

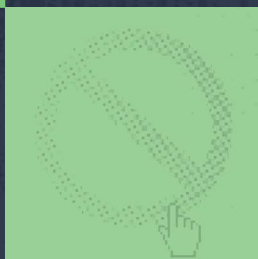


WEAPONIZING TERMS OF SERVICE

**HOW ONLINE SERVICE PROVIDERS
USE BROAD POLICIES TO
SILENCE CONSERVATIVES**

U.S. SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION

RANKING MEMBER TED CRUZ



EXECUTIVE SUMMARY

Over the past several years, an alarming, widespread phenomenon has developed. Woke companies, from social media platforms to banks, and payment processors to restaurants, have used their structural power to silence conservatives and deny them access to goods and services the companies readily make available to liberal Americans. Consider:

Twitter (prior to Elon Musk's purchase) suspended the account of the parody site, *The Babylon Bee*, for making a joke about a Biden administration official.¹ **Facebook** suppressed stories about Hunter Biden's laptop before the 2020 election,² and removed posts suggesting COVID-19 originated in a Wuhan lab—a theory the Department of Energy and Federal Bureau of Investigation later deemed credible.³ **YouTube** took down a March 2021 video of a panel discussion with Florida Governor Ron DeSantis, during which panelists disputed claims that children needed to wear face masks.⁴ The online video sharing platform, which is owned by **Google**, also blocked access to a November 2023 episode of Senator Ted Cruz's podcast, *Verdict*, which criticized the mainstream media's favorable coverage of Hamas.⁵

In 2022, **DirectTV** dropped One America News Network, less than a year after Democrat leaders in Congress sent a letter pushing the CEO of AT&T, DirectTV's largest shareholder, to stop carrying the network.⁶ The satellite television provider also dropped Newsmax before congressional pressure forced it to reverse course.⁷

Intuit (at the direction of its banking partners) refused to provide payment processing and payroll services to gun manufacturers and sellers.⁸ **JPMorgan Chase** closed the accounts of the National Committee for Religious Freedom, created by former State

¹ Rebecca Klar, *Twitter Suspends Babylon Bee for Misgendering Rachel Levine*, HILL (Mar. 21, 2022), <https://thehill.com/policy/technology/599051-twitter-suspends-babylon-bee-for-misgendering-rachel-levine/>.

² Jared Gans, *Zuckerberg Tells Rogan Facebook Suppressed Hunter Biden Laptop Story After FBI Warning*, HILL (Sept. 26, 2022), <https://thehill.com/policy/technology/3616579-zuckerberg-tells-rogan-that-facebook-suppressed-hunter-biden-laptop-story-after-fbi-warning-defends-agency-as-legitimate-institution/>.

³ Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (Jul. 28, 2023), <https://www.wsj.com/articles/facebook-bowed-to-white-house-pressure-removed-covid-posts-2df436b7/>; Anumita Kaur & Dan Diamond, *FBI Director Says Covid-19 "Most Likely" Originated from Lab Incident*, WASH. POST (Feb. 28, 2023), <https://www.washingtonpost.com/nation/2023/02/28/fbi-director-christopher-wray-wuhan-lab/>.

⁴ Meryl Kornfield, *YouTube Pulls Video of DeSantis Panel Discussion Urging No Masks for Children*, WASH. POST (Apr. 9, 2021), <https://www.washingtonpost.com/technology/2021/04/09/desantis-youtube-coronavirus/>.

⁵ See *Verdict with Ted Cruz, Major Hostage Deal: 50 Women and Children to be Freed, but Hamas Given Time and Fuel to Rebuild, plus Biden's Woke War on "Racist Roads,"* at 19:30-26:00 (Nov. 22, 2023), <https://omny.fm/shows/verdict-with-ted-cruz-1/major-hostage-deal-50-israeli-women-children-to-be>.

⁶ Letter from Senators Ted Cruz, Lindsey Graham, Mike Lee, and Tom Cotton to John Stankey, CEO, AT&T, Jon Winkelried, CEO, T PG, and William Morrow, CEO, DirectTV (Feb. 1, 2023).

⁷ *Id.*; Senator Ted Cruz, United States Senate, Sen. Cruz Applauds DirectTV's Decision to Bring Newsmax Back on Air (Mar. 22, 2023), <https://www.cruz.senate.gov/newsroom/press-releases/sen-cruz-applauds-directvts-decision-to-bring-newsmax-back-on-air>.

⁸ Letter from Ranking Member Ted Cruz, S. Comm. Commerce, Science, & Transportation, to Mr. Sasan Goodarzi, CEO, Intuit Inc. (Sept. 25, 2023).

Department Ambassador at Large for International Religious Freedom and U.S. Senator, Sam Brownback.⁹ **GoFundMe** blocked the release of \$10 million in donations to the Canadian truckers’ “Freedom Convoy,” a campaign to protest the country’s COVID-19 lockdowns.¹⁰ Even restaurants have gotten into the act. In 2018, the **Red Hen restaurant** famously kicked out then-White House press secretary, Sarah Huckabee Sanders.¹¹

Though the reasons these companies give to justify their actions vary—the content posted on the platform is “hateful,” “disinformation,” or contains “hacked material”—the result is the same: conservatives are discriminated against and silenced.¹²

Even more disturbing, large technology companies that provide web-based products and services (Online Service Providers) are going further, banning conservative organizations from using the technology that they rely on to operate based on their actions outside of the platforms. As a result of these sudden and unappealable removals, conservatives lose access to important services, which inhibits their advocacy. Despite the troubling consequences, Online Service Providers have continued banning conservatives with impunity—until now.

Under the leadership of Senator Ted Cruz, the Ranking Member of the United States Senate Committee on Commerce, Science, and Transportation (the Committee), the Committee investigated episodes where Online Service Providers cancelled services for conservative organizations. **This investigation revealed that Online Service Providers are following a new playbook for silencing conservatives that leftist organizations—including the notoriously biased Southern Poverty Law Center (SPLC) and Anti-Defamation League (ADL)—concocted: “removing infrastructure services” that conservative organizations “need to operate” by weaponizing their terms of service.**¹³

⁹ Wesley J. Smith, *Financial Excommunication: The De-Banking of Conservatives*, NAT’L REV. (Jul. 26, 2023), <https://www.nationalreview.com/corner/financial-excommunication-the-de-banking-of-conservatives/>;

Jathon Sapsford, *JPMorgan Targeted by Republican States Over Accusations of Religious Bias*, WALL ST. J. (May 13, 2023), <https://www.wsj.com/articles/jpmorgan-targeted-by-republican-states-over-accusations-of-religious-bias-903c8b26>.

¹⁰ Jesse O’Neill, *GoFundMe Severs Ties with Canadian Anti-Vax Trucker Rally, Withholds \$10M in Donations*, N.Y. POST (Feb. 5, 2022), <https://nypost.com/2022/02/05/canadian-anti-vax-truckers-has-millions-in-donations-blocked-by-gofundme/>; Letter from Sen. Ted Cruz to Chairwoman Lina Khan, Federal Trade Commission (Feb. 6, 2022).

¹¹ Breonna Houck, *Red Hen Owner Says Kicking Out Sarah Sanders Ultimately Boosted Business*, EATER (May 14, 2019), <https://www.eater.com/2019/5/14/18623674/red-hen-kicking-out-sarah-sanders-improved-business>.

¹² See Seth Dillon, *Twitter Suspends the Babylon Bee*, BABYLON BEE (Mar. 22, 2022), <https://babylonbee.com/news/twitter-has-shut-down-the-bee>; Vanessa Glavinskas, *Pinterest Banned Climate Change Disinformation. Will Other Social Media Giants Do the Same?*, VITAL SIGNS (Jun. 6, 2022), <https://vitalsigns.edf.org/story/pinterest-banned-climate-change-disinformation-will-other-social-media-giants-do-same>; David Morgan, *Former Twitter Execs Tell Republicans They Erred on Hunter Biden Laptop Story*, REUTERS (Feb. 8, 2023), <https://www.reuters.com/world/us/republican-led-us-house-panel-probes-twitter-block-hunter-biden-story-2023-02-08/>.

¹³ MEGAN SQUIRE, BAD GATEWAY: HOW DEPLATFORMING AFFECTS EXTREMIST WEBSITES, ANTI-DEFAMATION LEAGUE CTR. FOR TECH. & SOC’Y 6 (2023) [hereinafter BAD GATEWAY], <https://www.adl.org/sites/default/files/documents/2023-02/BadGateway.pdf>.

A February 2023 ADL report authored by SPLC’s “deputy director of data analytics and open source intelligence” instructs “infrastructure service providers” to rely on “broad” terms of service agreements to deplatform groups they deem to be “extremist[s].”¹⁴ The report implicitly recognizes that because organizations obtain software services online, rather than downloading them locally as they did years ago, Online Service Providers have developed a power akin to “infrastructure provider[s].”¹⁵ As the ADL report notes, these powerful Online Service Providers usually establish “terms of service, community guidelines, acceptable use policies, or the like” that “describe broad categories of activities that are disallowed, such as posting pornography, spam, hate speech, and illegal content.”¹⁶ And when a so-called “extremist” organization violates one of these policies—particularly provisions concerning “hate”—the Online Service Provider can remove its content or suspend its account.¹⁸ The ADL report explains that cancelling an organization’s technology services is effective because, among other things, the organization’s efforts to replace the cancelled services “presents significant challenges, including higher costs and smaller audiences.”¹⁹ Moreover, according to the ADL report, the most effective deplatforming “requires coordination among multiple companies” and “limit[ed] advance notice.”²⁰ The ADL report concludes that “fighting extremism online requires . . . cooperation from infrastructure providers like Cloudflare, GoDaddy, and Google.”²¹ Along similar lines, SPLC’s Chief of Staff, Lecia Brooks, testified before Congress that tech companies should “create—and enforce—policies and terms of service to ensure that social media platforms, payment service providers, and other internet-based services do not provide platforms where hateful activities and extremism can grow.”²²

SPLC and ADL are hardly neutral advisors on “extremism.” SPLC falsely labels conservative organizations, including the Alliance Defending Freedom (a Christian legal advocacy group), the Family Research Council (a pro-life think-tank), and Moms for Liberty (a parental rights group) as hate groups.²³

¹⁴ *Id.* at 5, 8.

¹⁵ *Id.* at 8.

¹⁶ *Id.* (emphasis added).

¹⁷ The ADL report does not define what the term “extremist” means, but the website of the organization that employs the report’s author (SPLC) provides some insight into what kind of actions may qualify: for example, SPLC identifies the enactment of Florida’s Parental Rights in Education Act as a “key moment” in anti-LGBTQ extremism. See *Anti-LGBTQ*, SPLC, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/anti-lgbtq>.

¹⁸ BAD GATEWAY, *supra* note 13, at 8.

¹⁹ *Id.* at 7.

²⁰ *Id.* at 31.

²¹ *Id.* at 7.

²² *Dollars Against Democracy: Domestic Terrorist Financing in the Aftermath of Insurrection: Hearing Before the H. Subcomm. on National Security, International Development and Monetary Policy, Comm. on Financial Services*, 117th Cong. 13 (2021) (statement of Lecia Brooks, Chief of Staff, Southern Poverty Law Center).

²³ *Alliance Defending Freedom*, SPLC, <https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom>; *Family Research Council*, SPLC, <https://www.splcenter.org/fighting-hate/extremist-files/group/family-research-council>; *Moms for Liberty*, SPLC, <https://www.splcenter.org/fighting-hate/extremist-files/group/moms-liberty>.

At the same time, SPLC refuses to identify liberal groups that have openly carried out violent attacks, like Antifa and Jane’s Revenge, as hate groups. While ADL’s “Center on Extremism” does not publish a list of “extremist” groups, its targeting of conservative individuals and organizations has generated criticism.²⁴ ADL also often allows left-wing groups to skate by. For example, it provides an apologist entry for Antifa in its “glossary on extremism,” describing Antifa as a movement “focus[ed] on countering right wing extremists both online and on the ground” and claiming that its members do not normally engage in violence, contrary to what ADL says are “disinformation campaigns” that “distort public perception of the movement.”²⁵ This report examines how companies have answered these obviously biased groups’ calls to deplatform conservative “extremists.”

The Committee’s investigation focused on three Online Service Providers that cancelled services to conservative organizations based on their positions on transgender-related issues. Those issues are currently some of the most hotly debated topics in the country. Committees in the United States Senate and House of Representatives have held hearings on “gender affirming” medical care for minors and transgender people participating in women’s sports.²⁶ Many states have passed legislation on those same topics, as well as legislation regarding public restrooms and parental rights.²⁷ Americans are divided—but not evenly—on these issues.²⁸ For example, according to Gallup’s most recent annual Values and Beliefs survey, conducted in May 2023, only 26 percent of Americans support biological males competing on female sports teams, while 69 percent oppose.²⁹ And a 2023 Washington Post-KFF poll revealed that only 31 percent of Americans support puberty blocking medication for minors, while 68 percent oppose.³⁰ By speaking on such topics, the organizations discussed here contribute to important political debates. And what is more, their positions generally align with the views of a large majority of Americans.³¹

The Online Service Providers discussed in this report are stifling debate on these issues by following the SPLC and ADL’s deplatforming playbook to a T. In the cases featured in this report, the Online Service Providers premised their decisions to deny

²⁴ See, e.g., Bethany Mandel, *The Anti-Defamation League’s Sad Slide into Just Another Left-Wing Pressure Group*, FEDERALIST (Jul. 28, 2017), <https://thefederalist.com/2017/07/28/anti-defamation-leagues-sad-slide-just-another-left-wing-pressure-group/>.

²⁵ *Who are Antifa?*, ADL, <https://www.adl.org/resources/backgrounders/who-are-antifa>.

²⁶ *Protecting Pride: Defending the Civil Rights of LGBTQ+ Americans: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. (2023); *The Dangers and Due Process Violations of ‘Gender-Affirming Care’: Hearing Before the Subcomm. on the Constitution and Limited Government of the H. Comm. on the Judiciary*, 118th Cong. (2023); *The Importance of Protecting Female Athletics and Title IX: Hearing Before the Subcomm. on Health Care and Fin. Services of the H. Comm. on Oversight and Accountability*, 118th Cong. (2023).

²⁷ Adeel Hassan, *States Passed a Record Number of Transgender Laws. Here’s What They Say.*, N.Y. TIMES (Jun. 27, 2023), <https://www.nytimes.com/2023/06/27/us/transgender-laws-states.html>.

²⁸ Anna Brown, *Republicans, Democrats Have Starkly Different Views on Transgender Issues*, PEW RSCH. CTR. (Nov. 8, 2017), <https://www.pewresearch.org/short-reads/2017/11/08/transgender-issues-divide-republicans-and-democrats/>; Melissa Block, *Americans Are Deeply Divided on Transgender Rights, a Poll Shows*, NPR (Jun. 29, 2022), <https://www.npr.org/2022/06/29/1107484965/transgender-athletes-trans-rights-gender-transition-poll>.

²⁹ Jeffrey M. Jones, *More Say Birth Gender Should Dictate Sports Participation*, GALLUP (Jun. 12, 2023), <https://news.gallup.com/poll/507023/say-birth-gender-dictate-sports-participation.aspx>.

³⁰ *KFF/The Washington Post Trans Survey* (Nov. 10–Dec. 1, 2022), WASH. POST (Mar. 22, 2023), <https://www.washingtonpost.com/tablet/2023/03/23/nov-10-dec-1-2022-washington-post-kff-trans-survey/>.

³¹ See *id.*; Block, *supra* note 28.

services on vague anti-hate policies in the companies' terms of service and some action by conservative individuals or organizations unrelated to the Online Service Providers' platforms. But the Online Service Providers did not identify any instance where the banned organizations advocated for violence against people who identify as transgender or anyone else in the LGBTQ+ community. Rather, it appears that the Online Service Providers deemed any critique of transgender ideology as hateful and therefore in violation of their respective terms of service. **The Online Service Providers relied upon biased, left-wing organizations like SPLC and ADL in determining what organizations and individuals were involved in hateful conduct.** Moreover, the Online Service Providers often removed offending organizations' access to services without notice. The swift removals deprived the organizations of an opportunity to make the case to the Online Service Providers that they did not actually violate the terms of service. The removals also forced the organizations to quickly secure a replacement product or service, sometimes striking out multiple times before finding an Online Service Provider willing to provide the necessary technology. While none of the services was so critical as to destroy the organizations, the cancellations still impacted the organizations' operations. Meanwhile, the Online Service Providers often continued to allow radical, sometimes violent, left-wing groups to use their services. In each case, the Online Service Provider stood by its decision to remove a conservative group's access to its services. Therefore, it is unlikely that these incidents will stop unless the market or Congress—or both—take action.

This report proceeds in four parts. Part I examines Slack's removal of Libs of TikTok's workspace from its platform because Libs of TikTok reposted Boston Children's Hospital's advertisements for all-age drag shows and video concerning "gender affirming hysterectomies." Part II discusses Eventbrite's removal of event pages for events related to Matt Walsh's *What Is a Woman?* documentary based on the trailer's "overall tone" and Walsh's public statements on transgender related issues and "gender-affirming care," as well as an event where Riley Gaines was scheduled to speak, due to her comments about biological men competing in women's sports. Part III focuses on the decision by a major nonprofit technology services provider, Bonterra, to terminate its relationship with Independent Women's Forum, which advocates for female athletes. The report concludes in Part IV.

REPORT SNAPSHOTS

Slack cancelled Libs of TikTok’s workspace for violating its terms of service, which prohibit users from “engag[ing] in activity that incites or encourages violence or hatred against individuals or groups” on or off the platform. Slack determined that Libs of TikTok violated this policy based on three social media posts concerning “gender-affirming” hysterectomies and all-age drag shows. Slack shut down Libs of TikTok’s workspace without any warning and without any explanation as to how it had violated Slack’s policy. Slack’s actions caused Libs of TikTok to effectively lose use of its Slack communications and forced it to rely entirely on cell phones to run its business.

Slack told the Committee that “[w]hat makes [Libs of TikTok’s posts] problematic is that Libs of TikTok has a specific audience, and they are taking this information and posting it to that specific audience so that everyone in that audience sees it at the same time.”

Eventbrite cancelled pages for events hosted by College Republican clubs concerning Matt Walsh’s *What Is a Woman?* film and another event featuring former collegiate swimmer Riley Gaines for violating its terms of service, which prohibit “hateful, dangerous, or violent content or events.” Eventbrite determined that the Matt Walsh events violated that policy even though no one involved in that decision watched the film or identified anything objectionable in the trailer. It instead relied upon Matt Walsh’s statements about “gender affirming” surgeries, pronouns, and his “Johnny the Walrus” children’s book to reach that conclusion. Eventbrite determined that the Riley Gaines event violated its policy based on her social media posts about biological men competing in women’s sports. Eventbrite shut down the event pages without any warning or explanation as to how they violated this policy. Eventbrite’s actions ruined advertisements that included QR codes for the event pages, forced event organizers to quickly pivot to a new method of providing tickets, and caused confusion regarding the event details, possibly impacting attendance.

The Committee asked Eventbrite whether Gaines’s statement in her October 10, 2023 post on X that “Real Women . . . lack a Y chromosome” violated Eventbrite’s policy because it disparaged someone’s perceived gender. Eventbrite replied that the post “speaks for itself.”

