19 102: 25 103: 4 107: 22 132: 7 133: 23 134: 1 147: 21 Riley [1] 89:24 rise [1] 107:5 risk [18] 5:12 29:12 55: 6,8,12,15,17 71: 10 125: 21 129: 15 158: 15 162: 25 163: 3,21 167: 9 170: 5 175: 13,14 risks [7] 54:8,10 69:11, 12 79: 19 86: 19 161: 20 road [1] 68:11 ROBERTS [42] 4:3 7: 10 8: 10,14 9: 7,12,17, 23 10: 1 38:13,17 39: 7,11,21 40: 25 41: 9 42: 2 43: 5 48: 2 53: 17 58: 25 64: 11 73: 13 82: 16 83: 9,16,19 84: 8,13 112: 22 115: 6,10 117: 2 129: 24 130: 1,8 131: 12 146: 21 147: 5 171: 1 172: 14 177: 22 room [1] 125:13 roughly [2] 124:25 roughly [2] 124:25 rubble [1] 31:19 rule [2] 139:15 154:23 rules [1] 127:17 run [6] 49:18 84:11 125: 14 136: 24 145: 4 149: 12 run-up [1] 95:25 runs [1] 98:15 Russia [1] 14:7 <hr/> S <hr/> safeguard [2] 163:9 170: 4 safeguarding [1] 134: 14 safety [1] 12:18 sake [1] 48:21 sale [1] 23:9 salesmen [1] 63:16 same [23] 17:5,7 41: 3 89: 18 99: 12 102: 25 115: 23 126: 25 128: 14 132: 2 133: 5,11,12,13	138: 6,21 142: 17 152: 25 153: 15,16,16,17 157: 4 sanctions [1] 14:7 satisfactory [1] 109:18 satisfied [1] 68:12 satisfies [2] 155:1 157: 18 satisfy [5] 5:7 6:20 108: 3 157: 21 169: 21 saturated [1] 177:18 save [1] 115:8 saw [1] 169:14 saying [53] 8:11 9:9, 20 12: 21 13: 3,18 19: 1 32: 22 33: 4 35: 10 39: 16 42: 9,14,16 45: 7, 10 47: 11 55: 7 56: 16 59: 15 63: 23 67: 5 68: 18 69: 17 71: 15,18 76: 9 80: 3 82: 19,20 85: 3 87: 6,9 91: 7 94: 6 99: 25 100: 5,23 101: 7 104: 5 115: 24 116: 16 123: 14 124: 1,4,18 126: 12 128: 20 133: 8 145: 2 147: 9 150: 7 159: 15 says [34] 6:13 7:2 21:7, 19 25: 15,22 28: 14 31: 16 32: 25 33: 16 34: 16 41: 15 44: 8 47: 20,20 50: 18 54: 17 58: 9 59: 17 61: 2,2,25 66: 4,7, 12 71: 11 81: 12 85: 13 95: 9 99: 6 123: 25 140: 5, 9 144: 23 scarce [1] 108:18 scarcity [8] 16:2,18, 23 108: 15,16 109: 3 167: 19,22 scenario [3] 11:6 13: 9 153: 2 scenes [5] 120:17 121: 14 126: 22 129: 13 139: 1 Schuster [2] 6:17 7:9 scripted [2] 136:20 137: 12 scrutiny [66] 5:8 12:4 15: 2,8,9,22 20: 10 29: 14, 19 35: 12,21 37: 16 42: 1 43: 20 45: 13,18, 19,20 46: 15,15 47: 23 48: 22 49: 10,19,23 51: 24 52: 23 55: 1,1 59: 5, 8 60: 21 68: 4,6,11 69: 13 70: 23,24 71: 2 74: 4,6 99: 7 107: 25 108: 3,7 119: 6 132: 16 134: 11 136: 23 142: 14 152: 13, 20,23 154: 18,18, 25 155: 2 157: 22 160: 20,22,25 161: 2 172: 22,23 175: 22,23 se [2] 71:24 158: 4 seal [1] 147:3 sealed [3] 145:18,21 146: 25 search [3] 18:5 122: 21 174: 11 Second [5] 4:21 9:8 26: 2 67: 17 82: 6 secondary [1] 80:20 secret [6] 26:22 53:12 96: 16,18 97: 22 146: 6 secretly [3] 117:17 118: 19 126: 21 security [84] 5:20 22: 14 44: 12 45: 17 47: 21 50: 9 52: 3 54: 16 55: 20 69: 18,22,22,25 70: 1 74: 18,23 75: 19 77: 25 79: 2,4,7,11 80: 7, 14,25 81: 5,6,8,15,19, 22 82: 7,9,13 83: 6 84: 22 85: 4,6,8,9,15,19 86: 8,10 87: 7,11 91: 22 92: 12,16 101: 8 102: 2 115: 3 116: 14, 18,21 117: 11 