

United States Senate

June 20, 2024

Clare Melford
Chief Executive Officer
The Global Disinformation Index
21750 Hardy Oak Boulevard, Suite 104
San Antonio, Texas 78258

Dear Ms. Melford:

I write today to express my concern about the coordinated campaign by The Global Disinformation Index (GDI) to trample the freedom of the press and freedom of speech in the United States. Since 2018, GDI has used federal funding, received through the U.S. State Department, to demonetize American conservative news outlets' ad revenues through the use of its Dynamic Exclusion List (DEL) with digital advertisers. These actions have resulted in the censorship of some of the most revered, well-established American news publications under the claim of combatting "propaganda" and "disinformation."¹ GDI received \$100,000 from the State Department's Global Engagement Center (GEC) to implement a nefarious agenda to defund conservative media over what GDI described as "opaque ownership structures" and ensure "transparency in the media."²

Recently, a lawsuit was brought against the GEC, alleging that in its efforts to address foreign propaganda and misinformation, the agency violated its government mandate to address foreign propaganda and misinformation by funding organizations – namely GDI – that harm America's freedom of the press.³ Manifested by a shell game of partnerships with State Department organizations and affiliates, foreign and U.S.-based non-profit registered entities, and a network of innocuously titled non-profit funding streams, GDI has established a complex network of operations implicating a level of covertness worthy of scrutiny.⁴

Through its DEL, GDI has operationalized a government-funded, Orwellian truth test—the "disinformation risk rating" of news organizations—led by a censorship team of "trained intelligence analysts."⁵ This "risk assessment" assigns an arbitrary risk scale seemingly based on a nebulous set of left-leaning values. GDI then disseminates this rating to the largest advertising

¹ Brian Flood, State Department funds 'disinformation' index targeting non-liberal and conservative news outlets: report, Fox News (February 16, 2023), <https://www.foxnews.com/media/state-department-funds-disinformation-index-targeting-non-liberal-and-conservative-news-outlets-report>; Freddie Sayers, How 'fighting disinformation' can mean censorship, The Washington Post, <https://www.washingtonpost.com/opinions/2024/05/08/disinformation-political-censorship-unherd-gdi/> (last visited June 7, 2024).

² Gabe Kaminsky, State Department-funded 'disinformation' tracker hides tax filings while urging transparency, Washington Examiner (January 29, 2024), <https://www.washingtonexaminer.com/policy/technology/2820047/state-department-disinformation-tracker-gdi-redacts-tax-forms/>.

³ Ibid.

⁴ Ibid.

⁵ The Global Disinformation Index, <https://www.disinformationindex.org/product/>. (last visited June 18, 2024).

companies, who serve as gatekeepers for advertising across all online marketplaces, search engines and social media platforms, pressuring ad servicers to throttle advertising on any outlet or website labeled as “high risk”. Not surprisingly, reports show that your apparent “unbiased and non-political” risk scale has led to major outlets with conservative editorial philosophies such as the New York Post, Newsmax, the Federalist, and RealClearPolitics (among others) being labeled as “high risk,”— while left-leaning outlets such as the Associated Press, New York Times, the Washington Post, and the Huffington Post (among others) are labeled as “low risk”.

The freedom of news organizations to promote certain views and content free from government intervention, however disagreeable, is an immutable American principle.⁶ Beyond the lofty ideals of the American experiment, this nation’s jurisprudence protects against coordinated public-private partnerships to subvert the rights of American citizens. Under the state action doctrine of the Fourteenth Amendment to the United States Constitution, entities that are significantly intertwined with the federal government verge on state actors, requiring them to comply with constitutional limitations on the regulation of speech.⁷ If a state actor suppresses speech on an ideological basis, it is subject to strict scrutiny,⁸ likely unconstitutional, and possibly subject to suit for compensatory and punitive damages under 42 U.S.C. § 1983. As a government-funded arbiter of speech, GDI’s actions stray dangerously close to providing a public function that would qualify it as a state actor.⁹

GDI would be wise to operate within the guideposts of the United States Constitution. Your actions likely run afoul of the freedom of speech. The Supreme Court recently reaffirmed in *National Rifle Association of America v. Vullo* that the First Amendment does not allow state actors to coerce a private party to punish or suppress disfavored speech on its behalf.¹⁰ As I have maintained, the answer to bad speech is always more speech, not less. The propensity of left-leaning organizations such as GDI, to seek out and silence dissenting opinions is alarming. In America, the right to free speech has always been the bedrock on which our open and free society was built.