Bonterra refused to provide nonprofit management services to Independent Women’s Forum—a conservative organization focused on advancing women’s rights—for violating its policies, which require customers to agree to refrain from advocacy denying “LGBTQ rights,” “a woman’s right to reproductive choice,” “racial justice,” or “climate change,” as well as prohibit customers from “promot[ing], encourag[ing], or facilitat[ing]: hate speech, violence, discrimination based on race, color, sexual orientation, marital status, gender or identity expression.” Bonterra notified Independent Women’s Forum of its decision not to renew their contract without any explanation as to how the organization violated this policy. As a result, Independent Women’s Forum had to quickly move off Bonterra’s platform and obtain a replacement services provider—a time-consuming process which negatively affected its advocacy.

Bonterra told the Committee that Independent Women’s Forum violated its terms of service because the organization “works to restrict the rights of the LGBTQ community.” Bonterra could not explain how exactly the group was working to restrict LGBTQ rights but generally pointed to Independent Women Forum’s advocacy on issues like protecting women’s sports and women’s spaces.

FINDINGS

This investigation found:

1. Online Service Providers offer important products and services that organizations and businesses rely on to operate—often in markets with only a few providers of such services. As a result, when an Online Service Provider terminates or denies service to a user, the user often struggles to find a replacement.
2. Online Service Providers establish broad, vague, and ill-defined terms of service, which include some type of “anti-hate” provisions that maximize their flexibility when denying and terminating services.
3. Online Service Providers apply their terms of service not only to users’ activity on their platform, but also users’ activity outside of it.
4. Online Service Providers often employ teams of employees who investigate potential violations of the terms of service. In investigating potential violations, those employees review users’ actions outside of the Online Service Provider’s platform.
5. Online Service Providers often rely on left-wing groups, like SPLC and ADL, when deciding which users to deny access or services.
6. Online Service Providers employ unfair procedures when they terminate or deny services based on a violation of the terms of service:
 - a. Although Online Service Providers sometimes specify which terms of service provision a user violated, they do not explain how the user violated that provision. Therefore, even when there may technically be an avenue for users to challenge terminations or denials, there is no effective way to do so.
 - b. The Online Service Providers usually do not provide advance notice of the terminations, forcing banned users to scramble to find an alternative service and interrupting the users’ operations.
7. These factors combine to chill conservative speech and hobble organizations that advocate for conservative values.

RECOMMENDATIONS

Congress should consider one, or all, of the following legislative solutions to reduce Online Service Providers' discriminatory behavior:

1. Legislation requiring Online Service Providers to publish the standards, including detailed definitions of all key terms and phrases, they may employ to deny or cancel services.
2. Legislation requiring Online Service Providers to provide written notice to a user when refusing to provide a service or cancelling a service based on the user's violation of the terms of service. This written notice must specifically identify the users' actions that violated the terms of service. The Online Service Providers must also request the user's permission to post the refusal or cancellation on its public website and do so if the user gives that permission.
3. Legislation requiring Online Service Providers to publish an annual report on their public websites outlining actions taken to enforce their terms of service. This report must include the number of instances that the Online Service Provider denied or cancelled service based on the terms of service, and, for each instance, the specific provision that was violated, as well as the source for the alert of the violation.

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SLACK DOES NOT CUT LIBS OF TIK TOK ANY SLACK

Slack shut down Libs of TikTok’s workspace in February 2023. The company claimed this move was necessary because Libs of TikTok’s social media posts about “gender affirming” hysterectomies at children’s hospitals and all-age drag shows—not its conduct on the Slack platform—violated its terms of service, specifically its prohibition on Slack users from engaging in activity that “incites . . . hatred.” Slack has shut down the workspaces of other conservative organizations for violating this policy. It appears, however, that violent, liberal organizations continue to use Slack workspaces.

A. SLACK

Slack is an instant messaging platform that companies and organizations use for internal communications.³² Slack emphasizes that the platform “is not social media. It is designed for business work.”³³ An organization uses Slack by creating an account, or “workspace,” which it purchases through a monthly subscription fee.³⁴ Members and employees use their organization’s Slack workspace to chat and share documents. Slack is extremely popular: after its public release in 2014, Slack reportedly became “the fastest-growing enterprise software ever,”³⁵ and hosted over 32 million active users in 2023.³⁶ According to some reports, Slack has an approximately 20 percent share of the communication market.³⁷ Organizations of all sizes rely on Slack as an internal communication tool, including large companies, like Airbnb and Target, and small organizations, like, until recently, Libs of TikTok.³⁸

Slack’s parent company is also well known. Salesforce acquired Slack for \$27.7 billion in July 2021.³⁹ Salesforce’s CEO, sometimes referred to as “tech’s woke CEO,”⁴⁰ leads

³² See SLACK, <https://slack.com/>.

³³ Mar. 7, 2023 Briefing with Slack.

³⁴ *What is Slack?*, SLACK TECHS., <https://slack.com/what-is-slack> (last visited Feb. 15, 2024).; *Pricing*, SLACK TECHS., <https://slack.com/pricing>.

³⁵ John Koetsier, *How Slack Became the Fastest-Growing Enterprise Software Ever*, FORBES (Nov. 30, 2018), <https://www.forbes.com/sites/johnkoetsier/2018/11/30/how-slack-became-the-fastest-growing-enterprise-software-ever/?sh=763eff8a6e7a>.

³⁶ Rohit Shewale, *Slack Statistics 2024: Users, Revenue, Growth*, DEMAND SAGE (Mar. 15, 2024), <https://www.demandsage.com/slack-statistics/>.

³⁷ *Market Share of Slack*, 6 SENSE, <https://6sense.com/tech/communication/slack-market-share>; Rok Krivec, *Slack Statistics*, COLORLIB (Jan. 3, 2024), <https://colorlib.com/wp/slack-statistics/>.

³⁸ SLACK, <https://slack.com/> (last visited Feb. 15, 2024).

³⁹ Richard Lawler, *Now Salesforce Officially Owns Slack*, VERGE (Jul. 21, 2021), <https://www.theverge.com/2021/7/21/22587666/slack-acquisition-salesforce-closed-messaging-cloud>.

⁴⁰ Nancy Scola, *Tech’s Woke CEO Takes the Stage*, POLITICO (Nov. 20, 2019), <https://www.politico.com/news/2019/11/20/marc-benioff-salesforce-industry-washington-leaders-071803>.

one of the “most liberal workforces in the United States.”⁴¹ The company has hosted “Woke Wednesday” events,⁴² imposed race and sex-based employment quotas,⁴³ and claimed to be “the first major company to stand in opposition” to Georgia’s 2021 election protection legislation.⁴⁴ In keeping with its now-parent company’s standards, in 2020, Slack’s then-CEO donated \$700,000 (and another \$300,000 in matching donations) to Black Lives Matter and other groups that advocate for defunding the police, like the Bail Project, which used donations to bail out criminals who went on to commit violent crimes while on bail, including murder.⁴⁵

B. SLACK’S TERMS OF SERVICE AND ACCEPTABLE USE POLICY

The Slack Acceptable Use Policy, which the Slack Terms of Service incorporate, “sets out a list of acceptable and unacceptable conduct for [its] [s]ervices.”⁴⁶ Among other things, the Slack Acceptable Use Policy prohibits users from “engag[ing] in activity that incites or encourages violence or hatred against individuals or groups.”⁴⁷ Slack added this language to the policy in 2019.⁴⁸ If Slack “believe[s] a violation of the policy is deliberate, repeated or presents a credible risk of harm to other users, [its] customers, the Services or any third parties, [it] may suspend or terminate . . . access.”⁴⁹

Slack explained that when it becomes aware of a potential violation of the Slack Acceptable Use Policy, the “standard operating procedure” is for the Slack Integrity Team, which consists of three to four employees, to perform a “thorough review of reliable and publicly available source material,” including media coverage, social media posts, and public statements made by the organization’s representatives.⁵⁰

⁴¹ Roger Sollenberger, *Liberal Tech Giant’s Employees Fume About Work for GOP*, DAILY BEAST (Mar. 30, 2022), <https://www.thedailybeast.com/liberal-tech-giant-salesforce-employees-fume-about-work-for-gop-republican-national-committee>.

⁴² See *A Conversation with DeRay Mckesson on Civil Rights 2.0 During Black History Month*, SALESFORCE, <https://www.salesforce.com/news/stories/a-conversation-with-deray-mckesson-on-civil-rights-2-0-during-black-history-month/> (last visited Feb. 15, 2024).

⁴³ *Let’s Build a More Inclusive Workplace and World*, SALESFORCE, <https://www.salesforce.com/company/equality/> (last visited Feb. 15, 2024) (stating that “[w]e are aiming for 40% of employees globally to be women-identifying and non-binary by the end of 2026”).

⁴⁴ *Salesforce Pushes for Voting Rights, Police Reform and Criminal Justice Reform; Donates \$1.5M for Voting Access*, SALESFORCE, <https://www.salesforce.com/news/stories/salesforce-pushes-for-voting-rights-police-reform-and-criminal-justice-reform-donates-1-5m-for-voting-access/> (last visited Feb. 15, 2024).

⁴⁵ Sofie Kodner, *Tech is Writing Checks to Anti-Racism Groups. Here’s Who’s Giving, and How Much*, PROTOCOL (Jun. 4, 2020), <https://web.archive.org/web/20231210195325/https://www.protocol.com/tech-companies-donations-racial-injustice>; Rob Kuznia & Yahya Abou-Ghazala, *Bailed Out, Arrested Again: These Charities Boomed After the Murder of George Floyd. They’re Under Fire for Bailing Out Violent Offenders*, CNN (Mar. 21, 2023), <https://www.cnn.com/2023/03/21/us/bail-reform-bail-charities-invs/index.html>.

⁴⁶ *Acceptable Use Policy*, SLACK TECHS. (May 5, 2021) [hereinafter Slack Acceptable Use Policy], <https://web.archive.org/web/20231211174756/https://slack.com/acceptable-use-policy>. This is the version of the Slack Acceptable Use Policy in place during the Committee’s investigation. Slack updated the policy slightly on February 1, 2024. The policy now states, in relevant part, that users cannot “engage in activity that incites, supports, graphically describes, or encourages self-harm, violence, or hatred against individuals or groups, including violence against animals.” See also *User Terms of Service*, SLACK TECHS. (Feb. 17, 2023), <https://slack.com/terms-of-service/user>.

⁴⁷ *Id.*

⁴⁸ Compare Nov. 10, 2016 version of the Slack Acceptable Use Policy (<http://web.archive.org/web/20190207042709/https://slack.com/acceptable-use-policy>) with Apr. 9, 2019 version of the Slack Acceptable Use Policy (<http://web.archive.org/>

Slack emphasized that it does not review internal Slack messages in conducting these investigations.⁵¹ Slack revealed that to determine whether a user or customer has violated the Slack Acceptable Use Policy, it generally relies on “third-party experts” and “industry-recognized resources,” including the left-wing SPLC.⁵² When asked to name other groups Slack relies upon, it refused to do so.⁵³ However, it appears likely that Slack relies on ADL as well: Slack’s parent company, Salesforce, is a “corporate sponsor” of ADL⁵⁴ and features ADL as a customer on its website, referring to it as “[a] global leader in exposing extremism.”⁵⁵

Slack does not provide advance notice before removal, nor any process for customers to appeal the removal of their accounts.⁵⁶

C. LIBS OF TIKTOK

Libs of TikTok began in November 2020 as a Twitter, now X,⁵⁷ account—@libsoftiktok—that reposts social media posts and TikTok videos featuring radical takes from far-left accounts.⁵⁸ For example, on July 20, 2023, Libs of TikTok reposted a TikTok video of a person (sporting purple, hand-shaped earrings and a bull ring nose piercing) asserting that refusing to wear a mask is “white supremacy in action.”⁵⁹ On August 10, 2023, the account posted a TikTok video of a transgender activist using a cream-filled donut to demonstrate how a child may choose their gender.⁶⁰ And on October 31, 2023, the account posted a video of University of Pennsylvania students and a professor tearing down posters of Israeli hostages held by Hamas.⁶¹

Libs of TikTok has grown beyond a social media account into a registered business.⁶² In 2022, following the Washington Post’s doxing of Chaya Raichik, who manages the Libs of TikTok account, Seth Dillon—the owner of the satirical website *The Babylon Bee*—revealed that he had “worked out a deal with her” to promote the Libs of TikTok brand.⁶³ Dillon registered Libs of TikTok as an LLC.⁶⁴ He also owned the Slack account that Libs of TikTok used for business purposes.⁶⁵

⁵⁰ Mar. 7, 2023 Briefing with Slack.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Email from Slack to Committee (Mar. 17, 2023) (on file with the Committee).

⁵⁴ *Corporate Partners Against Hate*, ADL, <https://www.adl.org/adl-corporate-partners-against-hate> (last visited Mar. 15, 2024).

⁵⁵ *Anti-Defamation League*, SALESFORCE, <https://www.salesforce.org/stories/anti-defamation-league/>.

⁵⁶ Mar. 7, 2023 Briefing with Slack.

⁵⁷ During the Committee’s investigation, Twitter rebranded as “X.” For consistency, this report will hereafter refer to the site as X, regardless of when the post at issue was made on the site.

⁵⁸ *See generally* @libsoftiktok, X, <https://twitter.com/libsoftiktok>.

⁵⁹ @libsoftiktok, X (Jul. 20, 2023, 11:20 AM), <https://twitter.com/libsoftiktok/status/1682047936925143040>.

⁶⁰ @libsoftiktok, X (Aug. 10, 2023, 3:13 PM), <https://twitter.com/libsoftiktok/status/1689716592689516544>.

⁶¹ @libsoftiktok, X (Oct. 31, 2023, 4:23 PM), <https://twitter.com/libsoftiktok/status/1719449956296142896>.

⁶² *Libs of TikTok LLC*, BIZAPEDIA, <https://www.bizapedia.com/fl/libsoftiktok-llc.html>.

⁶³ Seth Dillon (@SethDillon), X (Apr. 19, 2022, 3:44 PM), <https://twitter.com/SethDillon/status/1516502919192981513>.

⁶⁴ *Application by Foreign Limited Liability Company for Authorization to Transaction Business in Florida: Libs of TikTok LLC* (Mar. 3, 2022) (on file with the Committee). *See also* Seth Dillon (@SethDillon), X (Apr. 19, 2022, 9:32 PM), <https://twitter.com/SethDillon/status/1516590575834779648>. Dillon and Libs of TikTok now operate independently.

⁶⁵ Mar. 7, 2023 Briefing with Slack; Mar. 1, 2023 Briefing with Seth Dillon.

D. THE LIBS OF TIKTOK INCIDENT

On February 24, 2023, Slack shut down Libs of TikTok’s workspace for violating Slack’s Acceptable Use Policy.⁶⁶ Slack told the Committee that Dillon’s request to export data from the Libs of TikTok Slack workspace precipitated this removal.⁶⁷ According to Slack, whenever it receives a data export request, Slack first reviews whether the account’s primary owner is an independent business or an individual, as that determination implicates what privacy laws apply.⁶⁸ Slack explained that the employees conducting that initial review for Dillon’s request realized that although Dillon owned the account, it was “set up for use by the Libs of TikTok organization.”⁶⁹ They also “saw some media coverage that raised concerns that Libs of TikTok was engaging in conduct that violated [Slack’s] Acceptable Use Policy.”⁷⁰ The employees reviewing Dillon’s data export request then referred the Libs of TikTok workspace to the Slack Integrity Team to review the account.⁷¹

Slack explained that the Slack Integrity Team approached its review of the Libs of TikTok account pursuant to its standard operating procedure, reviewing publicly available source material, media coverage, and social media posts. Its “investigation of those materials determined that Libs of TikTok” violated the Slack Acceptable Use Policy by “encouraging hate against LGBTQ+ individuals, and enabling or encouraging threats against children’s hospitals, libraries, and various LGBTQ+ communities.”⁷² According to Slack, “as far as [it] can tell,” the “purpose” of Libs of TikTok is to “incite hatred.”⁷³ **“What makes [Libs of TikTok’s posts] problematic,” Slack told the Committee, “is that Libs of TikTok has a specific audience, and they are taking this information and posting it to that specific audience so that everyone in that audience sees it at the same time.”**⁷⁴ This statement indicates that Slack’s primary concern with Libs of TikTok is that it targets a conservative audience, not that its posts—which again, are predominately reposts of liberal accounts—are themselves problematic.

Slack said that it relied on several social media posts to make this determination:

August 11, 2022 Post Regarding Boston Children’s Hospital. First, Slack pointed to an August 11, 2022 Libs of TikTok post on X linking a video released by Boston Children’s

⁶⁶ *Application by Foreign Limited Liability Company for Authorization to Transaction Business in Florida: Libs of TikTok LLC* (Mar. 3, 2022) (on file with the Committee). See also Seth Dillon (@SethDillon), X (Apr. 19, 2022, 9:32 PM), <https://twitter.com/SethDillon/status/1516590575834779648>.

⁶⁷ Mar. 7, 2023 Briefing with Slack; Mar. 1, 2023 Briefing with Seth Dillon.

⁶⁸ Seth Dillon (@SethDillon), X (Feb. 25, 2023, 1:16 AM), <https://twitter.com/SethDillon/status/1629364745617768450?s=20>.

⁶⁹ Mar. 7, 2023 Briefing with Slack.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

Hospital of a doctor discussing ‘gender affirming’ hysterectomies.⁷⁵ The post, which does not contain any threats or violent language, links to the hospital’s then-public video and states that “Boston Children’s Hospital (@BostonChildrens) is now offering “‘gender affirming hysterectomies’ for young girls.”