118: 17 119: 8,18 123: 20 129: 15 130: 17 131: 1 134: 23 136: 6 137: 9 142: 16 143: 3 144: 13,15 145: 10 153: 1 155: 6 160: 13 163: 14 165: 22 166: 15,21 168: 3,9 169: 22 170: 5 173: 23 174: 8 see [18] 17:2,18 27:16 30: 17 35: 21,22 36: 1 58: 16 61: 7 68: 11 84: 23 138: 10 140: 18 150: 6 165: 4 166: 1 177: 14, 17 seek [1] 158:21 seeking [9] 30:5,12, 14 65: 14 118: 14 130: 22 142: 5 167: 17 169: 4 seeks [2] 5:10 117: 11 seem [5] 50:16 67: 19 97: 20 113: 13 146: 24 seems [8] 9:12 21: 3 35: 16 55: 23 88: 8 136: 14 147: 9 155: 16 seen [1] 174:2 self-government [1] 18:4 sell [4] 8:2 10: 20 76: 10 103: 13 selling [1] 157:5 send [3] 63:16 91: 21 129: 20 senior [1] 167:5 sense [11] 5:11 46:7	20,22,25 161: 2 172: 22, 23 175: 22,23 57: 22 58: 20 100: 4 134: 3 153: 20 161: 7 174: 25 175: 2 176: 9 sensitive [12] 5:24 51: 18 56: 6,19 117: 13 129: 18 131: 3,4 156: 15 167: 8 173: 2,7 sent [1] 134:9 sentence [1] 51:9 sentences [1] 56:18 separate [3] 83:4 84: 18 90: 21 separately [2] 63:20 159: 13 separates [1] 80:10 seriously [1] 163:24 serve [1] 18:1 servers [1] 54:13 serves [1] 142:15 service [4] 58:10,10, 12 162: 19 services [2] 58:15 163: 20 serving [1] 116:13 set [9] 9:22 22: 17 44: 15 50: 24 118: 8 142: 5 151: 12 165: 5 166: 24 setting [1] 137:21 seventy [1] 88:11 sever [2] 90:23 114: 21 severability [2] 114: 17 160: 8 several [1] 167:15 severe [2] 34:14 163: 3 severed [2] 114:25 160: 15 severely [1] 14:18 SG [2] 53:14 115: 9 share [5] 54:18 56: 19 89: 22 107: 2 174: 13 shared [3] 81:25 82: 3, 4 sharing [8] 5:24 51: 17 52: 2 56: 6 63: 12 143: 6,24 145: 4 she's [1] 173:10 sheer [1] 88:3 Shein [2] 173:25 174: 9 shirt [3] 111:14,15,17 short [3] 6:1,20 58: 20 shot [2] 67:13 77: 12 shot-through [1] 157: 6 shouldn't [1] 4:13 shove [1] 150:9 show [4] 21:16 146: 12 151: 24 153: 16 shown [1] 82:18 shows [6] 25:23,24 26: 2 45: 24 52: 2 168: 8 shut [21] 4:12 8:3 10: 21 22: 12 37: 13 40: 14, 22 44: 9 57: 18 58: 2 59: 15,16 60: 1 76: 11 127: 8 140: 6 143: 8 147: 8,10 171: 21 173: 21 shuts [1] 57:5 shutting [5] 40:18 56: 14 72: 25 73: 10 91: 7 side [9] 12:11 45: 2 56: 9 93: 20 143: 4 146: 23 148: 23 154: 1 176: 22 sign [2] 63:20 124: 21 significant [1] 7:8 silence [2] 122:10 127: 2 similar [2] 49:8 161: 21 Simon [2] 6:17 7: 9 simplistically [1] 140: 17 simply [28] 5:23 7: 17 13: 3,10 19: 6,19 21: 10 47: 18 51: 16 54: 17 56: 16 57: 23 74: 19 86: 2 94: 1 95: 10 120: 23 127: 1 140: 25 146: 10 149: 13 154: 22 161: 21 163: 19 168: 19 172: 25 173: 14,21 since [2] 5:11 169: 20 sincere [1] 157:10 sincerely [1] 156:22 single [5] 5:1 35: 4 43: 3 86: 12 87: 12 175: 8 singled [1] 35:6 singles [2] 5:1 35: 4 Sir [1] 7:10 site [6] 75:17 86: 19 87: 25 89: 7 121: 16 148: 14 sites [4] 88:15 89: 1 90: 10 174: 1 sits [2] 54:13 55: 16 sitting [2] 69:21 87: 5 situation [8] 13:15 39: 1 72: 13 91: 5 103: 6 112: 14 113: 9 151: 7 situations [2] 127:18 140: 1 six [1] 169:15 small [2] 106:18 108: 19 social [11] 4:22 31: 11 82: 5 111: 1,25 116: 4 125: 11 129: 8 169: 13 174: 14,15 Society [1] 33:7 software [2] 161:9,14 solely [1] 97:9 Solicitor [4] 2:6 98: 7 105: 8 114: 5 solution [1] 47:4 solved [2] 90:3,4
