



restricted
diversity of political discourse

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DISCUSSION & REVIEW QUESTIONS:

- Toward the beginning of the video, Mr. George contends that, "...this case [PragerU v. YouTube] is about the most fundamental freedom Americans have: freedom of speech as enunciated in the First Amendment to the United States Constitution. All our freedoms – the very concept of freedom – springs from this right. Lose it and we're no longer free – not as individuals and not as a nation. I'm not willing to accept that. PragerU doesn't accept that. And you shouldn't either." Do you agree with Mr. George that freedom of speech is the most fundamental freedom that Americans have? Why or why not? Why shouldn't you accept losing the right to free speech? Explain.
- After explaining some background to the case, Mr. George shares with us that, "We [PragerU] didn't want to sue; we tried to reach an accommodation. But when YouTube wouldn't take the 'offending' videos off their restricted list – there are now 100 on that list – we had no other option. YouTube was infringing on our right to free speech." Why do you think that YouTube has restricted so many of PragerU's videos, including ones that are completely apolitical? Explain. Why do you think that YouTube would not work towards a compromise with PragerU to take any of the videos off of their restricted status? Explain. Do you agree that PragerU's right to free speech is being violated by YouTube? Why or why not?
- Mr. George goes on to explain that, "...a public forum—which can be a physical location, like the classic town square or a shopping mall; or a virtual location, like a website—is a place that must allow individuals and organizations to exercise their free speech rights." Why is it so important that public forums allow people to exercise their right to free speech? Explain.
- Later in the video, Mr. George points out that, "A few years ago, the social media giants – Google, Facebook, YouTube, and Twitter – started to behave not like public forums, but like publishers. They stopped following Section 230, which specifically requires that these websites promote "a true diversity of political discourse," and began to judge content by their own political and social criteria. In other words, the social media giants want it both ways. They want the protections of a public forum and the editorial control of a publisher. We're fine if they're a publisher. And we're fine if they're a public forum. They just can't be both." Why do you think that the top social media sites started to operate as publishers instead of as public forums? Explain. What are the negative consequences to the public when a company claims to operate as a public forum, but actually operates as a publisher? Explain.
- At the end of the video, Mr. George concludes that, "If we win our legal action, YouTube will have to return to the way things were when they started. That's freedom. But if we lose, YouTube gets to act as a publisher while pretending to be a public forum. That would mean much less freedom. And then eventually, no freedom. Because the most powerful Internet sites on earth will determine what you see—and what you don't." Do you think that PragerU will win their lawsuit? Why or why not? Do you think that PragerU should win their lawsuit? Why or why not?

EXTEND THE LEARNING:

CASE STUDY: PragerU v. YouTube

INSTRUCTIONS: Read the article “PragerU files new lawsuit against Google in YouTube ‘censorship’ row,” then answer the questions that follow.

- What does PragerU’s lawsuit claim, in both the federal and state suits? What is ‘Restricted Mode’ and how is it being applied to PragerU? What is two-track litigation? What is YouTube’s position on the allegation of censorship towards PragerU content?
- Why do you think that the social media giants are so heavily politically biased towards leftism? Would you agree with the claim in the lawsuit that YouTube is discriminating against PragerU? Why or why not?
- Do you think that the big social media platforms have enough power, via their censorship and discrimination, to meaningfully influence political outcomes? Explain. Do you think that big social media companies should be able to meaningfully influence political outcomes? Why or why not? Are you troubled by the fact that if PragerU loses this lawsuit your freedom will be greatly reduced? Why or why not?



QUIZ

PRAGERU V. YOUTUBE

1. The most important lawsuit in America right now is _____.
 - a. Prager University v. YouTube
 - b. CNN v. Trump
 - c. Brown v. Board of Education
 - d. Roe v. Wade

2. What is the most fundamental freedom Americans have?
 - a. Freedom of religion
 - b. Freedom of speech
 - c. Freedom to peaceably assemble
 - d. Freedom to own firearms

3. YouTube is an example of a public forum.
 - a. True
 - b. False

4. Which social media giants started to behave like publishers instead of public forums?
 - a. Facebook
 - b. Twitter
 - c. YouTube
 - d. All of the above.