There is no dispute that Boston Children’s Hospital performs ‘gender affirming’ surgeries. Indeed, a March 2022 study, which the institutional review board of Boston Children’s Hospital approved, said that “[t]he Center for Gender Surgery (CfGS) at Boston Children’s Hospital (BCH) was the first pediatric center in the United States to offer gender-affirming chest surgeries for individuals over 15 years old and genital surgeries for those over 17 years of age.”⁷⁶ A page on the hospital’s website, which was altered after the August 11 Libs of TikTok post, stated that 17-year-olds could qualify for vaginoplasties.⁷⁷ Some claimed that the caption in the August 11, 2022 post was false because the hospital only performed gender affirming hysterectomies on girls 18 and older.⁷⁸



June 8, 2022 Post Regarding All-Ages Drag Show. Slack also identified a Libs of TikTok post on X containing a flyer for an all-ages drag show. Libs of TikTok’s commentary accurately describes the event: “An LGBT youth group is holding a drag show happy hour for all-ages at a bar in Woodland, CA. They encourage kids to bring money to tip the drag queens.”⁷⁹

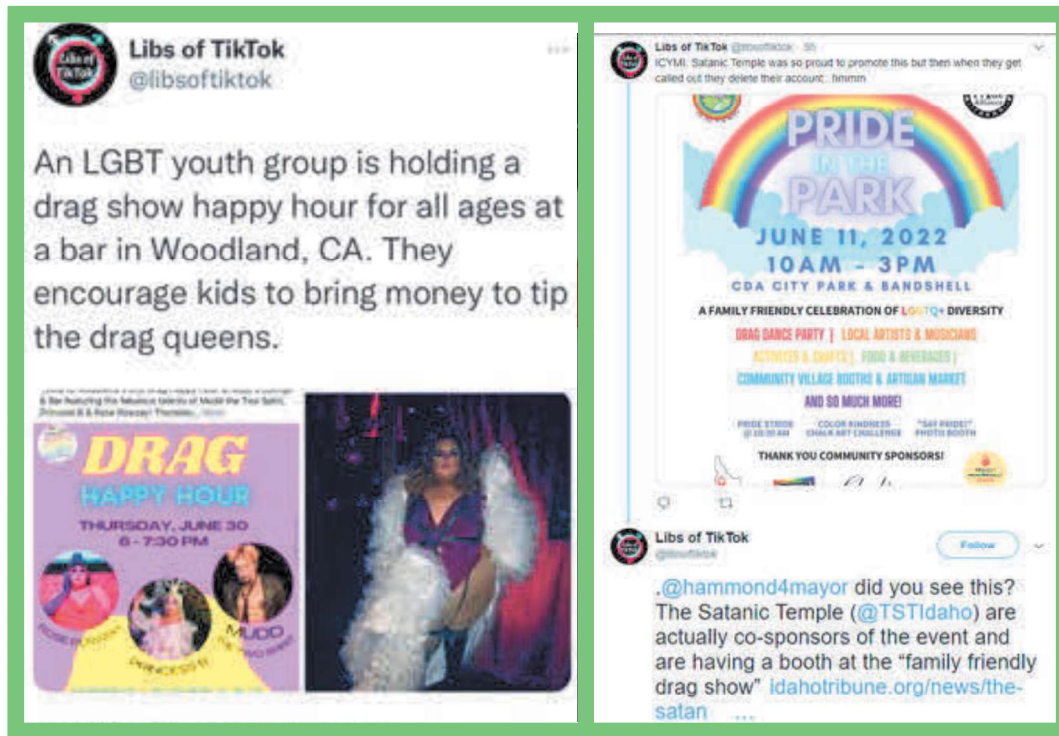
⁷⁵ @libsoftiktok, X (Aug. 11, 2022, 1:08 PM), <https://web.archive.org/web/20220813170300/https://twitter.com/libsoftiktok/status/1557775959217950725>. For the full video (which has been removed from Boston Children’s Hospital’s website), see Chris Elston, @BillBoardChris, X (Apr. 3, 2023, 3:50 PM), <https://twitter.com/BillboardChris/status/1642977785739382808>.

⁷⁶ Nelson J. Aquino & Elizabeth R. Boskey et al., *A Single Center Case Series of Gender-Affirming Surgeries and the Evolution of a Specialty Anesthesia Team*, J. CLIN. MED., Mar. 31, 2022, at 2, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9000168/pdf/jcm-11-01943.pdf>.

⁷⁷ See Jessica Chasmar, *Boston Children’s Hospital Deletes References to Vaginoplasties for 17-Year-Olds Amid Online Furor*, FOX NEWS (Aug. 18, 2022), <https://www.foxnews.com/politics/boston-childrens-hospital-deletes-references-vaginoplasties-17-year-olds-online-furor>; *Vaginoplasty, Eligibility Requirements*, BOSTON CHILDREN’S HOSPITAL CTR. GENDER SURGERY, https://web.archive.org/web/20220815095435im_/https://pbs.twimg.com/media/FaJuambXoAAGL9M?format=jpg&name=large (this since-altered page on Boston Children’s Hospital’s website states that 17-year-olds are eligible for a vaginoplasties).

⁷⁸ Jacob Reyes, *No Boston Children’s Hospital Doesn’t Provide Hysterectomies for Children*, POLITIFACT (Aug. 12, 2022), <https://www.politifact.com/factchecks/2022/aug/12/tweets/no-boston-childrens-hospital-doesnt-provide-hyster/>.

⁷⁹ @LibsofTikTok, X (Jun. 8, 2022, 4:40 PM).



Posts Regarding Canceled Accounts and Events. Slack also pointed to Libs of TikTok posts on X acknowledging that certain events and accounts whose posts it had reposted were deleted. For instance, Slack referred to a June 7, 2022 post noting that a group called the “Satanic Temple” had deleted its X account after Libs of TikTok posted on X about the group’s booth at a “family friendly drag show.”⁸⁰

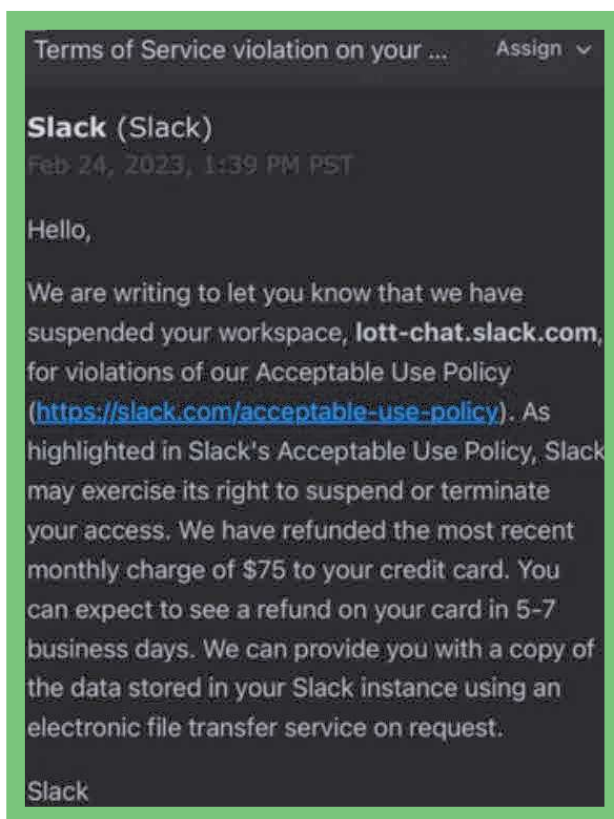
Slack could not identify any other social media posts it relied upon in determining that Libs of TikTok violated its Acceptable Use Policy. The only additional materials it purported to rely upon were news outlets’ reports on harassment—from individuals with no apparent connection to Libs of TikTok—towards hospitals and all-ages drag shows.⁸¹ **Although Slack did not specifically point to them with regard to its Libs of TikTok investigation, notably, the left-wing SPLC has described Libs of TikTok as an “extremist” account and ADL labeled Libs of TikTok/Chaya Raichik as an “extremist” in its “Glossary of Extremism.”⁸²**

⁸⁰ @LibsofTikTok, X (Jun. 7, 2022, 2:41 PM), <https://web.archive.org/web/20220607223457/https://twitter.com/libssoftiktok/status/1534289488016314368>.

⁸¹ Email from Slack to the Committee (Mar. 10, 2023) (on file with the Committee). For instance, Slack cited a Washington Post article, which reported that a California sheriff “said investigators believe” that an incident where several Proud Boys disrupted a drag queen children’s story hour “was spurred by the Twitter account Libs of TikTok.” Kim Bellware, *Proud Boys Disrupt Drag-Queen Reading Event, Prompting Hate-Crime Probe*, WASH. POST (Jun. 13, 2022) <https://www.washingtonpost.com/nation/2022/06/13/proud-boy-drag-queen/>.

⁸² Jason Wilson, *Twitter Blesses Extremists with Paid “Blue Checks,”* SPLC (Nov. 16, 2022), <https://www.splcenter.org/hatewatch/2022/11/16/twitter-blesses-extremists-paid-blue-checks.>; *Libs of TikTok (Chaya Raichik)*, ADL, <https://web.archive.org/web/20230930122315/https://www.adl.org/glossary/libs-tiktok-chaya-raichik>; see also *Online Amplifiers of Anti-LGBTQ+ Extremism*, ADL, <https://www.adl.org/resources/blog/online-amplifiers-anti-lgbtq-extremism>. ADL removed Libs of TikTok from its Glossary of Extremism after Chaya Raichik threatened legal action. See Heather Hunter, *ADL Quietly Removes Libs of TikTok Founder from “Glossary of Extremism” After Threat of Legal Action*, WASH. EXAMINER (Oct. 30, 2023), <https://www.washingtonexaminer.com/news/2443236/adl-quietly-removes-libs-of-tiktok-founder-from-glossary-of-extremism-after-threat-of-legal-action/>.

Based on this information, “Slack and Salesforce executive leadership team members” made the final decision to remove Libs of TikTok’s Slack workspace.⁸³ Consistent with its policy, Slack gave Dillon “no warning” before removing the Libs of TikTok workspace.⁸⁴ Slack removed the workspace on February 24, 2023, and then notified Dillon of the removal with this message.⁸⁵



Slack did not inform Dillon what Libs of TikTok did to violate the Acceptable Use Policy.⁸⁶ Indeed, Slack generally does not tell removed users what they did to violate the Acceptable Use Policy.⁸⁷ After Dillon posted on X that Slack had deleted the Libs of TikTok workspace, Salesforce (from the @asksalesforce account) posted in reply, stating that the “Salesforce/Slack team is looking into this issue.”⁸⁸ Soon after, Salesforce deleted that post.⁸⁹ Dillon also sent Salesforce a direct message on X, asking Salesforce about the status of the Libs of TikTok workspace and why Salesforce had deleted its post.⁹⁰ Salesforce never responded. Consistent with its policy, Slack did not provide Libs of TikTok the opportunity to appeal the decision.⁹¹

⁸³ Email from Slack to the Committee (Mar. 17, 2023) (on file with the Committee).

⁸⁴ Mar. 1, 2023 Briefing with Seth Dillon.

⁸⁵ Seth Dillon (@SethDillon), X (Feb. 25, 2023, 1:16 AM), <https://twitter.com/SethDillon/status/1629364745617768450?s=20>.

⁸⁶ Mar. 7, 2023 Briefing with Slack; Mar. 1, 2023 Briefing with Seth Dillon.

⁸⁷ Mar. 7, 2023 Briefing with Slack.

⁸⁸ Seth Dillon (@SethDillon), X (Feb. 26, 2023, 12:42 AM), <https://twitter.com/SethDillon/status/1629718651287871492?s=20> (including screenshot of Salesforce post on X from February 25, 2023 at 5:41AM).

⁸⁹ *Id.*

⁹⁰ Mar. 1, 2023 Briefing with Seth Dillon.

⁹¹ Mar. 7, 2023 Briefing with Slack.

Dillon told the Committee that the purpose of the Slack workspace was to facilitate daily communications.⁹² Chaya Raichik, who runs Libs of TikTok, also told the Committee that the organization used Slack “daily,” especially as it was growing and bringing more people on during the six-month period they were able to use the product.⁹³ The Slack workspace allowed employees to run the business on their computers, rather than their phones, which is comparatively difficult as it does not allow them to easily share documents.⁹⁴ Slack’s cancellation hit Libs of TikTok hard. The loss of Slack was “very difficult,” and Libs of TikTok was unable to find a comparable replacement, meaning it went back to running the business on cell phones.⁹⁵ Moreover, Raichik said that Libs of TikTok effectively lost the communications it had on Slack once the account was terminated. Although they may have technically been able to retrieve that data, it was not usable, as locating a particular communication required opening each individual data file.⁹⁶

E. OTHER CANCELLATIONS

Slack’s removal of Libs of TikTok’s workspace was not an isolated incident. Slack has removed over 35 other accounts for violating its policy against users encouraging violence or hatred.⁹⁷ Slack refused to identify those accounts, citing confidentiality concerns.⁹⁸ The Committee nevertheless learned of one other instance: in June 2022, Slack informed the Federation for American Immigration Reform (FAIR) that it had removed its Slack workspace, which FAIR had been using for years.⁹⁹ FAIR is a non-partisan non-profit with over three million members that advocates for policies that it says would reduce, but not eliminate, immigration.¹⁰⁰

The circumstances of Slack’s removal of FAIR’s workspace are similar to Slack’s removal of Libs of TikTok’s workspace. Just as with Libs of TikTok, Slack did not provide FAIR any prior notice that it was removing the workspace.¹⁰¹

⁹² Mar. 1, 2023 Briefing with Seth Dillon.

⁹³ Sept. 22, 2023 Briefing with Chaya Raichik.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ During the March 7, 2023 briefing, Slack said that it had deleted ten accounts for violating the anti-hate provisions of the Slack Acceptable Use Policy since June 2021. In a March 2019 article, Slack said that it had removed 28 accounts “for having a clear affiliation with known hate groups.” See Nick Slatt, *Slack Says it Removed Dozens of Accounts with Hate Groups*, VERGE (Mar. 14, 2019), <https://www.theverge.com/2019/3/14/18265796/slack-removes-accounts-hate-groups-moderation-chat> (“Slack said [on March 14, 2019] it’s removed 28 accounts for having a ‘clear affiliation with known hate groups.’”).

⁹⁸ Mar. 7, 2023 Briefing with Slack.

⁹⁹ Mar. 8, 2023 Briefing with FAIR.

¹⁰⁰ *About FAIR: Federation for American Immigration Reform*, FAIR, <https://www.fairus.org/about-fair>.

According to FAIR, Slack’s termination notice alleged that FAIR had violated the Slack Acceptable Use Policy, but provided no further information. Slack did not inform FAIR what aspect of the policy it had violated or what conduct led to that violation.¹⁰² The only explanation that FAIR received (indirectly) was Slack’s statement to Fox News regarding the ban.¹⁰³ Slack told Fox News that it cancelled FAIR’s use of the platform because FAIR was “affiliated with a known hate group” and therefore in violation of Slack’s Acceptable Use Policy.¹⁰⁴ FAIR vehemently denied this characterization.¹⁰⁵ Although SPLC has designated FAIR as a hate group,¹⁰⁶ FAIR’s President, Dan Stein, disputes this label, stating, “Basically, we want border security, border control, stop illegal immigration. . . . We love immigrants, but we want it to be moderated and a reasonably enforceable limit annually.”¹⁰⁷ FAIR told the Committee that it remains banned from Slack.¹⁰⁸

Meanwhile, based on the Committee’s review of Slack workspace domain names, it appears that groups that actively engage in or encourage violence remain on Slack’s platform. For example, the following Slack workspaces remain online:

- [crimethinc.slack.com](https://www.crimethinc.slack.com)

CrimethInc. purports to be an “international network of aspiring revolutionaries,” reminiscent of Project Mayhem from the movie *Fight Club*.¹⁰⁹ The group instructs members on “how to organize an insurrection,”¹¹⁰ put out a “step-by-step guide” to planning criminal action,¹¹¹ and published a manual outlining the “tools and tactics”—including starting fires, shooting off fireworks, and breaking windows—used against police in the 2020 protests in Portland.¹¹²

- [anarchistblackcross.slack.com](https://www.anarchistblackcross.slack.com)

The Anarchist Black Cross is an organization with a “commitment to revolutionary Anarchism.”¹¹³ It supports prisoners—both by providing them funding and by building alliances with their “movements”—who commit violent acts in furtherance of the anarchist cause, including Eric King (serving ten years for attempting to firebomb the

¹⁰¹ Mar. 8, 2023 Briefing with FAIR.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Adam Shaw, *Slack Bans Conservative Immigration Group from Tech Platform*, FOX NEWS (Jun. 17, 2022), <https://www.foxnews.com/politics/slack-bans-conservative-immigration-group-tech-platform-calls-known-hate-group>.

¹⁰⁵ *Id.*; Mar. 8, 2023 Briefing with FAIR.

¹⁰⁶ *Federation for American Immigration Reform*, SPLC, <https://www.splcenter.org/fighting-hate/extremist-files/group/federation-american-immigration-reform>.

¹⁰⁷ Shaw, *supra* note 104.

¹⁰⁸ Email from FAIR to the Committee (Sept. 18, 2023) (on file with the Committee).

¹⁰⁹ *About CrimethInc.*, CRIMETHINC., <https://crimethinc.com/about>.

¹¹⁰ *How to Organize an Insurrection*, CRIMETHINC. (Dec. 25, 2008), <https://crimethinc.com/2008/12/25/how-to-organize-an-insurrection>.

¹¹¹ *A Civilian’s Guide to Direct Action*, CRIMETHINC., https://cdn.crimethinc.com/assets/zines/a-civilians-guide-to-direct-action/a-civilians-guide-to-direct-action_screen_two_page_view.pdf.

¹¹² *Tools and Tactics in the Portland Protests*, CRIMETHINC. (Aug. 3, 2020), <https://crimethinc.com/2020/08/03/tools-and-tactics-in-the-portland-protests-from-leaf-blowers-and-umbrellas-to-lasers-bubbles-and-balloons>.

¹¹³ *Anarchist Black Cross*, ANARCHIST ZINE LIBRARY, <https://www.azinelibrary.org/approved/anarchist-black-cross-introduction-1.pdf>.

local office of U.S. Representative Emanuel Cleaver), Marius Mason (serving 22 years for arson and property damage amounting to \$4 million), and Byron Chubbuck (serving 80 years for bank robbery, aggravated assault on the FBI, escape, and firearms charges).¹¹⁴

- antifa.slack.com

The Center for Strategic and International Studies defines Antifa as “a decentralized movement of individuals whose ideological roots lie in various left-wing causes, such as communism, anarchism, and socialism.”¹¹⁵ Many Antifa activists view violence as a legitimate tool to oppose those they believe are fascists, such as supporters of President Trump.¹¹⁶ In the name of countering “fascism,” Antifa activists have participated in violent protests, physically attacked police officers and journalists, and destroyed property.¹¹⁷ For example, in 2017, the Washington Post reported that 100 masked members of Antifa violently attacked supporters of President Trump at a “Rally Against Hate” gathering in Berkley, California.¹¹⁸

- stopcopcity.slack.com

Stop Cop City is a movement to stop construction of the Atlanta Public Safety Training Center—a training facility for police and firefighters.¹¹⁹ Protestors involved in this movement have unleashed violence in the forest where the center is planned to be built, throwing Molotov cocktails, fireworks, and rocks at police officers and setting fire to construction vehicles.¹²⁰ As a result, some Stop Cop City activists, including an SPLC attorney, have been arrested and charged with domestic terrorism.¹²¹ Notably, SPLC does not consider Stop Cop City a hate group despite its (often-violent) hatred of law enforcement. Indeed, SPLC described the arrests of violent Stop Cop City protestors as “part of a months-long escalation of policing tactics against protestors and observers who oppose the destruction of the Weelaunee Forest to build a police

¹¹⁴ *Id.*; *People We Support*, ANARCHIST BLACK CROSS FED’N, <https://www.abcf.net/prisoner-info/>; Mary Wisniewski & Alan Crosby,

Missouri Man Admits to Attempted Fire Bombing of Congressman’s Office, REUTERS (Mar. 3, 2016), <https://www.reuters.com/article/us-kansas-firebomb/missouri-man-admits-to-attempted-fire-bombing-of-congressmans-office-idUSKCNOW52Q7>; Azadeh Ensha, *Eco-Arsonist Sentenced to Nearly 22 Years*, N.Y. TIMES (Feb. 6, 2009), <https://archive.nytimes.com/green.blogs.nytimes.com/2009/02/06/eco-arsonist-sentenced-to-nearly-22-years/>; *Call In for Byron Chubbuck (Oso Blanco)*, DENVER ANARCHIST BLACK CROSS, <https://denverabc.wordpress.com/2013/12/15/call-in-for-byron-chubbuck-oso-blanco/>.