---	--	--	--

Official

solves ^[1] 95:18 Somebody ^[11] 21:13, 14 25:18 35:1 39:17 40:8,18 41:9 76:7 84:11 140:5 somebody's ^[1] 111:12 somehow ^[11] 31:7, 23 147:21 152:20 156:9,10 166:18 175:11 176:25 177:1,1 someone ^[4] 12:15,23 75:20 126:21 someplace ^[1] 136:20 sometimes ^[1] 127:25 somewhere ^[1] 109:19 soon ^[1] 149:25 sophisticated ^[1] 140:16 Sorrell ^[2] 75:23 104:15 sorry ^[9] 23:21 56:20 85:8 94:20 103:17 126:6 133:19,20 148:19 sort ^[5] 12:12 64:15 105:1 136:10 172:9 SOTOMAYOR ^[68] 11:9,16,25 12:6,10 13:2,14,20 14:9,12,20,23 15:4 48:3,4,15,20,25 49:3,11,14,17 50:1,11,22 51:2,6,10,21,25 52:5,9,13 53:6,13 87:24 88:4,6,10,13,23 89:9,25 90:5,13,20 91:25 92:4 115:7,8 117:23 133:20 144:16,20 145:8 159:5,15 160:2,17 161:25 171:3,8,14,24 172:3,9,12 174:6 sought ^[3] 118:4 144:5 152:17 sound ^[1] 142:16 sounds ^[2] 69:12 143:25 source ^[14] 23:5 24:15 27:24 30:6 36:21 59:21 62:21,21 63:4,7,11 144:3 152:21 168:25 sovereign ^[1] 166:22 Soviet ^[4] 135:9,10,14 137:13 sow ^[2] 74:24 78:10 sowing ^[1] 85:13 space ^[3] 57:24 137:25 163:7 spanned ^[1] 143:18 speaker ^[19] 5:1 12:14 19:10 31:16,18,20 35:4,7 40:21 43:4 45:12 47:22 61:19,20 64:19 103:7 139:5 140:3 147:12 speaker's ^[1] 61:20 speaker-based ^[5] 35:11 128:1 139:8,10 147:15 speakers ^[12] 13:10 43:2,23 44:19 46:9 47:21 64:24 74:12,15 109:13 139:16,20 speaking ^[6] 4:15 17:13 19:20 37:1 84:20 122:4 specific ^[7] 118:14,15 122:17,17 141:12,13 145:9 specifically ^[11] 35:19 50:4 61:25 104:1 126:15 136:22 138:15 149:24 159:22 168:2 177:15 speech ^[107] 4:12,19 5:14 6:9,15 7:7,14 9:22 13:11 17:22,24 19:5 27:2,10 30:9,12 31:3,6 32:3 35:1 37:15 39:19,23,24 40:6,14,19,23 41:18,19,23,25 42:4 43:2,3,3 44:5,20,25 48:8,13,18 53:1,8 56:14 64:23 67:1 68:15,19,20,22,22,24 70:1,18 72:11 73:1 74:1,24 75:7,13 76:1,8 93:10 100:21 102:1,14,15 105:19 106:23 109:8 119:13 120:10 122:6 123:24 125:23 126:5,13 128:21 129:6 132:15,19 133:5,8,9 134:9 136:17 137:11 138:2,6,15 139:10 142:6 151:17,18 152:12,18 155:4 158:17 159:8,11 161:6 175:24 176:20 177:6,7,12 speech-neutral ^[3] 14:5 41:16 46:9 spell ^[2] 57:2 58:2 spelled ^[1] 81:1 spies ^[2] 54:3 79:23 square ^[1] 73:25 Srinivasan ^[2] 15:12 140:20 stage ^[1] 121:5 stand ^[2] 6:1 148:1 standard ^[6] 5:8 40:6 41:4 60:21 176:2,13 standards ^[1] 175:24 standing ^[3] 69:17 103:11 106:11 standpoint ^[2] 116:8 154:19 stark ^[1] 166:6 start ^[4] 9:19 18:7 149:6 163:23 started ^[2] 33:3 83:5 state ^[5] 12:21 33:9 38:1 54:6 113:10 state's ^[1] 114:4 state-owned ^[1] 102:11 statement ^[1] 