



Testimony

SB 5

Testimony Before the Texas Senate State Affairs Committee

by Joshua Treviño

Thank you for the opportunity to testify on Senate Bill 5, in the special session of the 87th Texas Legislature. My name is Joshua Treviño, and I am the chief innovation officer at the Texas Public Policy Foundation. In this role, I look to the future of Texas and policymaking, with the aim of preparing our state for the challenges to come and preserving the inheritance of liberty that has characterized us as a nation since 1836.

Senate Bill 5 is a necessary act for securing that future and that inheritance. It exists as a reaction to the overreach and excess of social-media firms that have taken it upon themselves to police the public square and stifle ideas and beliefs they disagree with—ideas held by broad swaths of the American public. They do so from a standpoint of exceptional power within our civic space, undergirded by a special favor granted to them, *and to no other form of media*, by federal legislation: exemption from liability for user-generated content. Unfortunately, what we see time and again is these firms' unfitness to competently or consistently exercise that power. Individual citizens with unorthodox opinions are deplatformed, and then orthodoxy shifts. Democratically elected representatives are shut down, while dictatorial regimes communicate without hindrance.

The state of Texas cannot afford to allow this status quo to persist. The fundamental question in social-media policy now is simple: who rules? If an unaccountable corporate elite is in charge, to the point of *de facto* setting the terms of engagement in the public square, then our experiment as a republic is over. But the Foundation does not believe it is over: the people still rule, and our elected representatives still work on their behalf. Therefore, the Texas Legislature has both an obligation and the power to see to it that these firms operate in a transparent fashion—accountable, if need be, to the Attorney General of Texas.

To that end, Senate Bill 5 moves Texas in the right direction. By compelling social-media firms to publish clear and transparent terms of service, by compelling social-media firms to report on their administration of those terms, and by empowering the Attorney General to investigate and enforce proper application of that administration, SB 5 effectively holds these firms to account—by their own standards. The remedy for social-media favoritism and censorship is not an opposite measure of the same: it is equality and transparency of treatment. SB 5 does the job.

Thank you for the opportunity to testify. ★

ABOUT THE AUTHOR

Joshua S. Treviño is the chief innovation officer at the Texas Public Policy Foundation, in which role he explores pathways for future Foundation action and develops forecasts for Texas and the nation. Prior to his service as CIO, he was vice president of strategy at the Illinois Policy Institute in Chicago. Prior to that, he was vice president of communications at the Foundation for six years. His other experience includes an independent media consultancy, a consultancy at Booz Allen Hamilton, vice president of policy at the Pacific Research Institute in San Francisco, service as both a speechwriter and an international-health professional in the administration of George W. Bush, and a United States Army officer.

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The Texas Public Policy Foundation is a nonprofit, nonpartisan research institute. The Foundation promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