¹¹⁵ Seth G. Jones & Catrina Doxsee, *Examining Extremism: Antifa*, CTR. FOR STRATEGIC AND INT’L STUDS. (Jun. 24, 2021), <https://www.csis.org/blogs/examining-extremism/examining-extremism-antifa>.

¹¹⁶ *Id.*

¹¹⁷ LISA N. SACCO, CONG. RSCH. SERV., *ANTIFA—BACKGROUND* (2018), <https://crsreports.congress.gov/product/pdf/IF/IF10839/2>; Aram Roston, *American Antifa*, REUTERS (Aug. 25, 2021), <https://www.reuters.com/investigates/special-report/usa-antifa-profile/>; Post Editorial Board, *Antifa Should Be Labeled What It Is – A Hate Group*, N.Y. POST (Mar. 6, 2023), <https://nypost.com/2023/03/06/antifa-should-be-labeled-what-it-is-a-hate-group/>; David Hernandez, *Alleged “Antifa Supporter” Sentenced to Prison for Violence at San Diego Pro-Trump Rally*, L.A. TIMES (Nov. 10, 2022), <https://www.latimes.com/california/story/2022-11-10/alleged-antifa-supporter-sentenced-prison-san-diego-pro-trump-rally>.

¹¹⁸ Kyle Swenson, *Black-Clad Antifa Members Attack Peaceful Right-Wing Demonstrators in Berkley*, WASH. POST. (Aug. 28, 2017), <https://www.washingtonpost.com/news/morning-mix/wp/2017/08/28/black-clad-antifa-attack-right-wing-demonstrators-in-berkeley/>.

¹¹⁹ Charles Bethea, *The New Fight Over an Old Forest in Atlanta*, NEW YORKER (Aug. 3, 2022), <https://www.newyorker.com/news/letter-from-the-south/the-new-fight-over-an-old-forest-in-atlanta>.

¹²⁰ Cara Tabachnick, *35 People Detained After “Coordinated Attack” at Atlanta’s “Cop City” Police Training Site*, CBS NEWS (Mar. 7, 2023), <https://www.cbsnews.com/news/atlanta-cop-city-police-training-site-protest-arrests/>.

¹²¹ *Id.* Sixty-one demonstrators, including the SPLC attorney, have been indicted on Rico charges. See Carr: 61 Indicted in Fulton County in Atlanta Public Safety Training Center Investigation, Office of the Attorney General of the State of Georgia (Sept. 5, 2023), <https://law.georgia.gov/press-releases/2023-09-05/carr-61-indicted-fulton-county-atlanta-public-safety-training-center>.

¹²² NLG and SPLC Statements on Arrest of Legal Observer, SPLC (Mar. 6, 2023), <https://www.splcenter.org/presscenter/nlg-and-splc-statements-arrest-legal-observer>.

EVENTBRITE BANS THE QUESTION “WHAT IS A WOMAN?”

Eventbrite has removed numerous pages for events hosted by conservative organizations involving policy debates related to transgender issues, such as whether children should have access to sex change medical procedures and whether biological males should be permitted to participate in women’s sports. Notably, for over a year, Eventbrite has consistently taken down pages for events concerning Matt Walsh’s 2022 documentary, *What Is a Woman?*, and more recently, a University of California, Davis event on “protecting women’s sports” featuring former collegiate swimmer Riley Gaines. Eventbrite removed these events, without notice, because it determined they violated the company’s terms of service, which prohibit events that disparage someone’s perceived gender identity. In these cases, Eventbrite relied upon Matt Walsh’s and Riley Gaines’s previous public statements—not the content of the Eventbrite pages that it removed—in determining the events violated its terms of service.

A. EVENTBRITE

Eventbrite is a global self-service event and ticketing technology platform.¹²³ The public company describes itself as “an online marketplace rather than a social media platform.”¹²⁴ Its online platform allows event organizers to create event pages where people can obtain tickets. Eventbrite is a significant player in its industry, reportedly controlling approximately 50 percent of the event management and registration market.¹²⁵ Eventbrite “aspire[s] to be the trusted choice for event discovery by helping consumers find new experiences and connect them with others who share their passions.”¹²⁶

The company has political objectives as well. Eventbrite is dedicated to “using [its] platform and marketing channels to amplify creators that promote racial and social justice, equality, equity and civic action.”¹²⁷ Furthermore, the company has “advocated for national policies that promote gender and racial equity including paid family and medical leave and advancing voting rights in the United States.”¹²⁸ In 2022, all of Eventbrite employees’ donations to congressional candidates went to Democrats.¹²⁹

¹²³ See generally EVENTBRITE, <https://www.eventbrite.com/>.

¹²⁴ Mar. 17, 2023 Briefing with Eventbrite.

¹²⁵ Eventbrite, 6 SENSE, <https://6sense.com/tech/event-marketing-and-management/eventbrite-market-share>.

¹²⁶ Eventbrite, Inc., Annual Report (Form 10-K) (Feb. 28, 2023), <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001475115/f357d017-003c-4306-9150-80082921a00f.pdf>.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Eventbrite Recipients, OPEN SECRETS, <https://www.opensecrets.org/orgs/eventbrite/recipients?id=D000075653>.

B. EVENTBRITE TERMS OF SERVICE AND COMMUNITY GUIDELINES

All Eventbrite users—both users who organize events on Eventbrite and users who secure tickets for events on Eventbrite—must agree to the Eventbrite Terms of Service.¹³⁰ The Eventbrite Terms of Service incorporate the Eventbrite Community Guidelines, which Eventbrite said it created “[t]o help [users] understand what is acceptable on Eventbrite and what crosses the line.”¹³¹ Eventbrite claims that it “may not agree with every view or opinion expressed at every event, but [it] strongly believe[s] in the fundamental right to free speech and assembly.”¹³²

The Eventbrite Community Guidelines prohibit posting certain content on an event page, as well as engaging in certain conduct during the events themselves. For example, they forbid posting “adult sexual content” on the platform, posting events that “promote the use of or sell cannabis,” and doing or posting anything that “puts minors at risk.”¹³³ The Eventbrite Community Guidelines also forbid “hateful, dangerous, or violent content or events” (the Hateful Events Policy).¹³⁴ The list of what constitutes a “hateful, dangerous, or violent” event is expansive and includes “hate speech, hateful ideologies, and hateful activities that incite, encourage, or engage in violence, intimidation, disparagement, harassment, or threats targeting an individual or group based on their actual or perceived race, ethnicity, religion, national origin, immigration status, gender identity, sexual orientation, disability, age, or veteran status.”¹³⁵ **As former collegiate athlete Riley Gaines noted when speaking with the Committee after Eventbrite removed an event at which she was scheduled to speak, it is striking that Eventbrite’s policy does not explicitly forbid “sex” discrimination, “implying that you can discriminate against women, you just cannot ‘discriminate’ against biological men who identify as women.”**¹³⁶

Hateful, Dangerous, or Violent Content or Events

Don’t Post Hateful or Dangerous Content or Events That Discriminate Against or Threaten Any Societal Group, or Encourages Violence. This includes:

- Hate speech, hateful ideologies, and hateful activities that incite, encourage or engage in violence, intimidation, disparagement, harassment, or threats targeting an individual or group based on their actual or perceived race, ethnicity, religion, national origin, immigration status, gender identity, sexual orientation, disability, age, or veteran status
- Terrorist symbols, activities, and organizations or organized criminal activity

¹³⁰ *Eventbrite Terms of Service*, EVENTBRITE, <https://www.eventbrite.com/help/en-us/articles/251210/eventbrite-terms-of-service/>.

¹³¹ *Id.*; *Content Standards*, EVENTBRITE, [hereinafter *Eventbrite Content Standards*] <https://www.eventbrite.com/l/contentstandards/>.

¹³² *Eventbrite Content Standards*, *supra* note 131.

¹³³ *Community Guidelines*, EVENTBRITE [hereinafter *Eventbrite Community Guidelines*], <https://web.archive.org/web/20230729045650/https://www.eventbrite.com/l/community-guidelines/> (version in place as of July 29, 2023).

¹³⁴ *Id.*

¹³⁵ *Id.* At some point during this investigation, Eventbrite slightly modified this language. See *Community Guidelines*, EVENTBRITE, <https://www.eventbrite.com/l/community-guidelines/> (version in place as of Mar. 15, 2024).

¹³⁶ Nov. 6, 2023 Briefing with Riley Gaines.

Therefore, Eventbrite limits not only the content of the event page on its platform, but also, and more concerningly, what speakers might say during the event based on its review of their social media. To put it another way, **the Eventbrite Community Guidelines seek to control not only the content on Eventbrite’s platform, but also activity outside of it.**

To enforce the Eventbrite Community Guidelines, Eventbrite encourages users to report “any listing or content that may violate [them]” and provides a link on every event page that allows users to do so anonymously.¹³⁷ Eventbrite has a “Trust and Safety Team” of twelve to thirteen, full-time employees that reviews every single complaint.¹³⁸ Eventbrite described these employees as “experts” but refused to respond to the Committee’s questions about the qualifications necessary to become such an expert.¹³⁹ **The Eventbrite Trust and Safety Team also relies on third-party sources, including SPLC and ADL, in determining whether an organization’s event violates the Eventbrite Community Guidelines.**¹⁴⁰ Eventbrite warns users that if it determines that the complained-of-content violates those guidelines, it will either remove the content, take down the event listing, or even terminate the Eventbrite account.¹⁴¹ Eventbrite told the Committee that it removed approximately 140 events for violating its Hateful Events policy from 2021 through 2023.¹⁴² It removed between 30 to 40 events in 2022 and 37 events in 2023.¹⁴³

C. THE WHAT IS A WOMAN? DOCUMENTARY AND MATT WALSH

Matt Walsh is a conservative political commentator. He is the host of the *Matt Walsh Show* and a columnist for the news website, *The Daily Wire*.¹⁴⁴ Walsh writes and speaks on a variety of controversial topics, such as climate change, abortion, crime, and medical care for transgender youth.¹⁴⁵ He also starred in *What Is a Woman?*—a 2022 documentary-style film examining gender issues.¹⁴⁶ Throughout the film, Walsh interviews a variety of people, including politicians, doctors, and academics on topics such as sex reassignment surgery, puberty blockers, and transgender athletes in women’s sports.¹⁴⁷ Walsh explained that he was inspired to make the film after he made several posts on X asking, “What is a woman?” and no one could answer him.¹⁴⁸

¹³⁷ Mar. 17, 2023 Briefing with Eventbrite; *How to Report an Event on Eventbrite*, EVENTBRITE, <https://www.eventbrite.com/help/en-us/articles/212250/how-to-report-an-event-on-eventbrite/>.

¹³⁸ Dec. 18, 2023 Briefing with Eventbrite.

¹³⁹ *Id.* Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

¹⁴⁰ Mar. 17, 2023 Briefing with Eventbrite; Dec. 18, 2023 Briefing with Eventbrite; Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

¹⁴¹ *Eventbrite Community Guidelines*, *supra* note 133.

¹⁴² Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

¹⁴³ Mar. 17, 2023 Briefing with Eventbrite; Email from Eventbrite (Jan. 12, 2024) (on file with the Committee).

¹⁴⁴ *The Matt Walsh Show*, DAILY WIRE, <https://www.dailywire.com/show/the-matt-walsh-show>; *Matt Walsh*, DAILY WIRE, <https://www.dailywire.com/author/matt-walsh>.

¹⁴⁵ *See generally* Matt Walsh (@MattWalshBlog), X, <https://twitter.com/MattWalshBlog>.

¹⁴⁶ WHAT IS A WOMAN? (Daily Wire 2022).

¹⁴⁷ Matt Walsh, *Official Trailer: “What Is a Woman?”* YOUTUBE (May 14, 2022), https://www.youtube.com/watch?v=42ivIRd9N8E&ab_channel=MattWalsh.

¹⁴⁸ Matt Walsh, *What Is a Woman? SNEAK PEAK*, YOUTUBE (Jun. 1, 2022), https://www.youtube.com/watch?v=FbTpM5icct8&ab_channel=MattWalsh.

D. THE WHAT IS A WOMAN? INCIDENTS

In February 2023, Young America’s Foundation (YAF) and the Stanford University College Republicans organized an on-campus lecture for Walsh to discuss his film.¹⁴⁹ The event was controversial on Stanford’s campus; posters advertising the event were torn up and set on fire and the school paper published a student’s op-ed declaring that “[w]hatever it takes, Matt Walsh must not be platformed here.”¹⁵⁰ Despite this opposition, over 600 people registered for the event through Eventbrite.¹⁵¹

YAF explained to the Committee that some YAF speakers require tickets for events because tickets deter people from trying to shut down the event, and also allow the organization to attempt to gauge how many attendees to expect.¹⁵² YAF often uses Eventbrite to generate tickets because Eventbrite is generally “free [and] easy to use.”¹⁵³ YAF prefers not to use schools’ ticketing systems because schools often impose cumbersome restrictions and do not allow YAF to monitor ticket requests.¹⁵⁴ School ticketing systems also allow students who do not want the event to take place to obtain tickets under fake names, taking up seats from students who truly want to attend.¹⁵⁵ Other options available to YAF for ticketing do not have enough features to meet the organization’s need or are too costly.¹⁵⁶

On February 27—days before the March 1 event—Eventbrite removed the event’s page from its website and notified the organizer that it had done so because the event violated the Eventbrite Community Guidelines.¹⁵⁷ Eventbrite told the Committee that it sends a standard notification when removing an event for violating its Hateful Events Policy.¹⁵⁸ **As reflected in the figure below, however, in the version Eventbrite sent to the organizers of the Stanford event, Eventbrite directly stated that the problem with the Matt Walsh event was that it “expresse[d] views” that violated the Eventbrite Terms of Service.**

¹⁴⁹ Alexa Schwerha, *Hateful, Violent: Eventbrite Cancels Tickets for Matt Walsh Event at Stanford University*, DAILY CALLER (Feb. 28, 2023), <https://dailycaller.com/2023/02/28/eventbrite-cancels-tickets-matt-walsh-event-stanford-protesters-burn-flyers/>.

¹⁵⁰ Terrance Kible, *Protestors Set Fire to Matt Walsh Flyers Ahead of Stanford Speech, Eventbrite Cancels Ticket Sales*, COLL. FIX (Feb. 28, 2023), <https://www.thecollegefix.com/stanford-republicans-accuse-campus-leftists-of-using-intimidation-to-stop-matt-walsh-event/>; Ava Aidala, *Matt Walsh: A Dangerous Presence on Campus*, STANFORD DAILY (Feb. 21, 2023), <https://stanforddaily.com/2023/02/21/from-the-community-matt-walsh-a-dangerous-presence-on-campus/>.

¹⁵¹ Schwerha, *supra* note 149.

¹⁵² Sept. 7, 2023 Briefing with Young America’s Foundation (YAF).

¹⁵³ *Id.* Eventbrite may no longer be free, as students groups have recently reported that Eventbrite charged a fee to post an event. See Email from YAF to the Committee (Oct. 29, 2023) (on file with the Committee).

¹⁵⁴ Sept. 7, 2023 Briefing with YAF.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ Schwerha, *supra* note 149.

¹⁵⁸ Mar. 17, 2023 Briefing with Eventbrite; Email from Eventbrite to the Committee (Apr. 4, 2023) (on file with the Committee).

**STANDARD NOTIFICATION
ACCORDING TO EVENTBRITE**

We have determined that your event is not permitted on the Eventbrite platform as it violates our Community Guidelines and Terms of Service, specifically our policy on Hateful, Dangerous, or Violent Content and Events. As a result, your event has been unpublished. Please be aware that severe or repeated violations of our guidelines may result in the suspension or termination of your Eventbrite account. Please reply directly to this email if you have any further questions. We appreciate your understanding and thank you in advance for your cooperation.¹⁵⁹

**ACTUAL NOTIFICATION SENT
TO STANFORD EVENT ORGANIZERS**

We encourage our organizers to express their views and gather for a chosen purpose as long as it's done in a way that doesn't violate our Legal Terms. We do not permit events, content, or creators that promote or encourage hate, violence, or harassment towards others and/or oneself. **In this instance, we have determined that your event expresses views that are in violation of our Community Guidelines and Terms of Service and therefore not permitted on the Eventbrite platform.** As a result, your event listing has been removed.

While you may continue to use Eventbrite for other events, if we become aware of any future event that violates our policies, we will remove it. Please note that severe or repeated violations of our policies could result in your account being terminated.

We appreciate your understanding and thank you in advance for your cooperation.

¹⁵⁹ Email from Eventbrite to the Committee (Apr. 4, 2023) (on file with the Committee).

¹⁶⁰ Email from Eventbrite to Stanford (Feb. 26, 2023) (on file with the Committee) (emphasis added).

Moreover, when notifying the organizer that it removed the event, Eventbrite does not explain how the removed event violated its policies.¹⁶¹ Consistent with that approach, Eventbrite did not specifically identify what about the Stanford event violated the Hateful Events Policy. When a Stanford student event organizer asked an Eventbrite customer service representative why the tickets were canceled, the representative responded: “It does actually violate our Terms of Service. It does not mean you cannot host the event, however, you can no longer ticket for it via Eventbrite.”¹⁶² Therefore, while Eventbrite’s standard message says that the organizer of the removed event can ask questions about the removal, Eventbrite does not provide answers. **In effect, there is no transparency or process to appeal Eventbrite’s decision to remove an event from the platform.**

The Committee contacted Eventbrite following its removal of the event at Stanford in February 2023 to obtain the information denied to the Stanford event organizers. Eventbrite told the Committee that it first learned about the *What Is a Woman?* events in June 2022, when an Eventbrite user alerted the company to an event where the film would be screened.¹⁶³ In response to this complaint, a member of the Eventbrite Trust and Safety Team “looked at this event and looked at the topic of the event, and the people involved in the event.”¹⁶⁴ Eventbrite further stated that the reviewer “looked at the trailer” for *What Is a Woman?* and the “public comments Matt Walsh had made about the film.”¹⁶⁵ Based on this review, Eventbrite determined that event and subsequent events concerning *What Is a Woman?*, including the Stanford event, violated the Eventbrite Community Guidelines, specifically the prohibition on events “disparaging perceived gender.”¹⁶⁶

While Eventbrite could not identify anything in the film that violated its Terms of Service, Eventbrite said that it relied on the following statements by Matt Walsh in reaching its decision to cancel events concerning the film:¹⁶⁷

¹⁶¹ Mar. 17, 2023 Briefing with Eventbrite.

¹⁶² *Eventbrite Cancels Tickets for Stanford Event Featuring Matt Walsh*, YAF (Jul. 19, 2023), <https://yaf.org/news/eventbrite-cancels-tickets-for-stanford-event-featuring-matt-walsh/>.

¹⁶³ Mar. 17, 2023 Briefing with Eventbrite.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*; Email from Eventbrite to the Committee (Mar. 21, 2023) (on file with the Committee).