163:1 statements ^[1] 22:22 STATES ^[47] 1:1,22 4:15 8:12 9:10,21,21 15:15 17:13 19:5,25 20:20 23:8,12 24:14,24 25:25 27:25 28:1 31:23 34:21 37:2 62:5 74:2 77:17 79:24 90:6 117:21 120:25 125:23,25 130:16 131:22,24 135:12 136:18 146:9 147:20 148:12 150:5 151:9,21,24 152:18 166:23 168:21 174:5 stations ^[2] 168:1,1 statute ^[19] 33:16 34:16 67:4 68:5 75:10,25 115:2 133:4 156:23 157:4,6 160:7,8,16 165:23 168:4 172:4,6,11 statutory ^[2] 149:3,15 stay ^[4] 165:10,15 176:5,10 stayed ^[1] 171:9 stays ^[1] 176:16 step ^[8] 37:7 42:21 60:16,19 73:10 93:9 107:23 119:18 steps ^[2] 85:23 170:4 still ^[18] 10:19 14:12,13 20:9 21:5 33:21 44:16 45:6,10 55:15 57:15 60:15 66:16 84:17 86:16 141:8 148:2 153:7 stop ^[8] 39:17 58:16 66:10 82:19,20 128:21 156:8 160:11 stops ^[1] 159:7 store ^[2] 124:21,22 stored ^[1] 81:24 stores ^[1] 58:7 straight ^[1] 36:8 strange ^[1] 99:24 Street ^[2] 70:16 109:21 strict ^[28] 15:9 20:10 35:11,21 42:1 45:19 46:15 49:10 52:23 55:1 68:4,5,10 69:13 70:23,24 71:2 74:4 99:7 107:24 108:3,7 132:15 142:14 152:23 160:20 172:22 175:22 strikes ^[1] 27:3 strings ^[2] 121:14 122:1 strong ^[4] 44:18 155:17 162:14,18 stronger ^[1] 35:17 struck ^[2] 6:16 7:9 structure ^[5] 19:8 39:2,6 40:8 107:19 struggling ^[2] 141:18 153:8 stuff ^[2] 89:4 98:23 subject ^[9] 8:17,24 28:2 35:21 45:13 74:4 126:16 137:22 141:13 subjects ^[1] 154:11 submission ^[2] 78:14 80:18 submit ^[1] 165:20 submitted ^[2] 177:24 178:2 subsidiaries ^[1] 169:3 subsidiary ^[9] 9:21 21:20,24 131:11 143:23 147:23 152:16 153:15 159:18 subsidiary's ^[1] 153:18 substance ^[3] 85:9 116:22,24 substantial ^[2] 144:7 165:2 substantive ^[1] 176:3 succeed ^[2] 164:12 168:7 success ^[3] 164:16 176:13,14 suck ^[1] 174:16 suffer ^[1] 34:14 suffering ^[1] 8:7 suffice ^[1] 143:2 sufficient ^[4] 159:3 163:9 165:19 167:19 suggest ^[3] 50:16 118:13 160:14 suggested ^[5] 49:22 51:13 98:1 164:2 175:4 suggesting ^[5] 36:13 50:21 69:11 72:20 152:16 suggestion ^[3] 143:21 164:8 171:15 suggests ^[4] 51:20 56:23 67:3 139:21 summary ^[1] 93:7 Super ^[1] 174:2 supply ^[1] 20:8 support ^[1] 68:5 Suppose ^[8] 7:21 10:12 17:3 38:1 44:20 131:13,16 151:19 supposed ^[3] 8:23 9:3 155:14 suppositions ^[1] 89:10 suppress ^[4] 118:14 122:10 126:5 138:2 SUPREME ^[2] 1:1,21 Surely ^[3] 8:1 37:5 38:9 surgically ^[1] 133:15 surprised ^[2] 32:8 143:13 surveilled ^[1] 146:16 surveilling ^[1] 170:16 suspect ^[1] 105:25 suss ^[2] 45:13,14 sustain ^[5] 5:20 70:2 85:23 86:1 114:19 sustainable ^[1] 82:12 sustained ^[1] 81:7 sweep ^[1] 173:18 sweeps ^[1] 158:16 system ^[6] 122:9 146:3 151:10 161:6,23 169:1 <hr/> T <hr/> table ^[1] 144:12 tailored ^[5] 72:5 119:7 155:7,8 157:12 tailoring ^[6] 69:9 72:4 93:22 94:25 126:10 128:20 taint ^[2] 158:19,19 taints ^[3] 69:22 80:19 156:10 talked ^[3] 76:2 95:20 173:24 target ^[4] 5:13 13:10 38:10 128:9 