



First Amendment Needs Help!

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Newly proposed legislation would make it harder for federal officials to censor speech by pressuring third parties to censor speech.

The bipartisan bill has been dubbed the “Justice Against Weaponized Bureaucratic Overreach to Networked Expression Act”— the [JAWBONE Act](#) — introduced by Senators Ted Cruz (R.-Tx.) and Ron Wyden (D.-Ore.).

“Government coercion of such private speech intermediaries [like social media platforms] threatens freedom of speech and open inquiry,” it asserts, “particularly for users who have no say in, or knowledge of, how their speech or access to information is affected.”

Such censorship-delegation had been brought to light by lawsuits as well as by the willingness of a reconstituted Twitter — X, under the ownership of Elon Musk — to publicize communications between the federal government and Twitter employees during the COVID-19-era assaults on freedom of speech.

The JAWBONE act [would prohibit](#) federal agencies from coercing or threatening online and other services into changing content and would give victims the right to seek damages.

Now, you might be thinking, doesn’t the Constitution already prohibit the federal government from censoring us? Well, yes. It provides no exemption for government censorship implemented via plausibly (or implausibly) deniable delegation of the task.

But we have had many legitimate debates about constitutional meaning. Further, we have also always had many *illegitimate* ones, in which people — [including](#) Supreme Court justices — seek to circumvent even the plainest and most unmistakable import of constitutional provisions.

So the Constitution needs all the help it can get.

This is Common Sense. I’m Paul Jacob.