- **Walsh’s statements during an appearance on a Dr. Phil episode entitled “The Gender Pronoun Debate.”** On January 19, 2022, Matt Walsh appeared as a guest on an episode of Dr. Phil, during which he and two transgender activists debated issues like whether people should choose what pronouns they wish to be called.¹⁶⁸ During that episode, Walsh referred to being transgender as a “charade,” a “theatrical production,” and a “mental illness.”¹⁶⁹
- **Walsh’s statements concerning “gender affirming” surgeries on minors.** During a May 24, 2021 episode of *The Matt Walsh Show*, Walsh discussed surgeries being performed on children who identify as transgender, including surgeries on minors to construct fake male reproductive organs and remove female breasts.¹⁷⁰ Walsh likened these surgeries to molestation and rape.¹⁷¹
- **“Johnny the Walrus.”** “Johnny the Walrus” is a children’s book, published in April 2022, that Walsh authored.¹⁷² The book is about a little boy who pretends to be a walrus and then people on social media and his doctor encourage him to take measures to appear more like a walrus.¹⁷³

None of these statements directly concern the *What Is a Woman?* film. In fact, Walsh made all of these statements before the film was released in June 2022.¹⁷⁴ **Eventbrite admitted to the Committee that no one involved in the decision watched the *What Is a Woman?* film before cancelling the events.¹⁷⁵ Eventbrite could not even identify a single timestamp in the trailer that it deemed to violate the Eventbrite Community Guidelines.¹⁷⁶ According to Eventbrite: “[t]he overall tone and message of the all-encompassing trailer, in combination with Matt Walsh’s related public statements, helped determine the removals—not any individual timestamp.”¹⁷⁷**

¹⁶⁸ See The Falling Messiah, *Matt Walsh Dr. Phil Debate*, YOUTUBE (Feb. 2, 2022), https://www.youtube.com/watch?v=LQGF_4SsZds&ab_channel=TheFallingMessiah.

¹⁶⁹ See *id.* Until May 2019, the World Health Organization classified being transgender as a mental disorder. See *Transgender No Longer Recognised as a “Disorder” by WHO*, BBC (May 29, 2019) <https://www.bbc.com/news/health-48448804>.

¹⁷⁰ See Matt Walsh, *The Evil Quacks Mutilating Our Children*, YOUTUBE (May 24, 2021).

¹⁷¹ See *id.*

¹⁷² MATT WALSH, JOHNNY THE WALRUS (2022); see also *Johnny the Walrus Board Book*, Amazon, <https://www.amazon.com/Johnny-Walrus-Matt-Walsh/dp/1956007059>.

¹⁷³ *Id.*

¹⁷⁴ *What Is a Woman?*, IMDB, <https://www.imdb.com/title/tt20256528/>.

¹⁷⁵ Mar. 17, 2023 Briefing with Eventbrite.

¹⁷⁶ Email from Eventbrite to the Committee (Apr. 4, 2023) (on file with the Committee).

¹⁷⁷ *Id.* (emphasis added).

Despite its inability to identify anything specifically objectionable about the *What Is a Woman?* film, Eventbrite emphasized that “the film itself is what [it] determined to violate” the guidelines and “there is no violation [by] Matt Walsh on Eventbrite.”¹⁷⁸ However, as Walsh told the Committee, there was no plan to screen the film at the Stanford event—he was just giving a speech.¹⁷⁹

Eventbrite did not say that it relied on ADL in deciding to cancel the *What Is a Woman?* events, but notably ADL—which Eventbrite’s Trust and Safety Team generally relies on as a source—has labeled Matt Walsh as an “extremist commentator.”¹⁸⁰

YAF, the organization that helped organize the Stanford event, told the Committee that as a result of Eventbrite’s sudden removal of the event, YAF had to quickly find a way to let students know that the event was still occurring.¹⁸¹ Fortunately, YAF had previously downloaded a list of those who had registered on Eventbrite and was able to register them on Stanford’s ticketing platform which, for the reasons identified above, was problematic.¹⁸² Eventbrite’s cancellation was also costly. It ruined the organization’s printed and previously shared advertisements because the embedded QR code no longer worked—which led to further confusion.¹⁸³

In addition to the Stanford event, Eventbrite has reportedly removed at least six other events related to the *What is a Woman?* film from its platform:

- September 7, 2022 – Turning Point USA’s *What is a Woman?* Watch Party at Western Kentucky University¹⁸⁴
- October 11, 2022 – The Conservative Partnership Institute’s Screening of *What is a Woman?*¹⁸⁵
- November 2022 – YAF’s Screening of *What Is a Woman?* at University of California, Berkeley¹⁸⁶
- March 2023 – YAF and College Republican’s What Is a Woman? Event with Matt Walsh at Washington & Lee¹⁸⁷
- April 2023 – YAF’s *What Is a Woman?* Lecture by Matt Walsh at the University of Iowa¹⁸⁸
- May 2023 – Arizona Teenage Republicans’ Screening of *What is a Woman?*¹⁸⁹
- October 2023 – YAF’s Matt Walsh at the University of Kentucky Event¹⁹⁰

¹⁷⁸ Mar. 17, 2023 Briefing with Eventbrite.

¹⁷⁹ Mar. 9, 2023 Briefing with Matt Walsh.

¹⁸⁰ See Center on Extremism, *Online Amplifiers of Anti-LGBTQ+ Extremism*, ADL (Jan. 24, 2023), <https://www.adl.org/resources/blog/online-amplifiers-anti-lgbtq-extremism>.

¹⁸¹ Sept. 7, 2023 Briefing with YAF.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Maggie Fuchs (@maggiefuchs9), X (Sept. 7, 2022, 5:47 PM), <https://twitter.com/maggiefuchs9/status/1567630664161173505>.

¹⁸⁵ Virginia Kruta, “Your Event Listing Has Been Removed”: Eventbrite Cancels Capitol Hill Showing of “What Is a Woman?” DAILY WIRE (Oct. 11, 2022), <https://www.dailywire.com/news/your-event-listing-has-been-removed-eventbrite-cancels-capitol-hill-showing-of-what-is-a-woman>.

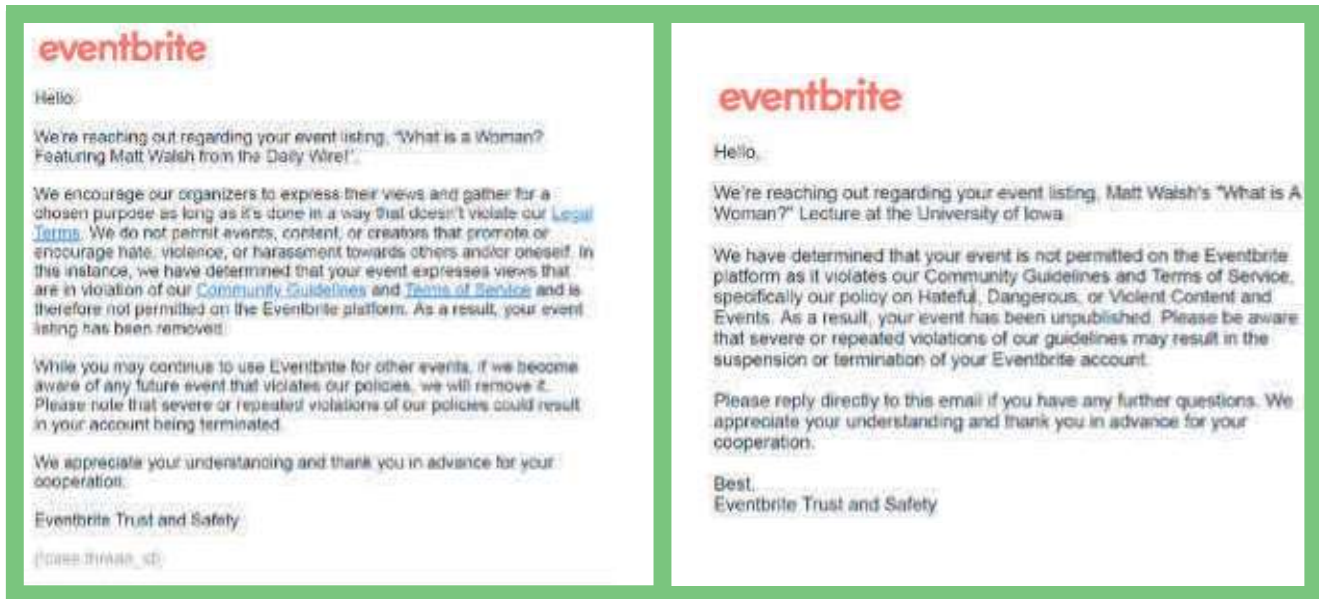
¹⁸⁶ Eventbrite Cancels Tickets for Stanford Event Featuring Matt Walsh, *supra* note 162.

¹⁸⁷ Kamron M. Spivey, *600+ W&L Members Move to Ban Matt Walsh*, W&L SPECTATOR (Mar. 30, 2023), <https://www.wlspectator.com/home/2023/3/26/students-faculty-and-alumni-look-to-ban-matt-walsh-event>.

¹⁸⁸ September 7, 2023 Briefing with YAF.

¹⁸⁹ Arizona Teenage Republicans (@ArizonaTARS), X (May 16, 2023, 10:24 PM), <https://twitter.com/ArizonaTARS/status/1658659678178672640>; David Beasley, *Arizona Teen Republican Group: “Eventbrite is Sending the Message That We Should Not Talk About Cultural Issues,”* GRAND CANYON TIMES (Sept. 7, 2023), <https://grandcanyontimes.com/stories/642661583-arizona-teen-republican-group-eventbrite-is-sending-the-message-that-we-should-not-talk-about-cultural-issues>.

¹⁹⁰ *Matt Walsh at the University of Kentucky*, UNIVERSITY OF KENTUCKY, https://calendar.uky.edu/event/matt_walsh_at_the_university_of_kentucky; Email from YAF to the Committee (Oct. 29, 2023) (on file with the Committee).



NOTIFICATION SENT TO UC BERKELEY

NOTIFICATION SENT TO IOWA ORGANIZERS

YAF estimates that Eventbrite’s cancellations of its events have cost it thousands of dollars in additional expenses.¹⁹¹ Moreover, in at least one case, Eventbrite cancelled a *What Is a Woman?* event and did not reimburse YAF the \$50 fee it charged to publish the event.¹⁹²

Eventbrite stands by its decision to cancel events related to the *What Is a Woman?* film, as demonstrated by its decision to cancel three other such events—including one that took place just weeks after speaking with the Committee in March 2023. Indeed, the company asserted that “Walsh’s subsequent comments have continually reinforced [its] initial determination.”¹⁹³ In effect, all events featuring Walsh that concern transgender issues are banned.

¹⁹¹ Sept. 7, 2023 Briefing with YAF.

¹⁹² Email from YAF to the Committee (Oct. 29, 2023) (on file with the Committee).

¹⁹³ Email from Eventbrite to the Committee (Mar. 21, 2023) (on file with the Committee).

E. RILEY GAINES

Riley Gaines is a former 12-time NCAA All-American swimmer.¹⁹⁴ In 2022, she was named the Southeastern Conference Women’s Swimming and Diving Scholar-Athlete of the Year.¹⁹⁵ That same year, in an NCAA championship event, Gaines tied for fifth place with University of Pennsylvania swimmer, Lia Thomas, the first biological male to win a women’s NCAA Division I title.¹⁹⁶ Gaines has explained that competing against Thomas and being forced to share a locker room with a person with male genitalia prompted her to speak out about against biological males competing in women’s sports.¹⁹⁷ Gaines is now an advocate for women’s sports, serving as an ambassador at Independent Women’s Voice and establishing the Riley Gaines Center at the Leadership Institute.¹⁹⁸ She frequently speaks at universities across the country to defend women’s sports and spaces, like locker rooms.¹⁹⁹

While critical of sports organizations that allow biological males to compete against women, Gaines emphasizes she has no personal animosity against Thomas or anyone who identifies as transgender.²⁰⁰ As she puts it, “I’m not anti-trans. I’m pro-woman.”²⁰¹

F. THE RILEY GAINES INCIDENT

The University of California, Davis (UC Davis) College Republicans asked Riley Gaines to speak at an event on campus scheduled for November 3, 2023.²⁰² The group listed the event, “Protecting Women’s Sports with Riley Gaines” on Eventbrite, where students could register to attend for free.²⁰³ Gaines explained to the Committee that the subject of the speech was her experience as a swimmer at the University of Kentucky.²⁰⁴

¹⁹⁴ Mark Maynard, *Former UK All-American Swimmer Riley Gaines Passionate About Protecting Women’s Sports*, KY. TODAY (Sep. 30, 2023), https://www.kentuckytoday.com/sports/former-uk-all-american-swimmer-riley-gaines-passionate-about-protecting-women-s-sports/article_b14b7324-5f3f-11ee-a97a-533989918b1f.html.

¹⁹⁵ *Riley Gaines Named SEC Scholar-Athlete of the Year*, SPORTS LEDGER, <https://thesportsledger.com/riley-gaines-named-sec-scholarathlete-of-the-year-p19988-202.htm>.

¹⁹⁶ Maynard, *supra* note 194.

¹⁹⁷ *Id.*

¹⁹⁸ See *Riley Gaines*, IWF, <https://www.iwf.org/people/riley-gaines/#:~:text=Riley%20Gaines%20is%20an%20Independent,a%2012x%20All%2DAmerican%20swimmer;RILEY%20GAINES%20CTR.%20LEADERSHIP%20INST.,https://rileygainescenter.org/>.

¹⁹⁹ See *Riley Speak*, RILEY GAINES CTR. LEADERSHIP INST., <https://rileygainescenter.org/events/>.

²⁰⁰ Swimming World Editorial Staff, *Riley Gaines: “I Left There with No Trophy” After Tie with Lia Thomas; Kentucky Standout Disappointed with NCAA*, SWIMMING WORLD (Mar. 24, 2022), <https://www.swimmingworldmagazine.com/news/riley-gaines-i-left-there-with-no-trophy-after-tie-with-lia-thomas-kentucky-standout-disappointed-with-ncaa/>.

²⁰¹ *Meet Riley*, RILEY GAINES CTR. LEADERSHIP INST., <https://rileygainescenter.org/about/>.

²⁰² Jenavieve Hatch, *Former NCAA Swimmer Will Speak at UC Davis Against Trans Women in College Sports*, SACRAMENTO BEE (Oct. 31, 2023), <https://news.yahoo.com/former-ncaa-swimmer-riley-gaines-120000933.html>.

²⁰³ *Id.*

²⁰⁴ Nov. 6, 2023 Briefing with Riley Gaines.

She planned to keep the speech fact-based and focused on her experience competing against biological men and how that felt. Indeed, Gaines explained, most of her speeches are narrowly focused on this issue. Gaines said she is deliberate in making her speeches pro-women.²⁰⁵ She hopes that sharing her experience will be a call to action.²⁰⁶

The event sparked controversy on campus even before it occurred. The UC Davis student government’s “Gender and Sexuality Commissioner” proclaimed that she was organizing a “unified, organized, and coordinated protest against Ms. Gaines and the hate she seeks to foster.”²⁰⁷ A far-left activist group, NorCal Resist, distributed flyers for a protest against the “notoriously transphobic speaker Riley Gaines,” telling people to “be ready to make noise.”²⁰⁸

While protestors planned how to shut down the upcoming event, on October 24, 2023, Eventbrite decided to remove the event page from its website and sent UC Davis College Republicans the following email:

Error! Filename not specified. []

Hello,

We’re reaching out regarding your event listing, Protecting Women’s Sports with Riley Gaines.

We have determined that your event is not permitted on the Eventbrite marketplace as it violates our Community Guidelines and Terms of Service, with which all users agree to comply. Specifically, we do not allow content or events that – through on- or off-platform activity – discriminate against, harass, disparage, threaten, incite violence against, or otherwise target individuals or groups based on their actual or perceived race, ethnicity, religion, national origin, immigration status, gender identity, sexual orientation, veteran status, age, or disability. As a result, your event has been unpublished. Please be aware that severe or repeated violations of our guidelines may result in the suspension or termination of your Eventbrite account.

Please reply directly to this email if you have any further questions. We appreciate your understanding and thank you in advance for your cooperation.

Best,
Eventbrite Trust and Safety

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Valentina Valentine-Ortiz (u/EnderKitty_Cat), r/UCDavis: GASC, *The Official Riley Gaines Protest on Nov. 3rd*, REDDIT (Oct. 2023), https://www.reddit.com/r/UCDavis/comments/17kv6qj/gasc_the_official_riley_gaines_protest_on_nov_3rd/.

²⁰⁸ r/UCDavis: Attention Davis Community! Another Transphobic Speaker is Coming to Our Campus, REDDIT (Oct. 2023), https://www.reddit.com/r/UCDavis/comments/17bcupg/attention_davis_community_another_transphobic/.

Eventbrite did not tell UC Davis College Republicans or Riley Gaines how the event violated its Hateful Events Policy.²⁰⁹

Eventbrite told the Committee that its Trust and Safety Team reviewed the UC Davis event because a user reported it.²¹⁰ Again, Eventbrite’s Trust and Safety Team reviews every single user complaint. Eventbrite told the Committee that the Trust and Safety Team determined that the event violated the Hateful Events Policy because it disparaged people based on their “perceived gender.”²¹¹ **Eventbrite did not consider the event page in reaching this conclusion.²¹² Instead, Eventbrite made this determination based on three of Gaines’s social media posts:**

- **A March 26, 2023 post responding to a post on X about ESPN’s special on Lia Thomas as part of its Women’s History Month Programming.²¹³**



²⁰⁹ Nov. 6, 2023 Briefing with Riley Gaines.

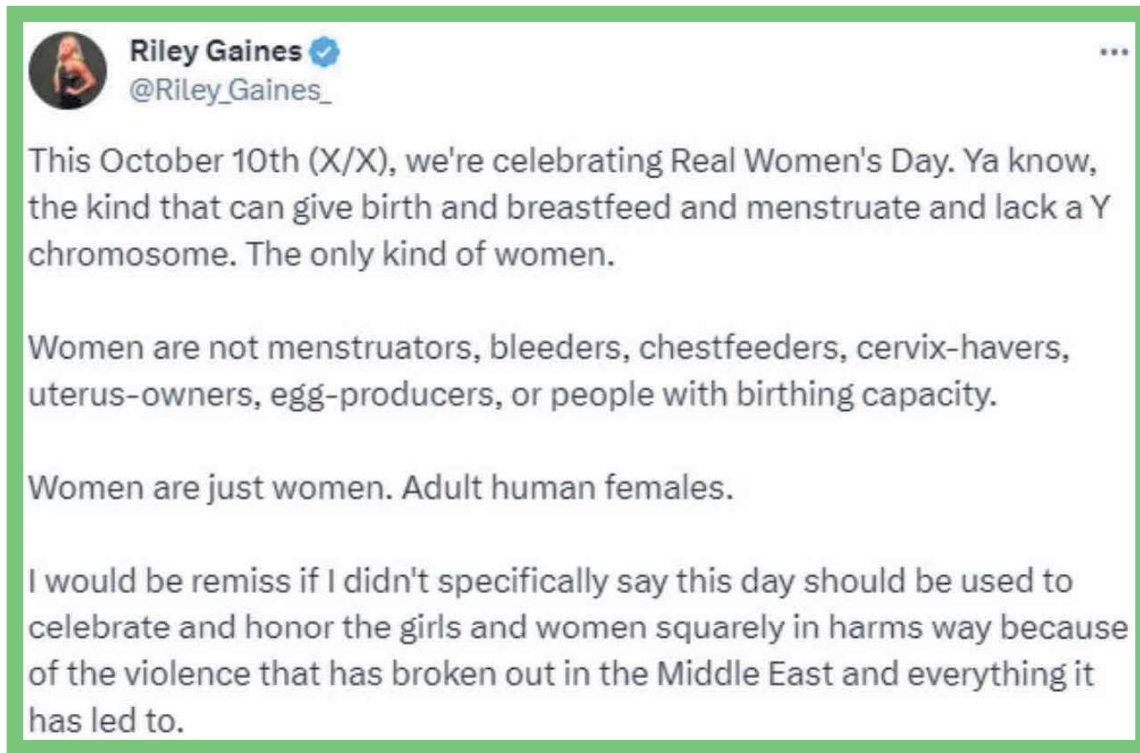
²¹⁰ Dec. 18, 2023 Briefing with Eventbrite.