targeted ^[3] 36:14 44:18 119:17 targeting ^[4] 31:20 120:2 128:9 155:4 team ^[4] 24:13,18 63:7,10 technical ^[4] 141:14 173:10,12,19 technological ^[2] 144:1 145:14 technology ^[1] 30:7 teenagers ^[2] 54:2 167:1 tees ^[1] 149:2 teeth ^[1] 20:15 television ^[2] 15:18 108:21 tells ^[4] 62:2 78:7 85:12 105:25 temporary ^[1] 164:11 Temu ^[3] 86:20 173:25 174:2 tens ^[3] 53:24 87:14 134:23 term ^[1] 171:5 terms ^[3] 40:6 67:7 145:10 terrible ^[1] 79:24 terrorism ^[1] 79:13 terrorist ^[2] 67:22 78:2 test ^[4] 55:2 74:6 95:22 165:25 testing ^[2] 127:20,22 tests ^[1] 154:19 text ^[6] 75:9,10,25 82:3 114:6 177:10 theaters ^[2] 19:12,14 themselves ^[3] 119:11 148:7,13 theoretically ^[3] 66:21 68:16 114:24 theory ^[3] 19:13 63:16 127:14 there's ^[46] 16:19,20 18:25 20:6 24:12 29:24 31:16 32:1 40:2 41:2 42:12 51:19 56:3,22 57:6,8 58:11 59:9 71:13 73:3 75:22 80:20 89:4 91:14 98:19 101:23 102:1 104:25 114:17 123:8,10 124:18 135:2,5 142:25 146:1 150:1 151:4 155:5 156:22 157:14 158:12,13,18 166:22 169:12 therefore ^[5] 7:5 65:18 70:23 74:3 123:19 they've ^[8] 24:8 35:6 54:11 82:25 83:17 111:7,8 169:20 thinking ^[5] 122:3 124:12 161:8 166:9 177:2 thinks ^[4] 90:8 151:22 157:24 164:11 third ^[3] 39:24 40:17 60:12 third-party ^[3] 60:9 162:19 163:18 THOMAS ^[16] 6:8,22 7:11,16 43:7 75:6,9,15 76:16,19 77:1 112:24 119:20 120:5,11 171:2 though ^[12] 26:11,12 37:20 39:15 66:12 84:6 98:2 101:22 121:7 124:18 125:20 149:17 thoughts ^[1] 96:25 thousands ^[1] 112:11 threat ^[12] 11:19 12:22,23 54:23 74:23 79:2 90:6 117:10 118:23

Official

<p>138:25 145:6 173:3 threaten [2] 130:16 134:22 threatened [2] 12:19, 19 threats [1] 119:8 three [1] 4:13 threshold [1] 64:16 Throughout [2] 74:20 78:17 throw [1] 38:11 tied [1] 164:24 ties [2] 45:24 135:19 TIKTOK [153] 1:3 2:3 3:4,15 4:4,8,14 5:4 6:10,13,25 7:2,2,6,19 9:6,20 10:2,7 12:11 17:3 18:7,9 21:7,19 22:5,15 23:12 25:13 26:1,4,5 28:4 33:12,21,25 34:1,10,13,18 35:23 36:1,4,5,9,21,25 37:13 38:20,22 41:11 42:8,9,24,24 43:4,4 47:6 51:17 52:21 54:17 56:5,20 59:16,18,25 60:1 61:14 62:4,4,5,11 64:1,6,10 65:7 66:7,13,19 67:5,6,18 68:24 70:1 78:9 80:15 82:17,19,21 83:2 84:11,24 87:13 88:16 91:7,15 92:10 95:7 99:7 100:1,6,24 104:10 109:25 110:1,15,20,23,23 111:8 112:6 117:10,20,21 118:11,25 119:14 123:25 124:17 129:11 130:4 131:16,25 132:24 133:6,10 134:15 138:22 139:20 143:6,16 147:16 148:6,9,11 149:19 150:23 151:1 153:6,15 158:8 161:23 164:23 166:6,8 167:2 168:14,20 169:5 172:18 173:1 176:24 TikTok's [13] 4:19 6:9,15 7:7,14 28:22 32:9 56:16 68:15,19 118:8 151:18 177:19 TikTop [1] 5:23 timeframe [4] 23:19 24:3,11 63:2 timeline [2] 25:7 169:19 today [10] 68:18 74:1 79:22 82:11 95:20 124:3 127:10 143:14 165:21 167:2 together [4] 27:24 107:5 156:3 158:24 tomorrow [1] 140:7</p>	<p>took [1] 164:20 tool [2] 118:9 130:20 top [2] 77:13 118:10 topics [3] 