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**Thinking Clearly About Speaking Freely – Part 6:
All Atwitter About Twitter**

by

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Well, everyone is all atwitter about Twitter in light of Elon Musk's bid. "Atwitter" means "nervously concerned" or "excited." According to Merriam-Webster, synonyms include aflutter, antsy, anxious, edgy, and goosey.

Those most atwitter about possible changes at Twitter, whether brought about by Elon Musk gaining control or otherwise, are those on the Left who don't want to see Twitter relax its policing of what they claim to be "misinformation" or "disinformation."

One year ago, when I began this "[Thinking Clearly About Speaking Freely](#)" series, I said that the basis for actions that "cancel" speech often are claims that the speech constitutes "misinformation" or "disinformation." While acknowledging that there is speech on Twitter and other major online social media sites – and offline too! – that falls into those categories, I stated then that, "to a significant extent, whether or not lawful speech is properly characterized as such frequently depends on one's perspective." That this is true should be obvious – and give pause to censorious impulses.

But for many, including Twitter, Facebook, and Alphabet's YouTube, it doesn't.

There are many examples of "misinformation" or "disinformation" claims serving as a basis for suppressing speech regarding matters of public significance. The classification as misinformation – until the day the Biden Administration changed its own stance – of speech suggesting COVID-19 may have been manufactured in, or leaked from, a lab in China is one example.

What I'll call the "Hunter Biden Laptop Story," back in the news now, is perhaps the prime example. Twitter and Facebook famously blocked or otherwise restricted posts that linked to the *New York Post's* stories about Hunter Biden's laptop. While the explanations differed at times, such as when Twitter claimed the *Post's* stories were "potentially harmful" or "may be unsafe," the proffered rationales, in the main, could be nicely encapsulated in Facebook's explanation: "This is part of our standard process to reduce the spread of misinformation."

Twitter, Facebook, and others were provided some cover for their blocking and suppressing actions by the letter signed by 51 former "intelligence" officials suggesting, at the same time they conceded they did not know whether the contents of Hunter Biden's laptop were "genuine," that they were "suspicious." They surmised the laptop story could be a "Russian information operation."

The *New York Post* published its first "Hunter Biden Laptop Story" on October 14, 2020, three weeks before the November election. Because that story and subsequent ones claimed that the laptop's messages linked now-President Biden to his son's questionable business dealings in Ukraine and China, they obviously were of public import.

At a March 2021 congressional hearing on misinformation and social media, then-CEO Jack Dorsey declared Twitter had made a "total mistake" by restricting the sharing of the *New York Post's* October 2020 reports about Hunter Biden's emails. He said it was a "process error."

Well, whatever. Thanks, Jack.

We now know that the "Hunter Biden Laptop Story" almost certainly was not based on Russian misinformation or disinformation.

Let me be clear about this: I don't know what Hunter Biden did or did not do that may be suggested by the thousands of documents recovered from his laptop. And I don't know whether whatever he did or did not do constituted any crimes that implicated his father. My purpose here, decidedly, is not to offer any opinions or draw any conclusions about whatever facts ultimately may emerge on those points. That's for investigations ultimately to determine, perhaps even with the help of a newly curious mainstream media press corps.

Rather, my purpose, in continuing the conversation I began in Part I of this series, is to say that, in the long run, here in America, whether we can sustain an environment in which information and ideas are exchanged freely, whether by the press or by interested citizens, and in which people can speak freely, is more important than what happens to Hunter Biden, or even President Biden, in the near-term.

Back in September 2018, Jack Dorsey referred to Twitter as a “public square” and “a global town square” while emphasizing the importance of “free and open exchange” on the site. In a March 2019 post, Facebook CEO Mark Zuckerberg described Facebook as the “digital equivalent of a town square.” Perhaps this was all simply spouting platitudes.

But it would be good for the country, and for the robust discourse upon which the health of our democratic experiment ultimately depends, if Twitter, Facebook, YouTube, and other online platforms that claim to be spaces where free and open exchanges occur, begin to act in less censorious ways. At a minimum, this would require them to adopt a higher, more stringent bar before classifying speech as “misinformation” or “disinformation” than previously employed.

This does not mean that, if they wish, they necessarily should limit the policing of content on their platforms to concededly unlawful speech. There is content beyond that which is traditionally entitled to First Amendment protection that, in some instances, they may wish to restrict. As private entities, they generally are protected by the First Amendment in doing so, with only a few exceptions, say, for example, if they willingly coordinate speech-suppressive actions with the government.

While troubled by the range and extent of Twitter, Facebook, and YouTube cancellations, in the previous five parts of this series I never have gone so far as to suggest that the First Amendment would permit the government to dictate the platforms' content moderation policies and decisions. And, on the other side of the coin, I haven't endorsed the notion, at least as they presently operate, that Twitter and the other dominant platforms should be considered common carriers required to carry all lawful messages indiscriminately.

For now, I have some hope that Elon Musk's bid for Twitter, even if not ultimately successful, may lead to changes at Twitter and other platforms that cause them to be less quick to censor speech – even when they lawfully can. A good start would be an announced willingness to presume, at least as a default position, that the response to claims that certain speech constitutes “misinformation” or “disinformation” is to allow that speech to be tested in the marketplace of ideas. In other words, the default position should be to rely on a free market approach to encourage more speech, not less.

As I said in closing Part 1 of this [series](#), the free speech values at the heart of the Founders' First Amendment are central to our country's Constitutional Culture. These free speech values should be nourished and supported in the private sphere by individuals and private sector firms and institutions even when not compelled by the Constitution. A robust Constitutional Culture, properly understood, can play an important role in combatting the Cancel Culture.

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Randolph J. May, [Thinking Clearly About Speaking Freely – Part 1](#), (April 19, 2021)

Randolph J. May, [Thinking Clearly About Speaking Freely – Part 2](#), (May 3, 2021)

Randolph J. May, [Thinking Clearly About Speaking Freely – Part 3](#) (June 4, 2021)

Randolph J. May, [Thinking Clearly About Speaking Freely – Part 4](#) (June 15, 2021)

Randolph J. May, [Thinking Clearly About Speaking Freely – Part 5 - Catholic Law's Inaugural Seigenthaler Debate](#) (February 4, 2022)