²¹¹ *Id.*

²¹² *Id.*

²¹³ Riley Gaines (@Riley_Gaines_), X (Mar. 26, 2023, 12:18 PM), https://twitter.com/Riley_Gaines_/status/1640025392965644294.

- An October 10, 2023 post celebrating Real Women’s Day.²¹⁴



- An unknown post on X from an unknown date concerning Anne Andres, a biological male who set Canadian records in women’s powerlifting events.²¹⁵ The Committee asked Eventbrite to identify the specific post numerous times, but Eventbrite did not do so.²¹⁶

Eventbrite said it was necessary to remove the event because these three posts were “disparaging of someone’s perceived gender.”²¹⁷ **The Committee asked whether Gaines’s statement in her October 10, 2023 post that “Real Women . . . lack a Y chromosome” violated its policy because it disparaged someone’s perceived gender. Eventbrite replied that the post “speaks for itself.”**²¹⁸ Eventbrite did not identify any other posts or statements by Gaines that contributed to its decision to remove the event.²¹⁹ Eventbrite explained that these posts were sufficient for its determination.²²⁰

²¹⁴ Riley Gaines (@Riley_Gaines_) X (Oct. 10, 2023, 2:23 PM), https://twitter.com/Riley_Gaines_/status/1711809670334099562.

²¹⁵ See Valerie Richardson, *Transgender Powerlifter Anne Andres Stokes Backlash by Breaking Women’s Records*, WASH. TIMES (Aug. 21, 2023), <https://www.washingtontimes.com/news/2023/aug/21/transgender-powerlifter-anne-andres-stokes-backlas/>.

²¹⁶ Dec. 18, 2023 Briefing with Eventbrite; Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²¹⁷ Dec. 18, 2023 Briefing with Eventbrite.

²¹⁸ *Id.*

²¹⁹ *Id.*; Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²²⁰ Dec. 18, 2023 Briefing with Eventbrite.

Eventbrite repeatedly told the Committee that there was no ban on Riley Gaines at Eventbrite.²²¹ Yet when asked multiple times if Eventbrite would remove another event concerning women’s sports that featured Riley Gaines, Eventbrite dodged the question.²²² Eventbrite told the Committee that its “Trust and Safety [T]eam assesses each case based upon its particular facts and circumstances.”²²³ The facts and circumstances remain the same as they were when Eventbrite removed the UC Davis event listing: Gaines’s posts remain online and she continues to visit college campuses to speak about women’s sports. **The inevitable conclusion is that Eventbrite will remove any event featuring Riley Gaines that concerns women’s sports.**

Eventbrite’s removal of the event page impacted the event. UC Davis College Republicans ended up using a Google form to manually register people for the event.²²⁴ Although the event was still well attended, some people reported that they were unable to find information about the event after the page was taken down.²²⁵ As a result, some people who wanted to attend the event may have ended up not coming. Gaines proceeded with her remarks as planned.²²⁶

Eventbrite’s removal of the event page did not impact the protests. Around 100 protestors gathered outside the event.²²⁷ One protestor explained that they did not want the event to occur because “[a] lot of TERFs [transgender exclusion radical feminists], which is what Riley Gaines is . . . like to cry about how they’re not transphobic, they’re pro-women. If you don’t include trans women then congratulations you’re a f***** transphobe.”²²⁸ According to a statement by UC Davis, two people were assaulted at the protest.²²⁹ Reportedly, “[p]rotestors broke the glass on doors and a window on a campus building a short distance from the event. Graffiti [stating “Die Transphobes”] was painted on one building and . . . statues. No one was arrested.”²³⁰

²²¹ *Id.*

²²² Dec. 18, 2023 Briefing with Eventbrite; Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²²³ Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²²⁴ Nov. 6, 2023 Briefing with Riley Gaines.

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ Rivers Stout, *Protest Arises in Response to Riley Gaines On-Campus Speaker Event on Nov. 3*, CAL. AGGIE, <https://theaggie.org/2023/11/17/protest-arises-in-response-to-riley-gaines-on-campus-speaker-event-on-nov-3/>.

²²⁸ *Id.*

²²⁹ UC Davis News and Media Relations, *Student Group Hosts Riley Gaines Talk*, UC DAVIS (Nov. 3, 2023), <https://www.ucdavis.edu/news/statement-riley-gaines-event>.

²³⁰ Stout, *supra* note 227; Rebeka Zeljko, *Riley Gaines Isn’t Backing Down After “Predictable” Opposition at UC Davis*, FEDERALIST (Nov. 6, 2023) <https://thefederalist.com/2023/11/06/riley-gaines-isnt-backing-down-after-predictable-opposition-at-uc-davis/>.

G. OTHER CANCELLATIONS

There are many other examples of Eventbrite removing the pages for events concerning transgender issues because it determined they violated its Hateful Events Policy. For example, on July 13, 2023, Eventbrite removed the event page for an event titled, “Let Women Speak Austin,” hosted by the Independent Women’s Network (IWN).²³¹ The event poster exclaims that the event would feature “women speaking out about the harms of gender ideology, the erasure of women, the mutilation of healthy bodies, and the protection of our sex-based rights.”²³² IWN explained that the organization planned the event “to give women the opportunity to share their opinions and lived experiences, and to advocate for women’s rights and sex-based protections.”²³³ Eventbrite sent IWN an email, notifying the group that it removed the event because it violated the Hateful Events Policy.²³⁴ In response, IWN sent Eventbrite a letter, asking Eventbrite to reverse its decision.²³⁵ Eventbrite never responded to IWN.²³⁶

When the Committee asked Eventbrite about the IWN event’s removal, Eventbrite said it removed that event because the Trust and Safety Team “found readily available information demonstrating that several of the event speakers had repeatedly disparaged the actual or perceived gender of many individuals.”²³⁷ Eventbrite did not identify any of that “readily available information.”

IWN also scrambled to find another ticketing platform before the scheduled event. As the organization explained, however, the new ticketing platform was not comparable to Eventbrite: “it was not nearly as user friendly, nor did it have the search engine power that Eventbrite offered.”²³⁸ Moreover, the switch “caused a ton of confusion for marketing and the public because social media posts with the Eventbrite [QR code] had already been ‘boosted’ at a cost and were in the ether—those who landed on the original Eventbrite page were met with a dead link/page.”²³⁹ In an attempt to mitigate the damage, IWN printed fliers with a QR code generated by Bitly—a platform for shortening URLs and generating QR codes²⁴⁰—and spread them around town.²⁴¹ But then Bitly cancelled the QR link, initially claiming that it was blocked for “phishing” and then stating that the “link has been found to be in violation of [its] Terms of Service.”²⁴² Bitly refused to identify what term the link violated, asserting that “we are not required to disclose the specifics of our verdict.”²⁴³

²³¹ Carrie Sheffield, *Eventbrite Canceled Our “Let Women Speak” Event—Calling Those Advocating Female Safety “Hateful,”* N.Y. POST (Jul. 24, 2023), <https://nypost.com/2023/07/24/eventbrite-canceled-our-let-women-speak-event-calling-those-advocating-female-safety-hateful/>.

²³² IWN, *Let Women Speak Austin*, TX (Aug. 12, 2023), <https://iwnetwork.com/wp-content/uploads/2023/07/let-women-speak.jpeg>.

²³³ Press Release, IWN, Independent Women’s Network Issues Letter to Eventbrite after Company Cancels Local Chapter “Let Women Speak” Event (Jul. 18, 2023), <https://stream.org/independent-womens-network-issues-letter-to-eventbrite-after-company-cancels-local-chapter-let-women-speak-event/>.

²³⁴ Sheffield, *supra* note 231.

²³⁵ Letter from Michelle Evans, Austin Chapter Leader, IWN & Carrie Lukas, President, IWF, to Eventbrite (Jul. 2023), https://iwnetwork.com/wp-content/uploads/2023/07/IWN_Letter-to-Eventbrite.pdf.

²³⁶ Sheffield, *supra* note 231.

²³⁷ Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²³⁸ Email from IWF to the Committee (Sept. 14, 2023) (on file with the Committee).

²³⁹ *Id.*

²⁴⁰ See BITLY, <https://bitly.com/>.

²⁴¹ Email from IWF to the Committee (Sept. 14, 2023) (on file with the Committee).

²⁴² Email from IWF to the Committee (Sept. 15, 2023) (on file with the Committee); Exchange between Bitly and IWF (Aug. 6–24, 2023) (on file with the Committee).

²⁴³ *Id.*

Eventbrite has reportedly also cancelled the following events in the past year for violating its Hateful Event Policy:

- October 2022 – Sarah Phillimore’s Book Launch for “Transpositions: Personal Journeys Into Gender Criticism”²⁴⁴
- January 2023 – Turning Point USA’s “Teens Against Gender Mutilation Rally”²⁴⁵
- February 2023 – Parents on Patrol’s “Stolen Innocence” Event²⁴⁶
- November 2023 – Palmetto Family Council’s “Stop the Insanity” Event featuring Detransitioner Chloe Cole²⁴⁷

At the same time Eventbrite cancelled Gaines’s UC Davis event, other events that appeared to violate the Eventbrite Community Guidelines remained on the site. For example, as of October 25, 2023, people could register on Eventbrite for an event called “Stop the Genocide! Free Palestine!” at the Lesbian, Gay, Bisexual & Transgender Community Center in New York City.”²⁴⁸ The “About this Event” section for that event said that “[e]arly on Saturday, October 7th, Palestinian resistance fighters broke through Israel’s siege of Gaza. . . . [Israel’s] attack on Gaza takes place after 75 years of settler-colonial violence conducted by the Israeli state.”²⁴⁹ And as of October 25, 2023, Eventbrite even had an event page for a “Yallahween for Gaza” party in Queens, New York, which unironically claimed that the party has “0 tolerance for any type of anti-Semitism, islamophobia, racism . . . Zionism, hatred . . .” and also declared that “[f]rom the river to the sea. Palestine will be free.”²⁵⁰

²⁴⁴ Sarah Phillimore, *Why is Eventbrite Obstructing My Book Launch?*, CRITIC (Oct. 27, 2022), <https://thecritic.co.uk/why-is-eventbrite-obstructing-my-book-launch/>.

²⁴⁵ Alec Schemmel, *“Hateful, Dangerous”: Event Warning About Consequences of Gender Transitions Dropped*, KATV (Feb. 7, 2023), <https://katv.com/news/nation-world/hateful-dangerous-event-warning-about-consequences-of-gender-transitions-dropped-eventbrite-trans-transgender-gender-identity-transgenderism-parents-on-patrol>.

²⁴⁶ *Id.*; Parents on Patrol (@PatrolParentsWi) X (Feb. 2, 2023, 12:14 PM), <https://twitter.com/PatrolParentsWi/status/1621195395324940288>.

²⁴⁷ Amanda Prestigiacomo, *“Censored for Taking a Stand”: Eventbrite Cancels Event Against Child Mutilation with Detransitioner Chloe Cole*, DAILY WIRE (Sept. 30, 2023), <https://www.dailywire.com/news/censored-for-taking-a-stand-eventbrite-cancels-event-against-child-mutilation-with-detransitioner-chloe-cole>.

²⁴⁸ This event page was removed following the Committee’s December 18, 2023 Briefing with Eventbrite. It was originally available at: <https://www.eventbrite.com/e/stop-the-genocide-free-palestine-tickets-742320730287>. A copy of the event page is on file with the Committee.

²⁴⁹ *Id.*

²⁵⁰ This event page was edited following the Committee’s December 18, 2023 briefing with Eventbrite. See *Yallahween for Gaza*, EVENTBRITE (Oct. 28, 2023), <https://www.eventbrite.com/e/yallahween-for-gaza-tickets-726806326287>. A copy of the original version of the event page is on file with the Committee.

The Committee asked Eventbrite why it had removed the event page for Gaines’s event, but not events like these. Eventbrite emphasized that it did not permit antisemitic events to be posted on its website and, since the October 7 attacks, had expanded the key words in its algorithm to flag events that may be antisemitic for the Trust and Safety Team’s review.²⁵¹ Eventbrite explained that the review process was “not perfect” because the Trust and Safety Team only reviewed an event once before the event was scheduled to occur.²⁵² Therefore, if an event’s featured speaker made an antisemitic post after Eventbrite reviewed the event, then Eventbrite would not remove the event.²⁵³ As a result, some events were not removed that should have been. For example, one of the events the Committee discovered—an October “Rhama 4 Palestine (GAZA): Talk & Dinner”²⁵⁴—featured a speaker who made numerous antisemitic posts on X, including one stating that “[w]hat [was] said by Israelis about rape of women and beheading of children by the Palestinians is an unreal media propaganda. . . . They control the media,” and another insinuating that Israelis were pigs and “[p]igs must feed themselves . . . in preparation for lions to prey on them. Good morning, free Palestine.”²⁵⁵ Eventbrite said the event remained live because these posts were made after its initial review.²⁵⁶

Yet there is evidence that Eventbrite more closely scrutinized the *What Is a Woman?* events and the UC Davis event featuring Gaines than it did antisemitic events. For instance, Eventbrite said that one event the Committee had identified—Gaza and the Struggle for Palestine²⁵⁷—was also flagged by its algorithm and subsequently reviewed by its Trust and Safety Team, which determined that the event did not violate its Hateful Events Policy.²⁵⁸ However, in an October 9, 2023 statement, the event’s sponsor, the Palestinian American Organizations Network, called the October 7 attacks “self defense measures,” said that “Israel bears the full responsibility” for those attacks, and declared that “[t]he Palestinian people have the right to defend themselves, and to fight the occupation with all means available. . . . We salute the steadfastness of the Palestinian people and its resistance.”²⁵⁹

²⁵¹ Dec. 18, 2023 Briefing with Eventbrite.

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Rahma 4 Palestine (GAZA): Talk & Dinner*, EVENTBRITE (Oct. 27, 2023), <https://www.eventbrite.com/e/rahma-4-palestine-gaza-talk-dinner-tickets-739757844627>.

²⁵⁵ Abudullah Rushdy (@abudullahrushdy), X (Oct. 22, 2023, 7:41 AM), <https://twitter.com/abudullahrushdy/status/1716057169416552565>; Abudullah Rushdy (@abudullahrushdy), X (Oct. 11, 2023, 5:20 PM) (as translated via Google translate) <https://twitter.com/abudullahrushdy/status/1712216675968278938>.

²⁵⁶ Dec. 18, 2023 Briefing with Eventbrite.

²⁵⁷ *Gaza and the Struggle for Palestine*, EVENTBRITE (Oct. 19, 2023), <https://www.eventbrite.com/e/gaza-and-the-struggle-for-palestine-tickets-738016205337>.

²⁵⁸ Dec. 18, 2023 Briefing with Eventbrite.

²⁵⁹ Statement, *The Root Cause of the Conflict is the Israeli Occupation*, Palestinian American Organizations Network (Oct. 9, 2023), <https://paon-usa.org/2023/10/09/the-root-cause-of-the-conflict-is-the-israeli-occupation/>.

There are only two possible explanations for why Eventbrite allowed the Palestinian American Organizations Network’s event to remain on its website. Either the Trust and Safety Team reviewed the Palestinian American Organizations Network’s statement and determined it was not sufficiently hateful or the Trust and Safety Team did not review this event as thoroughly as it did those featuring Riley Gaines and Matt Walsh. Eventbrite refused to answer the Committee’s questions regarding whether the Trust and Safety Team considered the Palestinian American Organizations Network’s October 9, 2023 statement in reviewing the group’s event.²⁶⁰

The issue of disparate treatment goes beyond events concerning Israel. Eventbrite has allowed numerous “Stop Cop City” events—which support violent protestors who oppose the building of a police and firefighter training facility—to remain on its site.²⁶¹ And in the summer of 2020, Eventbrite created a map of Black Lives Matter protests—many of which turned violent—to help users find them.²⁶² On their face, these events arguably encourage hate and violence and therefore appear to violate the same policy that Eventbrite relied upon to cancel events featuring Matt Walsh, Riley Gaines, and other conservatives—none of which promoted violence.

The Hateful Events Policy is not the only one Eventbrite has relied upon to support questionable removals of constitutionally protected activities. Eventbrite’s Community Guidelines also prohibit “events that sell, distribute, or transfer weapons and firearms.”²⁶³ Pursuant to that policy, Eventbrite reportedly removed the pages for events like the “American Constitutional Rights Union’s Memorial Day Weekend Muster Event” in April 2022²⁶⁴ and the “March 4 Our Military 5K Ruck March” in March 2023.²⁶⁵

²⁶⁰ See Email from Eventbrite to the Committee (Jan. 12, 2024) (on file with the Committee).

²⁶¹ See *Stop Cop City Teach-In*, EVENTBRITE (Feb. 23, 2023), <https://www.eventbrite.com/e/stop-cop-city-teach-in-tickets-548238454977>; *Stop Cop City Fundraiser Show*, EVENTBRITE (Jan. 25, 2024), <https://www.eventbrite.com/e/stop-cop-city-fundraiser-show-tickets-788141942767>; *The Abolitionist Struggle to Stop Cop City*, EVENTBRITE (Mar. 14, 2024), <https://www.eventbrite.com/e/the-abolitionist-struggle-to-stop-cop-city-tickets-576422544347>.

²⁶² Ed Presz, *Building a Protest Map: A Behind the Scenes Look!*, EVENTBRITE (Sept. 8, 2020), <https://www.eventbrite.com/engineering/building-a-protest-map-a-behind-the-scenes-look/>.

²⁶³ *Eventbrite Community Guidelines*, *supra* note 133.

²⁶⁴ ACRU Staff, *Eventbrite Cancels ACRU Memorial Day Weekend Muster Invitation*, ACRU (Apr. 28, 2022), <https://theacru.org/2022/04/28/media-availability-allen-west-eventbrite-cancels-acru-memorial-day-weekend-muster-invitation/>.

²⁶⁵ *Eventbrite Canceled Our Merchant’s Charity Event, Anti 2A Possibly Involved*, MAMMOTH NATION (Mar. 2, 2023), <https://mammothnation.com/blog/eventbrite-canceled-our-merchant-s-charity-event-anti-2a-possibly-involved>.



BONTERRA BLOCKS ADVOCACY FOR WOMEN'S RIGHTS

Following a series of acquisitions of nonprofit technology companies, Bonterra has come to dominate the marketplace for nonprofit technology, such as customer relationship management (CRM) software. Bonterra's terms of service require customers to agree that they will not advocate against "LGBTQ rights," "a woman's right to reproductive choice," "racial justice," or "deny[] climate change. Bonterra therefore refused to continue providing software to conservative customers of the companies it had purchased, including the Independent Women's Forum (IWF), which advocates on issues like protecting women's sports and women's spaces. IWF's operations were disrupted when Bonterra refused to renew the parties' contract, forcing IWF to expend considerable resources securing a comparable replacement rather than pursuing its advocacy.