138:3,15 142:7 total [2] 10:17 11:6 totally [5] 18:9 41:16 46:8 113:24 138:10 touch [1] 167:12 touched [2] 166:25 168:13 track [2] 170:12,13 tracking [1] 174:10 Trading [2] 13:13 14:6 tradition [10] 15:13 74:9 78:18 87:22 105:11 108:12 119:2 142:19 167:14 168:8 traditions [1] 95:23 trained [1] 175:10 translated [1] 27:24 transparency [2] 26:3,9 travel [4] 4:25 31:13 35:3 43:25 treat [2] 41:5 139:8 treated [2] 39:3 40:5 treatment [1] 5:2 trial [1] 89:14 tricky [1] 162:13 tried [3] 40:14 111:5 164:22 trigger [8] 31:10 42:1 47:23 132:15 134:10 136:23 152:23 154:17 triggered [2] 35:1 43:2 triggers [1] 61:20 trove [1] 167:7 true [10] 17:20 33:6 67:3 122:20 125:6,9,10 126:25 130:12 143:22 Trump [2] 57:12 164:23 trumped-up [1] 140:25 trust [3] 80:16 94:6,10 trusted [1] 146:8 truth [2] 18:5,5 try [9] 120:23 130:16,21 138:12 140:21 144:5 146:18 153:12 154:22 trying [35] 29:17,19,22 30:8 47:14,15 59:7,9 60:7 64:20 70:9 71:6 87:18,19 101:2,3 112:6 113:6 130:4,7,13 133:14 135:4 136:24 141:5,12 142:8,22 148:8 153:18 155:8 161:21 169:6,25 170:3</p>	<p>turn [6] 40:18 54:4 79:23 85:15 117:17 146:5 turned [1] 105:14 Turner [1] 108:20 turns [2] 136:19 177:15 Twitter [2] 76:8 169:15 two [30] 24:11 25:23 38:6,7 53:14 56:1 62:19 69:24,25 75:8,22 80:10 84:18 85:23 90:23 91:8,10 100:12 101:22,23 104:14 111:3 114:3 119:24 140:8 155:14 156:2,24 173:25 175:19 type [6] 42:13 53:8 125:1 134:13 167:17 173:10 types [7] 21:23 23:9 38:2 58:9 118:15,15 173:11 Typically [1] 60:22</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>U.S. [43] 4:14 6:24 8:11 9:9 11:12 17:16 19:9,19 21:7 22:5,16 24:21 25:2 54:18 78:9 85:14 90:9 117:12 119:3,22 131:11 139:19,20 143:6,23 146:14,16,18 147:23 148:6,6,9 151:21 152:15 153:15,18 159:17 168:14,20,22 169:5 170:15,16 U.S./China [1] 174:8 U.S.A [3] 12:12 52:21 135:17 ultimate [4] 8:15,24 10:2 176:14 ultimately [8] 8:7 14:2 28:4,22 40:22 68:8 176:20,23 unapparent [1] 122:18 unbridled [1] 109:6 unclear [1] 32:15 unconstitutional [2] 80:23 91:19 Under [41] 4:11 8:8 10:25 12:14,14 19:7,13 23:1 24:10 45:18 49:9,23 51:24 54:22 55:17 56:12 65:22 68:12,15 70:3 72:8,19 74:6,13,22 81:18 82:1 86:5 95:21 102:13 104:15 108:10 134:11 136:23 147:3 162:10 164:23 171:5 173:3 175:24 176:2</p>	<p>24 176:2 under-inclusive [3] 5:21 45:22 89:8 under-inclusiveness [3] 49:5 86:17 173:25 undergird [2] 163:16 168:10 underlies [1] 28:8 underlying [4] 18:2 29:10 62:20 63:7 undermine [7] 20:21 31:24 67:19 74:25 78:9 117:12 131:24 undermines [1] 80:15 undermining [3] 94:6,9 177:13 underneath [1] 79:6 underscores [3] 22:15 66:25 72:21 understand [39] 11:1,10 13:24 17:17 18:22 23:25 24:8,16,20 25:4 44:7 47:10 55:21 57:4,18 63:22 64:20 68:3 69:3,7,10 70:5,10 71:7 77:20 78:23 83:8 88:17 93:5 98:14 112:21 113:25 120:4 127:19 130:2 154:21 158:5 160:21 176:6 understanding [2] 97:10 156:2 understood [8] 32:9 47:2 71:9 80:5 109:2 128:6 129:2 171:4 undertake [2] 13:22 170:19 undertaken [1] 130:24 undertook [1] 73:5 Underwood [4] 86:6 91:4 113:3,9 undisputed [1] 18:9 unfold [1] 31:2 unilateral [1] 164:18 Union [3] 135:9,10 137:13 unique [1] 89:7 uniquely [1] 5:2 UNITED [49] 1:1,22 4:15 8:12 9:10,20,21 15:15 17:13 19:5,25 20:20 23:8,12 24:14,23 25:25 27:25 28:1 31:23 34:21 37:2 62:5 74:2 77:17 79:24 90:6 117:21 120:25 125:23,25 130:15 131:22,24 135:11 136:18 138:23,24 146:9 147:20 148:11 150:5 151:9,21,24 152:18 166:</p>	<p>23 168:21 174:5 universe [3] 5:1 31:15 37:8 University [2] 127:9 128:24 unless [15] 4:16 6:13 7:3 31:12 34:2 39:17 57:6,8,9 66:5 98:15 159:6 162:25 164:11 169:21 unlikely [1] 138:20 unpack [2] 49:12 63:6 unprecedented [4] 40:12 73:10,10 117:22 unqualified [2] 134:19 136:4 unrestricted [1] 119:14 unsuccessful [1] 112:8 untethered [1] 29:10 unusual [1] 21:6 unworkable [1] 113:14 up [32] 8:9 10:10 20:25 59:3 63:20 65:8 66:14 77:22 83:25 87:6 94:22 102:24 104:20 108:2 112:2,6 125:3 135:6 138:8 140:6 143:14,17 145:19 147:8,10 149:3 150:3 161:13 164:21,24 167:4 174:16 update [2] 24:15 63:8 updated [1] 163:14 upheld [1] 68:8 uphold [3] 81:18 86:11 159:3 upside [1] 105:14 user [11] 5:24 51:18 54:12,19 56:6,19 89:22 90:8 173:2,7 174:10 user-generated [4] 4:23 31:12 35:2 43:24 users [18] 30:16 82:4 92:25 102:20,25 117:24 130:23 133:13 134:12,16,18 139:20 148:6 152:15 153:17 166:18 174:5,13 uses [2] 6:11 100:18 using [10] 10:14 46:4 76:19 79:20 86:20 90:7 132:24 146:17 166:8 167:1 utter [1] 30:12 Uyghurs [1] 170:13</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>valid [3] 5:9 85:20 119:6</p>	<p>valuable [2] 118:2 122:6 various [4] 80:17 85:16 140:21 169:2 vast [2] 117:12 167:7 verboden [2] 91:17 108:10 verse [1] 113:8 versus [8] 4:5 10:7 27:7 70:22 77:18 113:3,8 153:9 vetting [1] 28:2 vibrant [1] 74:1 vices [1] 118:7 videos [14] 24:23,24 25:1,2 30:24 62:8 75:12 84:23 85:5,6,10 106:24 116:17 129:12 view [6] 6:11 67:19 89:7 102:24 123:22 140:15 viewed [1] 43:12 viewpoint [9] 77:8 109:10,13 126:17 140:3,11 141:7 142:1 152:19 viewpoint-based [2] 40:20 139:11 viewpoints [8] 118:16 132:12 137:23 138:3,16,23 141:13 154:11 views [6] 78:11 122:10 128:7 129:3 138:21 142:7 vindicate [1] 158:22 vindicated [1] 79:10 violate [5] 8:4,5 10:21 158:9 172:6 violated [1] 172:5 violating [1] 58:12 violation [4] 20:6 60:17 171:22 172:7 Virginia [1] 54:13 voice [1] 89:2 voices [2] 73:11 127:2 voluntary [1] 89:21 voracious [1] 131:5 votes [1] 113:22 vulnerability [7] 122:9 138:9 142:9 146:3 157:8 161:13 169:7</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wagon [1] 28:14 walk [3] 46:21 104:10 156:5 walked [1] 124:21 Wall [2] 70:16 109:21 walled [1] 146:14 wanted [12] 7:25 10:16 19:16 20:25 45:19 76:7 95:11 96:24 126:17 133:21 161:12 168:</p>
--	--	---	--	---	---