I have defended time and again the principles of the First Amendment, which has made America a model for free speech protections. As Missouri’s Attorney General, I led *Murthy v. Missouri*, a lawsuit currently being considered by the United States Supreme Court. Before becoming U.S. Senator for Missouri, I highlighted how government officials—including those from the White House, the Center for Disease Control and Prevention (CDC), the Federal Bureau of Investigation (FBI), the Cybersecurity and Infrastructure Security Agency (CISA), and the Election Assistance Committee (EAC)—colluded with Big Tech to remove conservative views.¹¹ Instead of suppressing speech on the internet, the internet should remain a bastion for robust

⁶ See Jud Campbell, *Natural Rights and the First Amendment*, 127 Yale L. J. 246, 255 (“speech and press freedoms were natural rights that were regulable in promotion of the public good, meaning the good of the society as a whole”); The Declaration of Independence, 1 U.S.C. § XLIII (1776) (“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights”).

⁷ See *Blum v. Yaretsky*, 457 U.S. 991, 1004 (1982).

⁸ See e.g., *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 766-67 (2018).

⁹ See *Marsh v. Alabama*, 326 U.S. 501, 509 (1946).

¹⁰ *National Rifle Association of America v. Vullo*, 602 U.S. ___, 2024 WL 2751216, at *8 (2024) (citing *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67-69 (1963)).

¹¹ See *Murthy v. Missouri*, 2023 WL 6173457 (2023) (granting certiorari).

public discourse. Americans must maintain the ability to read, write, debate, discuss, and ultimately decide which information they prefer to shape their ideas and beliefs on, no matter how much others disagree. As the great Prime Minister Winston Churchill championed, “Trust the People.”

There is no true or false speech, there is only free speech. The opaque decision-making process surrounding GDI, which has been at the tip of the spear of this modern-day Orwellian movement of suppressing speech is part of a growing “opaque network of private and government-supported enterprises,”¹² that has resulted in the removal of lawfully-protected speech. This is not only wrong but unlawful and antithetical to our Founders’ views that the government is accountable to the people and not people accountable to the government. Not only this, but the criteria this movement relies upon is a constantly sliding scale as political correctness and woke ideology develop new terms and seek to rewrite history to fit its narrative.

As an elected representative of the people of Missouri, it is my duty to shine a light on government and quasi-government actors seeking to silence and undermine citizens’ ability to exercise their right to view and express opinions of their choosing. Frankly put, no single organization or person should have the ability to act as the arbiter of truth. It is incumbent upon Members of Congress to prevent bad actors from putting a thumb on the scale of free speech under the guise of combatting “misinformation” and “disinformation”. Furthermore, it is important that Congress exercises oversight by bringing transparency to an opaque process that I fear erodes First Amendment protections.

To better understand the practices and intentions of the GDI, I ask that you respond to the following inquiries no later than July 4th, 2024:

1. Please provide a list of policies regarding what defines “disinformation”.
2. Please provide any active list of words or phrases that contribute to the identification of disinformation.
3. Please provide specific policies that GDI implements to ensure its index is neutral and independent.
4. Please provide a list of any and all “narrative filters” written by GDI-trained analysts that contribute to the development of disinformation themes.
5. Please provide an annotated list of the number of trained analysts that GDI either employs or contracts with in the development of the DEL.
6. Please provide the political affiliation, if given, of any trained analyst that GDI either employs or contracts with.
7. Please provide a list of any factors that contribute to the total score of an individual media outlet’s risk rating on the DEL.
8. Please provide a list of all research partners within GDI’s global network.
9. Please provide a list of any individuals or groups from which GDI has received a donation or funding, this includes government entities.
10. Please provide a list of any and all governments to which GDI has contracted with.

¹² See Sayers, supra note 2.

11. Please provide information related to how “intelligence analysts” are trained to spot disinformation.

Thank you for your attention to these important matters.

Sincerely,



Eric S. Schmitt

United States Senator

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