5. If PragerU loses its lawsuit and YouTube gets to act as a publisher while pretending to be a public forum, it would eventually mean _____.
 - a. no censorship of content
 - b. that YouTube will have less editorial control
 - c. no freedom of speech
 - d. None of the above.



QUIZ - ANSWER KEY

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<https://www.foxnews.com/tech/prageru-files-new-lawsuit-against-google-in-youtube-censorship-row>

PragerU files new lawsuit against Google in YouTube 'censorship' row

By James Rogers | Fox News

PragerU has filed a new lawsuit in its legal battle with Google, ramping up its allegations of online censorship against the tech giant and its YouTube video-sharing service.

Founded by radio host Dennis Prager, the conservative nonprofit produces short videos that promote concepts such as limited government and free markets.

The suit was filed against Google and its YouTube subsidiary with the State of California Tuesday, marking the latest development in PragerU's ongoing legal tussle with the Mountain View, Calif.-based firm.

"This lawsuit is 'round two' of the parties' dispute over whether Google/YouTube are above the law when it comes to regulating free speech and expression on YouTube solely because Defendants are private entities who own and operate YouTube for their own profit and commercial gain," the suit claims.

Filed in the Superior Court of the State of California, the lawsuit alleges that the tech heavyweights are "continuing to unlawfully restrict and restrain speech and expression on the global social media and video sharing platform known as YouTube."

The suit claims that Google and YouTube are violating California law in four ways. This includes unlawfully restraining free speech in violation of the state's constitution and discriminating against PragerU based on political, religious, "or other discriminatory animus" in violation of California's Unruh Civil Rights Act, according to the filing. PragerU also alleges that Google and YouTube are "engaging in unlawful, misleading, and unfair businesses practices" in violation of California's Business and Professions Code, as well as violating YouTube's terms of use.

YouTube's "Restricted Mode" filtering feature is being used to block some of the conservative nonprofit's content from the video sharing site, according to PragerU, which also claims that its content falls foul of YouTube's advertising restrictions. "Google/YouTube use these filtering mechanisms as a pretext to justify restricting and censoring PragerU's videos," the court filing alleges.

The lawsuit means that PragerU is now running "two-track litigation" against Google at both state and federal court level.

The legal fight began in October 2017 when PragerU accused the companies of illegally restricting the nonprofit's content.

PragerU initially filed two federal claims against Google – one under the First Amendment and the other for unfair competition and advertising under the Lanham Act. That lawsuit also included five claims under California law, including a free speech claim. Additionally, PragerU filed state law claims for discrimination under the Unruh Act, unfair, unlawful, and fraudulent business practices, and breach of contract.

“We’ve taken an appeal to the Ninth Circuit on the merits of the two federal law claims, and the state law claims were dismissed without prejudice,” explained lead PragerU attorney Peter Obstler in a statement obtained by Fox News. “In other words, the court made very clear that the state law claims were dismissed out of deference to state law courts, that the state courts should decide issues of their own law – not the federal court. Today we’ve come full circle by filing a state law action, as the judge requested we do, in a state court to litigate those issues there. So we’re now going to have a two track litigation.”

“We’re very optimistic we will win our federal suit based upon our case’s First Amendment merits,” said PragerU CEO Marissa Streit in the statement. “But there is reason to believe certain claims are even stronger in California. Specifically claims relating to YouTube’s breach of contract and consumer fraud. They claim to be a public forum for free expression, but they behave instead as a publisher with editorial controls. You cannot have it both ways.”

YouTube denies the allegations of censorship. "Restricted Mode is an optional feature used by a small subset of users to filter out videos that may include sensitive or mature content," explained a YouTube spokesman, in a statement emailed to Fox News. "Giving viewers the choice to opt in to a more restricted experience is not censorship. In fact, this is exactly the type of tool that Congress has encouraged online services to provide for parents and others interested in a more family-friendly experience online"

"PragerU’s videos weren’t excluded from Restricted Mode because of politics or ideology," the spokesman added. "A federal court has already held that PragerU’s allegations are meritless, and we believe the state court will reach the same conclusion."

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