11 wanting ^[1] 158:14 wants ^[12] 28:20 33:22,25 53:1 99:17 100:7,8 102:10 103:7,12 138:4 141:2 war ^[3] 79:17 95:25 177:3 ward ^[1] 141:5 warning ^[5] 90:4 166:2,6,7 167:2 warrant ^[2] 23:3 152:13 warrants ^[1] 139:18 Wash ^[1] 7:24 Washington ^[13] 1:17 2:2,7 7:24 8:3,6 10:9,15,22 11:8,18 13:16 106:2 way ^[36] 11:18 12:17 15:7 31:1 32:1 34:11,25 36:20 54:11,12 60:16 62:8 64:2 71:23 72:5 81:1 88:3 89:7 103:10 107:17 108:16 110:8 116:20,23 121:17 136:5 137:7 138:1 139:21 140:15 143:22 148:8 151:2 156:19 158:17 161:1 ways ^[7] 14:4 75:8,23 82:9 126:1 131:25 140:21 weaken ^[2] 120:25 130:15 wealth ^[1] 145:23 weapon ^[2] 118:12 131:8 weaponize ^[4] 117:20 120:17 125:24,24 wearing ^[1] 111:15 Web ^[1] 16:18 website ^[3] 89:6 124:1 174:20 websites ^[2] 87:16 89:17 weeks ^[1] 140:8 weight ^[1] 70:19 weird ^[1] 92:14 welcome ^[3] 6:7 75:4 119:19 well-publicized ^[1] 146:15 whatever ^[25] 7:24 10:16 11:18 12:25 30:24 33:22 36:16 45:18 50:24 52:25 53:8 65:10 66:13 83:19,20 99:17 100:7,7 118:21 134:25 138:12 140:9 151:8 152:2 171:24 whatsoever ^[1] 131:17 Whereupon ^[1] 178:1	Whether ^[57] 4:17 15:4 17:12 20:5 28:23 31:7,8 33:17 42:18,19 45:14,19 48:6 54:25 56:4 61:23 64:21,25 70:23 72:7 78:12 83:24 84:2 85:22 88:20 90:8,9 92:7 93:24 97:4 109:11 110:11,12 111:11 122:22,23 125:15 132:5 135:5,7 142:25 143:1 148:23 149:4 157:20,24 158:21 160:18 165:19 166:1 168:13,15 170:7 172:21 175:22 177:9,10 Whitney ^[3] 78:20 94:11,13 who's ^[2] 75:20,21 whoever's ^[1] 150:21 whole ^[9] 16:10 60:12 89:4 115:1 132:21 153:5 156:23 167:9 177:3 wholly ^[5] 69:1 73:20 99:18 102:11 147:24 Wide ^[1] 16:18 will ^[17] 4:3,12 6:3 34:11 36:20,21 54:5 59:25 62:6,7 75:18,19 137:8 138:12 150:8,10,22 willing ^[5] 20:3 59:20,20 105:17 150:12 willingly ^[1] 150:3 win ^[4] 107:3,4,14,15 winners ^[1] 16:8 winning ^[1] 130:9 Within ^[8] 4:25 23:19 27:14,22 31:15 37:21 63:2 169:11 without ^[8] 11:19 18:11 89:14 96:19 100:24 145:4 165:5 173:15 wonder ^[1] 42:12 wondering ^[3] 41:2 72:7 111:11 word ^[5] 123:12 141:22,23 142:1 145:9 words ^[3] 42:7 103:1 162:9 work ^[16] 8:19,25 49:9 74:12 76:6,7,17 101:4,15,24 102:9 103:8 118:5 124:5,6 165:22 worked ^[1] 103:25 working ^[6] 54:5 77:11 100:17 104:3,5,18 works ^[3] 34:25 60:16 121:9 World ^[18] 16:18 26:5,7 56:22 57:20 58:21	63:17 69:14 70:24 71:3 86:21 95:25 99:25 100:23 108:18 109:3 121:5 144:18 worried ^[13] 31:21 62:1,3 78:7 81:4,6 85:2,13 86:18 132:18 168:23 176:23 177:12 worry ^[1] 81:5 worst ^[3] 43:16 44:3,3 wow ^[1] 151:22 writ ^[2] 161:23 177:18 write ^[1] 7:24 writer ^[1] 109:20 written ^[2] 103:10 168:3 <hr/> Y <hr/> years ^[9] 63:9 83:25 97:23 106:15 108:22 112:6 118:3 143:18 163:15 yield ^[1] 25:11 York ^[6] 38:1,4,7,10 70:16 109:22 yourself ^[1] 30:22 youths ^[1] 79:22 <hr/> Z <hr/> Zauderer ^[1] 72:19 Zubaydah ^[1] 96:21
--	---	--