A. BONTERRA

Bonterra is a technology company that focuses on providing nonprofit organizations with a broad range of technology services to conduct their operations.²⁶⁵ The Bonterra platform is the cumulation of a yearslong acquisition campaign backed by private equity firm, Apax Partners, which brought together EveryAction (online CRM software company), NGP VAN (political campaign technology provider), Cybergrants (online grants management and employee giving software company), Social Solutions (online case management software), GiveGab (online fundraising software company), Salsa Labs (online CRM software company), and Network for Good (online donation and fundraising software company).²⁶⁶

For the purposes of this report, two aspects of these acquisitions are particularly important: (1) EveryAction acquired Salsa Labs in June 2021²⁶⁸ and the company was subsequently rebranded as a division of Bonterra in March 2022,²⁶⁹ and (2) NGP VAN—one of the companies under the Bonterra umbrella—is "the leading technology provider to Democratic and progressive political campaigns."²⁷⁰

²⁶⁶ BONTERRA, <https://www.bonterratech.com/about-us>.

²⁶⁷ Amanda L. Cole, *After Acquisitions, Nonprofit Tech Companies Rebrand as Bonterra*, NONPROFITPRO (Mar. 23, 2022), <https://www.nonprofitpro.com/article/after-acquisitions-nonprofit-tech-companies-rebrand-as-bonterra/>.

²⁶⁸ *EveryAction Makes 6th and Largest Acquisition with Salsa Labs*, BUSINESSWIRE (Jun. 2, 2021), <https://www.businesswire.com/news/home/20210602005376/en/EveryAction-Makes-6th-and-Largest-Acquisition-with-Salsa-Labs>.

²⁶⁹ Exciting News: EveryAction is Becoming Bonterra, EveryAction (Mar. 23, 2022) (on file with the Committee).

²⁷⁰ NGP VAN, <https://www.ngpvan.com/>.

As Bonterra’s CEO explained, “[c]oming together as Bonterra has been purposeful from day one.”²⁷¹ Indeed, as a result of these acquisitions, Bonterra is able to offer over 20,000 customers a comprehensive suite of technology services across what Bonterra calls “a landscape-defining software platform.”²⁷² Bonterra is “the second-largest social good software company in the world”²⁷³ and has over 1,400 employees.²⁷⁴

Bonterra told the Committee that it aims to be a “social good” software company and serve “social good” organizations.²⁷⁵ Bonterra could not, however, define “social good organization” for the Committee.²⁷⁶ Bonterra advises on “tactics to activate LGBTQ+ advocates year-round,”²⁷⁷ showcases its partnership with far-left organizations like Black Visions,²⁷⁸ which seeks to abolish the police,²⁷⁹ and highlights pro-abortion organizations advocating against Texas’s “dangerous, extremist,” abortion law.²⁸⁰ Bonterra also refuses to work with “organizations that oppose racial justice, reproductive rights, LGBTQ rights, or who deny the reality of climate change.”²⁸¹

²⁷¹ Cole, *supra* note 267.

²⁷² Jul. 13, 2023 Briefing with Bonterra; *Introducing Bonterra: Technology That Powers Those Who Power Social Impact*, PR NEWSWIRE (Mar. 23, 2022), <https://www.prnewswire.com/news-releases/introducing-bonterra-technology-that-powers-those-who-power-social-impact-301508548.html>.

²⁷³ *About Bonterra*, BONTERRA, <https://www.bonterratech.com/about-bonterra>.

²⁷⁴ Avery Komlosfske, *One Complete Book: How Bonterra Combined Four Companies to Tell a Story of Social Impact*, BUILT IN (Nov. 7, 2022), <https://builtin.com/brand-studio/one-complete-book-bonterra-four-companies-story-social-impact>.

²⁷⁵ Jul. 13, 2023 Briefing with Bonterra; *see also About Bonterra*, *supra* note 273.

²⁷⁶ Jul. 13, 2023 Briefing with Bonterra.

²⁷⁷ Nathan Huet, *LGBTQ+ Advocacy Strategies to Generate Advocates Year-Round*, EVERYACTION (Jun. 21, 2023) <https://web.archive.org/web/20230815122940/https://www.everyaction.com/blog/lgbtq-advocacy-strategies-year-round/>; *see also LGBTQ+ Advocacy Strategies to Generate Support Year-Round*, BONTERRA (Jun. 1, 2022), <https://www.bonterratech.com/blog/lgbtq-advocacy-strategies>.

²⁷⁸ *Case Study, Black Visions Invests in Building Grassroots Power with EveryAction*, EVERYACTION, <https://go.everyaction.com/black-visions-case-study.html>.

²⁷⁹ *See Yes 4 Minneapolis*, BLACK VISIONS, <https://www.blackvisionsmn.org/yes4mn>.

²⁸⁰ Grace Duginski, *9 Organizations Making Abortion Access a Reality in Texas*, EVERYACTION (Sept. 2, 2021), <https://web.archive.org/web/20230815123719/https://www.everyaction.com/blog/9-organizations-making-abortion-access-a-reality-in-texas/>; *see also 8 Organizations Fighting for Reproductive Justice in Texas*, BONTERRA (Nov. 25, 2021), <https://www.bonterratech.com/blog/reproductive-justice>.

²⁸¹ Grace Duginski, *Every(Re)Action: M+R’s Guide to Effective and Ethical Creative Helps Progressive Organizations Make a Deeper Impact*, EveryAction (Jun. 29, 2021), <https://web.archive.org/web/20230815123812/https://www.EVERYACTION.com/blog/everyreaction-mr-guide-effective-ethical-creative/>.

B. BONTERRA'S TERMS OF SERVICE AND ACCEPTABLE USE POLICY

Bonterra customers who use the EveryAction platform must agree to the Bonterra-EveryAction Terms of Service.²⁸² Buried within the “customer data” section is a subsection titled “Business Ethics,”²⁸³ which reads:

c. Business Ethics. You, as a material part of this Agreement, acknowledge that we conduct our business based on a set of values and guidelines for action and behavior regarding people (including, without limitation, customers, employees, communities impacted by our business activities, and our shareholders), and you agree to similarly conduct your business by not focusing on (i) denying rights to the LGBTQ community; (ii) denying a woman’s right to reproductive choice, (iii) denying racial justice, or (iv) denying climate change. You also agree to make contributions or other payments to candidates for any political office, or government officials or other persons charged with similar authority only in accordance with applicable law.

During the period of the Committee’s investigation (up until August 15, 2023), the Bonterra-EveryAction Terms of Service incorporated the Bonterra-EveryAction Acceptable Use Policy.²⁸⁴ The Bonterra-EveryAction Acceptable Use Policy includes a section on “prohibited uses,” in which the “customer agrees [to] not (*directly or indirectly*) use, and not to encourage or allow any Authorized User to use the Platforms or Developer Tools, or in a manner that,” among other things:

*promotes, encourages, or facilitates: hate speech, violence, discrimination based on race, color, sexual orientation, marital status, gender or identity expression, parental status, religion or creed, national origin or ancestry, sex, age, physical or mental disability, veteran status, genetic information, citizenship and/or any other characteristic protected by law.*²⁸⁵

Because EveryAction adopted this policy before Bonterra was formed, Bonterra did not know when this language was first adopted.²⁸⁶ Bonterra told the Committee that the Bonterra-EveryAction Acceptable Use Policy is generally “very normal,” as compared to similar software-as-a-service providers, but “because of the nature of [its] work,” the policy includes some terms “that are less common.”²⁸⁷

²⁸² *Terms of Service*, EVERYACTION (Jun. 15, 2021) [hereinafter *Bonterra-EveryAction Terms of Service*], <https://web.archive.org/web/20230815123115/https://www.everyaction.com/terms-of-service/>. See also *Product Terms and Conditions*, BONTERRA, <https://www.bonterratech.com/legal/product-terms-conditions>.

²⁸³ *Bonterra-EveryAction Terms of Service*, *supra* note 282.

²⁸⁴ *Acceptable Use Policy*, EVERYACTION (Jun. 29, 2020) [hereinafter *Bonterra-EveryAction Acceptable Use Policy*], <https://web.archive.org/web/20230815123116/https://www.everyaction.com/acceptable-use-policy/>.

²⁸⁵ *Id.* (emphasis added).

²⁸⁶ Jul. 13, 2023 Briefing with Bonterra.

²⁸⁷ *Id.*

At least during the period that the Committee conducted the investigation into Bonterra, these policies applied only to customers of the EveryAction division of Bonterra. Bonterra told the Committee that it was in the process of creating an acceptable use policy that would apply across all of its products.²⁸⁸ It expected that the new policy would be “fairly consistent” with the current EveryAction policy.²⁸⁹ While the Bonterra-EveryAction Acceptable Use Policy, quoted above, is no longer available on Bonterra’s website, the Bonterra-EveryAction Terms of Service are still in place.²⁹⁰

Bonterra told the Committee that in enforcing these policies, it focuses on the customer organization’s use of the software, not on the organization itself, or the “positions of the organization.”²⁹¹ Bonterra said that it does not enforce its policies by “proactively monitor[ing] content or anything its customers add to their websites.”²⁹² It emphasized that it is “not concerned with” anything a customer company’s customer base does.²⁹³ Yet Bonterra’s policies plainly envelop organizations’ entire operations: they regulate how organizations generally “conduct [their] business”²⁹⁴ and how organizations use Bonterra’s platform “directly or indirectly.”²⁹⁵ Bonterra could not explain how an organization’s use of the platform could “indirectly” violate the Bonterra-EveryAction Acceptable Use Policy.²⁹⁶

Bonterra told the Committee that it usually learns an organization may be in violation of its policies either because the organization itself approaches Bonterra about its policies or because an employee or another customer flags a potential violation.²⁹⁷ In those situations, the Bonterra employee fills out a webform in the employee portal documenting the concern. The Vice President of Corporate Strategy then reviews the form, weeds out obvious mistakes, and forwards the form to Bonterra’s Chief Legal Officer, who determines whether the organization is in violation of Bonterra’s policies and therefore can no longer use Bonterra’s services.²⁹⁸ There is no standard method or template through which Bonterra notifies a customer that it may no longer use the platform.²⁹⁹ In the incidents the Committee reviewed (discussed in further detail below), once Bonterra decided the organization violated its policies, it called the organization and informed the organization’s representative that Bonterra would not renew the current contract.

²⁸⁸ *Id.*

²⁸⁹ Jul. 13, 2023 Briefing with Bonterra

²⁹⁰ *EveryAction Terms of Service*, BONTERRA, https://www.bonterratech.com/sites/default/files/2023-09/everyaction-termsofservice_12.10.2021.pdf.

²⁹¹ Jul. 13, 2023 Briefing with Bonterra.

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ *Bonterra-EveryAction Terms of Service*, *supra* note 282.

²⁹⁵ *Bonterra-EveryAction Acceptable Use Policy*, *supra* note 284.

²⁹⁶ Jul. 13, 2023 Briefing with Bonterra.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

C. INDEPENDENT WOMEN’S FORUM

Independent Women’s Forum (IWF) is a nonprofit organization that describes itself as “the leading national women’s organization dedicated to developing and advancing policies that are more than just well-intended, but actually enhance people’s freedom, opportunities, and well-being.”³⁰⁰ The organization proclaims that it “celebrates women’s accomplishments and fights to expand women’s options and opportunities.”³⁰¹ Together with its affiliated membership organization, the Independent Women’s Network (discussed in Part II), IWF advocates on issues across a wide range of topics affecting women. For example, it supports legislation that allows rideshare drivers to be classified as independent contractors,³⁰² promotes school choice,³⁰³ and more aggressively regulates pharmacy benefit managers.³⁰⁴ IWF is also outspoken in its support for women’s sports, declaring that “[i]n a zero-sum competition, the inclusion of male-bodied athletes in women’s sport inevitably denies opportunities to female athletes. Claims to the contrary deny science, defy logic, and undermine Title IX.”³⁰⁵

D. THE INDEPENDENT WOMEN’S FORUM INCIDENT

On November 22, 2022, Bonterra—then still operating as EveryAction—notified IWF that it would not renew the parties’ contract at the end of the term because IWF was in violation of its acceptable use policy.³⁰⁶ IWF had originally signed the contract for CRM services with Salsa Labs in February 2021.³⁰⁷ IWF explained that in searching for a CRM services provider, it “interviewed various companies to identify the right path forward to meet [its] needs—including security and something viable, where IWF wouldn’t fall subject to cancel culture,” and Salsa Labs assured IWF that it would be a good match.³⁰⁸ The process of onboarding onto the Salsa Labs platform took “roughly seven months.”³⁰⁹ As IWF explained, it takes a long time to fully operationalize a new CRM platform because the process requires “data cleanup, migration, setup, integrations (many custom builds), training, IP warming up, and much more.”³¹⁰

³⁰⁰ *About*, IWF, <https://www.iwf.org/about/>.

³⁰¹ *Id.*

³⁰² Patrice Onwuka, *Yes on Prop 22: Californians Approve Uber, Lyft Drivers Remaining Independent*, IWF (Nov. 4, 2020), <https://www.iwf.org/2020/11/04/yes-on-prop-22-californians-approve-uber-lyft-drivers-remaining-independent/>.

³⁰³ Keri D. Ingraham, *Families Want Educational Freedom*, IWF (Jul. 26, 2023), <https://www.iwf.org/2023/07/26/families-want-educational-freedom/>.

³⁰⁴ Havilah Wingfield, *Bipartisan Congressional Effort Takes on PBMs in the Battle to Lower Drug Prices*, IWF (Jun. 8, 2023), <https://www.iwf.org/2023/06/08/bipartisan-congressional-effort-takes-on-pbms-in-the-battle-to-lower-drug-prices/>.

³⁰⁵ *Inaugural National Women’s Sports Week to Celebrate Female Athletes*, PR NEWSWIRE, <https://www.prnewswire.com/news-releases/inaugural-national-womens-sports-week-to-celebrate-female-athletes-301570048.html>.

³⁰⁶ Email from IWF to the Committee (May 31, 2023) (on file with the Committee).

³⁰⁷ Contract between IWF and Salsa Labs (Feb. 26, 2021) (on file with the Committee).

³⁰⁸ Email from IWF to the Committee (May 31, 2023) (on file with the Committee).

³⁰⁹ Email from IWF to the Committee (Sept. 15, 2023) (on file with the Committee).

³¹⁰ *Id.*

Everything fell apart about a year after IWF completed the onboarding process. On June 2, 2021, EveryAction acquired Salsa Labs.³¹¹ IWF, however, did not learn about the acquisition until November 2022, when a third party alerted it that a “liberal-leaning-firm”—EveryAction—had purchased Salsa Labs.³¹² Upon learning this news, IWF reached out to its primary account contact at Salsa Labs/EveryAction “to ask about this acquisition and the IWF account.”³¹³ EveryAction provided this response:

Thank you for reaching out. As part of the Salsa Labs acquisition by EveryAction, all Salsa clients now fall under the EveryAction Acceptable Use Policy. With this change, there are a small handful of clients who will not have their contracts renewed as they fall outside the AUP. I do want to be straightforward with you that IWF falls into this category.

The Independent Women’s Forum’s contract will not be renewed at the end of the current term, 5/23/2023. However, please know you will have uninterrupted access to the platform, Support and Client Success teams, as well as all Support and Training materials until then. If you do believe that you’ll need additional time, we can extend the contract for an additional three months.

*Please let me know if you have additional questions, I would be happy to hop on the phone.*³¹⁴

EveryAction did not specifically inform IWF how it, as an organization, “fell outside” of the Acceptable Use Policy.³¹⁵ IWF suspected, however, that EveryAction found fault with IWF’s work regarding women’s sports.³¹⁶

The Committee’s investigation revealed that IWF’s suspicion was correct. **Bonterra told the Committee that IWF violated the Bonterra-EveryAction policies because it “works to restrict the rights of the LGBTQ community.”³¹⁷ Bonterra could not explain how exactly IWF was working to restrict LGBTQ rights, because the decision was**

³¹¹ *EveryAction Makes 6th and Largest Acquisition with Salsa Labs, supra* note 268.

³¹² Email from IWF to the Committee (May 31, 2023) (on file with the Committee).

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ Email from IWF to the Committee (Sept. 15, 2023) (on file with the Committee).

³¹⁶ *Id.*

³¹⁷ Jul. 13, 2023 Briefing with Bonterra.

made “before their time,” but generally pointed to IWF’s advocacy on transgender related issues.³¹⁸ Indeed, IWF has published pieces concerning the threats that transgender related issues pose to women’s rights, like the dismantling of Title IX,³¹⁹ the elimination of single sex spaces (including locker rooms and sororities),³²⁰ and the medicalized “gender transition[ing]” of young women.³²¹ And IWF’s affiliated group, IWN, has organized petitions on those topics.³²² In taking these positions, IWF explains that it is acting consistent with its mandate to “help advance women’s freedoms and opportunities.”³²³ The Committee was not able to find any instance where IWF advocated for hate, discrimination, or violence against anyone.

As a result of Bonterra’s decision to not renew its contract, IWF was forced to quickly deplatform from Bonterra’s software and find a new CRM. IWF immediately retrieved its subscribers’ data and scrubbed all of its own data from the platform.³²⁴ Finding a new CRM platform “took several months of on and off calls and demos, followed by contract negotiations.”³²⁵ In addition to finding a new platform, IWF had to find an “implementation partner” to assist with onboarding onto the new platform, which is still ongoing. **IWF explained that the “entire process set [it] back in various ways and hindered [its] work, timelines, and planning.”³²⁶**

E. OTHER CANCELLATIONS

Bonterra told the Committee that since August 2022, “[t]here has only been a decision to not renew a customer’s contract ten times” for violating its Acceptable Use Policy.³²⁷ The Committee’s investigation has revealed at least three other instances where Bonterra refused to renew the existing contract:

³¹⁸ *Id.* Bonterra later claimed that it had determined that IWF “violated the policy in the way that it used the Salsa Labs platform for programming that promoted restricting the rights of LGBTQ individuals. Specifically, IWF raised money through Salsa Labs for the organization’s political and policy advocacy to prevent transgender athletes from participating in sports competitions based on their gender identity.” Apr. 12, 2024 Email to the Committee (on file with the Committee). This recent explanation is inconsistent with the one Bonterra originally provided, as it relies on IWF’s use of the platform and points specifically to IWF’s advocacy on protecting women’s sports. The Committee does not credit this explanation for five reasons: (1) During the July 2023 briefing, when the Committee asked Bonterra to further explain how IWF violated its policy by working to restricting LGBTQ rights, Bonterra said that it could not provide further detail because the decision was made “before their time” and it did not have exact records of these determinations; (2) The Bonterra-EveryAction Terms of Service, which Bonterra cited repeatedly during the July 2023 briefing when explaining how IWF violated its policies, generally prohibit customers from “denying rights to the LGBTQ community,” and therefore are not limited to an organization’s use of the platform; (3) The Bonterra-EveryAction Acceptable Use Policy, which Bonterra cited in its email notice to IWF (quoted above), applies to how customers use the platform “indirectly,” and therefore is not limited to customers’ use of the platform; (4) Consistent with those general prohibitions, Bonterra’s email notice to IWF does not refer to IWF’s use of the platform or any specific advocacy position—rather, it says IWF itself “fall[s] outside of” the policy; and (5) Given IWF’s strong advocacy regarding women’s sports, even if Bonterra’s objection was focused on IWF’s use of the platform itself, it would have been impossible for IWF to have used the platform to advance its mission in a way that did not violate Bonterra’s policies.

