

Tech Lobbying Group NetChoice's First Amendment Argument

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The lobbying group NetChoice has utilized a First Amendment argument to challenge various state laws across the country that seek to regulate social media companies. NetChoice, which has received backing from large companies such as Meta and Google, has argued that the state regulations it is challenging amount to censorship and that they restrict free speech. Among scholars, there is now a debate over whether NetChoice has stretched the definition of the First Amendment too far. The scholars that oppose the lobbying group argue that the group's argument benefits large technology companies and that NetChoice's argument goes against the original intent of the First Amendment.

NetChoice's First Amendment argument, focusing on censorship and free speech rights, characterizes social media as public forums. The state regulations in question try to regulate child safety and political content. NetChoice has relied on precedent to argue their case. *Reno v. ACLU* overturned the federal Communications Decency Act because it violated the First Amendment's guarantee of freedom of speech.¹ *Miami Herald Publishing Company v. Tornillo* overturned a Florida law that required newspapers to offer equal space to political candidates.² *Sorrell v. IMS Health* overturned a Vermont law that banned sale, disclosure, and use of electronic patient pharmaceutical records.³

At the state level, NetChoice is challenging state laws. For example, in Utah, a law would have required users to verify their ages for child safety purposes. In response, NetChoice argued that the law "imposed content-based restrictions on social media companies." Judge Robert Shelby of the Federal District Court agreed with NetChoice, citing NetChoice's success in cases challenging Mississippi, Ohio, and Arkansas laws and blocking Utah's child safety law. On the federal level, NetChoice has filed amicus briefs to the U.S. Supreme Court, arguing against state laws that sought to regulate social media. In July of 2024, the Supreme Court remanded two social media cases from Florida and Texas back to lower courts. The action suggests that the Court thinks the issues deserve more debate. However, in the Court's decision, Justice Elena Kagan opined that algorithms may equate to human speech. Although NetChoice's First Amendment argument is still in dispute, it has captured the attention of many on both the state and federal levels.

For more information, see the full article [here](#).

¹ *Reno v. Am. C.L. Union*, 521 U.S. 844 (1997).

² *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974).

³ *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011).