³¹⁹ Press Release: Independent Women’s Voice Launches Keep Women’s Sports Female Open Letter Signed by Over 100 Female Athletes, IWF (Jun. 21, 2023), <https://www.iwf.org/2023/06/21/press-release-independent-womens-voice-launches-keep-womens-sports-female-open-letter-signed-by-over-100-female-athletes/>.

³²⁰ Kaylee McGhee White, *Wyoming Sorority Sisters Are Fighting for the Dignity of All Women*, IWF (Jun. 4, 2023), <https://www.iwf.org/2023/06/04/wyoming-sorority-sisters-are-fighting-for-the-dignity-of-all-women/>.

³²¹ Prisha Mosley, *I Began “Gender Transition” at 16. I Was Lied to in a Terrible Way. Now I Am Seeking Justice*, IWF (Jul. 27, 2023), <https://www.iwf.org/2023/07/27/i-began-gender-transition-at-16-i-was-lied-to-in-a-terrible-way-now-i-am-seeking-justice/>.

³²² See *Keep Women’s Sports Female*, IWN (Jun. 21, 2023), <https://iwnetwork.com/actions/keep-womens-sports-female/>; *Stand Up for Sisterhood. Keep Sororities Female*, IWN, <https://iwnetwork.com/actions/stand-up-for-sisterhood-keep-sororities-female/>.

³²³ INDEP. WOMEN’S FORUM, <https://www.iwf.org/>.

³²⁴ Email from IWF to the Committee (Sept. 15, 2023) (on file with the Committee).

³²⁵ *Id.*

³²⁶ *Id.*

Womens Liberation Front (WoLF). WoLF is a progressive group—it calls itself a “radical feminist organization”—that focuses on women’s rights.³²⁸ It “unapologetically support[s] abortion on demand,” “support[s] the needs of lesbian and bisexual women,” and “seek[s] to combat the global epidemic of male violence.”³²⁹ Although WoLF is generally at the other end of the ideological spectrum from IWF, WoLF also advocates on transgender issues, insofar as they affect women’s rights. For example, WoLF argues that “[a]llowing men and boys to compete in female athletics harms women and girls by reducing opportunities for success, and making competition less safe,”³³⁰ and that “[a]llowing men to ‘self identify’ into women’s prisons violates the internationally-recognized rights of prisoners, exposing them to an increased risk of sexualized violence.”³³¹

Bonterra told the Committee that it refused to renew its CRM contract with WoLF for the same reason it refused services to IWF: WoLF violated its Acceptable Use Policy because it “works to restrict the rights of the LGBTQ community.”³³²

FAIR. The immigration nonprofit, FAIR, signed a three-year contract for CRM services with then-Salsa Labs in 2019.³³³ FAIR selected Salsa Labs for three primary reasons: FAIR’s previous CRM provider had declined to renew their contract due to FAIR’s advocacy positions, Salsa Labs was the “clear industry leader” in the nonprofit CRM industry, and Salsa Lab’s CEO assured FAIR that it would not terminate their service based on FAIR’s stance on immigration.³³⁴ EveryAction purchased Salsa Labs about one and a half years into the three-year contract.³³⁵ A few months later—almost two years into the three-year contract—EveryAction informed FAIR that it would not renew the contract because FAIR was not in compliance with its policy.³³⁶ It took FAIR almost a year to find another CRM-provider.³³⁷

In August 2023, GiveGab, a fundraising platform that is also under the Bonterra umbrella, informed FAIR that it would not renew its current contract with FAIR.³³⁸ GiveGab did not provide a reason.

³²⁸ *Hearing on S.B. 180 Before the S. Comm. on Health & Human Servs.*, 2023 Leg. (Kan. 2023) (statement of Lauren Adams, Legal Counsel, WoLF), https://kslegislature.org/li/b2023_24/committees/ctte_s_phw_1/documents/testimony/20230215_02.pdf.

³²⁹ *About Us*, WoLF, <https://womensliberationfront.org/our-work>.

³³⁰ Issue Summary: Women’s Sports, WoLF, <https://static1.squarespace.com/static/5f232ea74d8342386a7ebc52/t/606207a3b8ba275528bfe129/1617037219609/Sports+One-Pager.pdf>.

³³¹ Issue Summary: Women’s Prisons, WoLF, <https://static1.squarespace.com/static/5f232ea74d8342386a7ebc52/t/6062119c02fb3376480b3e05/1617039772777/Prisons+One-Pager.pdf>.

³³² Jul. 13, 2023 Briefing with Bonterra. Bonterra later claimed that it had determined that WoLF “violated the policy in the way that it used the Salsa Labs platform programming that promoted restricting the rights of transgender individuals.” Apr. 12, 2024 Email to the Committee (on file with the Committee). This explanation is inconsistent with the one Bonterra originally provided, as it relies on WoLF’s use of the platform. The Committee does not credit this explanation for reasons similar to those provided in note 318, *supra*.

³³³ Jul. 14, 2023 Briefing with FAIR.

³³⁴ *Id.*

³³⁵ *Id.*

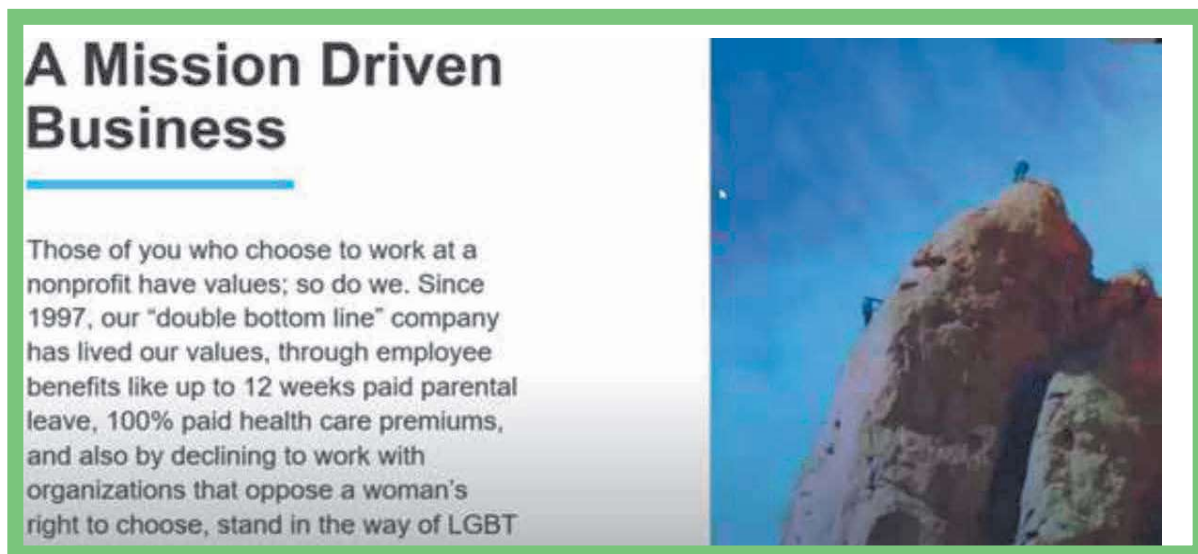
³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ Email from FAIR to the Committee (Aug. 15, 2023) (on file with the Committee).

Pennsylvania Family Institute. The Pennsylvania Family Institute is a nonprofit that partners with the Pennsylvania Family Council, an advocacy organization that focuses on issues affecting families, such as the right to life, and the right of religious freedom.³³⁹ The organization argues that “allowing males (regardless of gender identity) to compete in girls’ sports destroys fair competition and women’s athletic opportunities”³⁴⁰ and advocates against “gender affirmation” surgeries on minors.³⁴¹

The Pennsylvania Family Institute entered into a CRM contract with Salsa Labs in March 2018, completing the data conversion and switch to the new platform in June of that year.³⁴² The organization was “very happy with the software and customer service [that Salsa Labs] provided.”³⁴³ In June 2021, the Pennsylvania Family Institute saw the announcement that EveryAction had purchased Salsa Labs and reviewed EveryAction’s website, which raised concerns that EveryAction would refuse to do business with the Pennsylvania Family Institute.³⁴⁴ The Pennsylvania Family Institute specifically pointed to a 2020 EveryAction promotional video (screenshotted below) in which EveryAction stated that it “declin[es] to work with organizations that oppose a women’s right to choose, stand in the way of LGBT rights, or deny climate change.”³⁴⁵



³³⁹ PA. FAM. COUNCIL, <https://pafamily.org/council/>; Protecting Life, PA. FAM. COUNCIL, <https://pafamily.org/issue-life/Preserving Religious Freedom>, PA. FAM. COUNCIL, <https://pafamily.org/issue-religious-freedom/>.

³⁴⁰ *Fairness in Women’s Sports*, PA. FAM. COUNCIL (Jun. 21, 2023), <https://pafamily.org/policy-issues/fairness-in-womens-sports/>.

³⁴¹ *Sign the Petition: Stop Funding “Sex-Change” on Children*, PA. FAM. COUNCIL (Jun. 9, 2023), <https://pafamily.org/2023/06/09/sign-the-petition-stop-funding-sex-change-on-children/>.

³⁴² Jul. 5, 2023 Briefing with Pennsylvania Family Institute.

³⁴³ Email from Pennsylvania Family Institute to the Committee (Jul. 5, 2023) (on file with the Committee).

³⁴⁴ *Id.*; Jul. 5, 2023 Briefing with Pennsylvania Family Institute.

³⁴⁵ Email from Pennsylvania Family Institute to the Committee (Jul. 5, 2023) (on file with the Committee); *see also* Firefly Partners, *2020 Nonprofit Digital Tool Guide – EveryAction*, YOUTUBE, at 5:45 (2020), https://www.youtube.com/watch?v=kCmsrDBHTDU&ab_channel=FireflyPartners.

Based on this video, the Pennsylvania Family Institute worried that EveryAction would not continue providing CRM services because the organization, “respects the sanctity of life.”³⁴⁶

The Pennsylvania Family Institute therefore reached out to Bonterra (then EveryAction), seeking assurance that it would continue to receive CRM-services.³⁴⁷ It did not get that assurance. Instead, Bonterra (then EveryAction) told the Pennsylvania Family Institute that its contract would not be renewed.³⁴⁸

After speaking with several different companies, the Pennsylvania Family Institute was able to find a company that would provide CRM services.³⁴⁹ The new CRM-provider, however, is much smaller and less mature than Bonterra. Therefore, its platform and related services are not as sophisticated as Bonterra’s.³⁵⁰ The Pennsylvania Family Institute explained that “new companies do not have the same product sophistication level or experience like established ones. Therefore, when organizations are forced to switch to the small new companies that are willing to take them, they do not get the same level of service.”³⁵¹

Moreover, the process to switch had a “significant impact” on the organization.³⁵² It was a “serious setback,” in terms of efficiency, because retrieving the data, finding a new CRM service provider, and uploading the data into the new platform “took significant resources and manpower.”³⁵³ Over a year after the Pennsylvania Family Institute had been with its new CRM service provider, the data conversion process was still not complete and suffered from glitches.³⁵⁴ What is more, this episode was not the first time that the Pennsylvania Family Institute had to find a new CRM service provider: before the organization contracted with Bonterra (then-Salsa Labs), another company, Convio, refused to continue providing its CRM services to the Pennsylvania Family Institute after Blackbaud, a nonprofit cloud computing provider, acquired it.³⁵⁵

³⁴⁶ Jul. 5, 2023 Briefing with Pennsylvania Family Institute.

³⁴⁷ *Id.*

³⁴⁸ *Id.*

³⁴⁹ Sept. 6, 2023 Briefing with Pennsylvania Family Institute.

³⁵⁰ *Id.*

³⁵¹ *Id.*

³⁵² *Id.*

³⁵³ *Id.*

³⁵⁴ *Id.*

³⁵⁵ *Id.*; Jul. 5, 2023 Briefing with Pennsylvania Family Institute.

Meanwhile, Bonterra continues to “power” the New Jersey chapter of the Council on American-Islamic Relations’ (CAIR-NJ) fundraising page.³⁵⁶ For decades, CAIR has drawn significant criticism for its possible connections to the Muslim Brotherhood and Hamas.³⁵⁷ In November 2023, CAIR National’s Executive Director said—in reference to the October 7 Hamas attacks—that he “was happy to see people breaking the siege and throwing down the shackles of their own land. . . . [T]he people of Gaza have the right to self-defense . . . Israel as an occupying power does not have that right to self-defense.”³⁵⁸ Along similar lines, on October 9, 2023, CAIR-NJ posted on X: “That the people of Gaza effectively broke out of prison—resisting an occupation that is not only inhumane but also illegal under international law—is inevitable and should not be unexpected. We stand with Gazans and Palestinians as they demand dignity.”³⁵⁹ In an October 12, 2023 statement, CAIR-NJ’s Executive Director said that “Israel and only Israel bears responsibility for the calamities that we have been witnessing for that is the natural result of their oppression.”³⁶⁰

Bonterra also continues to “power” fundraising efforts for the Institute for Palestine Studies, a research institute that focuses on Palestinian affairs.³⁶¹ On October 9, 2023, it published a piece by Asma Barakat—who in 2021 posted on X that she “cant [sic] wait til every Israeli d*es when we free Palestine.”³⁶² Barakat’s article, titled “Operation Al-Aqsa Flood,” describes the events on October 7 as “a resistance operation” and “a glimpse of liberation at last,” and refers to Hamas as “an indigenous people’s liberation movement.”³⁶³ She also asserts that “Palestinians have a legal right to armed struggle” and “[i]t is Palestinian hands that will have to take back what was stolen from them, just as we are seeing in real-time.”³⁶⁴ In January 2024, the Institute for Palestine Studies published a piece by Randa Abdel-Fattah—an Australian author who, in December 2023 posted on X: “Happy from the river to the sea Palestine will be free in 2024 inshallah.”³⁶⁵ Abdel-Fattah’s article, titled “A Critical Look at the New York Times’ Weaponization of Rape in Service of Israeli Propaganda,” argues that “Israeli mass rape claims are so emblematic of wartime atrocity propaganda that you have to be deeply committed to and affirmed by the racist tropes of Palestinian men to suspend all critical thinking.”³⁶⁶ The fundraiser Bonterra powers supports these publications.³⁶⁷

³⁵⁶ *Donation Page*, CAIR N.J., <https://cair.networkforgood.com/projects/136237-donation-page>.

³⁵⁷ See Noah Rothman, *Republicans Were Right about CAIR and Nihad Awad*, NAT’L REV. (Dec. 8, 2023), <https://www.nationalreview.com/2023/12/republicans-were-right-about-cair-and-nihad-awad/>; Steven Emerson, *FBI Records Show CAIR’s Terror Links Cemented from Start*, ALGEMEINER (Dec. 15, 2015), <https://www.algemeiner.com/2015/12/15/fbi-records-show-cairs-terror-links-cemented-from-start/>; Paul Sperry, *Hamas Ally CAIR Has Operated with Impunity Inside America for 30 Years*, REALCLEAR INVESTIGATIONS (Nov. 8, 2023), https://www.realclearinvestigations.com/articles/2023/11/08/hamas_front_has_been_operating_with_impunity_inside_america_for_30_years_991289.html.

³⁵⁸ Peter Baker, *White House Disavows U.S. Islamic Group After Leader’s Oct. 7 Remarks*, N.Y. TIMES (Dec. 8, 2023), <https://www.nytimes.com/2023/12/08/us/politics/white-house-cair-nihad-awad.html>.

³⁵⁹ CAIR New Jersey (@CAIRNJ) X (Oct. 9, 2023, 9:29 AM), <https://twitter.com/CAIRNJ/status/1711373301518315997>.

³⁶⁰ Press Release: CAIR-NJ, NJ Mosques, and Partners Publish Open Letter, Urge New Jersey Elected Officials to Act on Palestine and Address Root Cause of Violence, CAIR New Jersey (Oct. 12, 2023), <https://cair-nj.org/cair-nj-nj-mosques-and-partners-publish-open-letter-urge-new-jersey-elected-officials-to-act-on-palestine-and-address-root-cause-of-violence/>.

³⁶¹ *Support our Work!*, INST. FOR PALESTINE STUDS., <https://palestine-studies.networkforgood.com/>.

³⁶² Asma Barakat, *Brief: Operation Al-Aqsa Flood*, INST. FOR PALESTINE STUDS. (Oct. 9, 2023), <https://www.palestine-studies.org/en/node/1654366>; Asma Barakat, CANARY MISSION, https://canarymission.org/individual/Asma_Barakat.

³⁶³ *Operation Al-Aqsa Flood*, *supra* note 362.

³⁶⁴ *Id.*

³⁶⁵ Randa Abdel-Fattah, *A Critical Look at the New York Times’ Weaponization of Rape in Service of Israeli Propaganda*, INST. FOR PALESTINE STUDS. (Jan. 14, 2024), <https://www.palestine-studies.org/en/node/1655054>; Randa Abdel-Fattah (@RandaAFattah) X (Dec. 31, 2023, 8:07AM) <https://twitter.com/RandaAFattah/status/1741445946050011570>.

CONCLUSION

The actions of the Online Service Providers highlighted in this report reveal that the left has taken their efforts to silence conservatives to another level: private companies are refusing to provide services to conservatives based on objections to their speech on third-party platforms. First Amendment protections generally do not apply to actions by private companies, who have the freedom to associate and do business with the customers they choose. Nonetheless, the limited number of providers of some essential online services could mean that organizations are forced to choose between shutting up or shuttering their doors.

That Online Service Providers' discriminatory policies may force organizations to make this choice is a problem. The free flow of information through freedom of speech is the bedrock of our democratic republic. Organizations, such as those discussed in this report, therefore serve a critical role by contributing to discourse on important topics, like whether biological men should participate in women's sports. Yet without access to the Online Service Providers' services, they may be unable to do so.

The ideal solution is for market forces to correct Online Service Providers' discriminatory policies. If Online Service Providers continue to cancel conservative organizations, it should create a new demand for Online Service Providers that service the conservative market. This demand, however, cannot develop unless Online Service Providers are transparent about their political discrimination. This report therefore recommends legislation aimed at increasing transparency and fairness, like requiring Online Service Providers to publish well-defined standards they rely upon to deny services and an annual report detailing how they have enforced these standards, as well as requiring them to provide clear, written notices to users when cancelling services. Otherwise, Online Service Providers may continue their politically motivated cancellations.

Have you been deplatformed for political reasons? Senator Cruz wants to hear from you.
Email him at Republican_Whistleblower@commerce.senate.gov

³⁶⁶ *A Critical Look at the New York Times' Weaponization of Rape in Service of Israeli Propaganda*, *supra* note 365.

³⁶⁷ *See Support our Work!*, *supra* note 361.