



March 24, 2011

Apple, Inc.  
1 Infinite Loop  
Cupertino, CA 95014

Google, Inc.  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

Dear Apple and Google:

Earlier this week, four members of the United States Senate asked your companies to remove applications that allow users to access information that these Senators consider “harmful to public safety.” Reasonable people can disagree about the harms, benefits, and offensiveness of *any* application. The American Civil Liberties Union of Northern California urges you to safeguard the free speech rights of users and the free flow of information in your application stores by rejecting this request.

Millions of Americans rely on your companies to receive and exchange information and engage in activism and robust debate. Today, online companies like yours are the virtual streets, parks, and town squares where members of the public come to speak, exchange ideas, and enlist support for political and social causes. In rejecting the Senators’ request, you have the opportunity to show your users that you are committed to continuing to act as facilitators for the free flow of information, rather than gatekeepers. Indeed, you have both the right and the responsibility to do so.

The First Amendment protects your right to distribute apps, and the right of your users to access apps, whether the apps contain late-breaking news, weather updates, photographs, or games. Apps are speech and ideas, and their exchange is constitutionally protected. The Senators object to particular apps that contain information about the location of sobriety checkpoints. While we do not condone drunk driving, it is important to note that this is truthful information that must be made public for the checkpoint to be lawful,<sup>1</sup> and that the California Office of Traffic Safety instructs law enforcement agencies administering checkpoints to publicize.<sup>2</sup>

<sup>1</sup> *Ingersoll v. Palmer*, 43 Cal.3d 1321, 1346 (1987) (“Publicity both reduces the intrusiveness of the stop and increases the deterrent effect of the roadblock.”).

<sup>2</sup> See California Office of Traffic Safety, Grant Administration Program Manual (“To meet the legal requirement of public notification, and to effect high visibility, issue an advance press release for each checkpoint operation.”), available at [http://www.ots.ca.gov/Grants/Grant\\_Administration/Program\\_Manual/pdf/GPM\\_Exhibit\\_1-A\\_Anytown.pdf](http://www.ots.ca.gov/Grants/Grant_Administration/Program_Manual/pdf/GPM_Exhibit_1-A_Anytown.pdf)

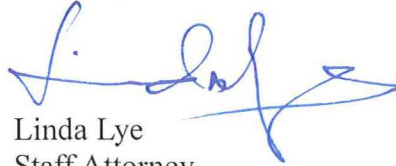
NANCY PEMBERTON, CHAIRPERSON | SUSAN MIZNER, JAHAN SAGAFI, FARAH BRELVI, ALLEN ASCH, VICE CHAIRPERSONS | DICK GROSBOLL, SECRETARY/TREASURER  
ABDI SOLTANI, EXECUTIVE DIRECTOR | KELLI EVANS, ASSOCIATE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | SHAYNA GELENDER, ORGANIZING & COMMUNITY ENGAGEMENT DIRECTOR  
LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR | MARGARET C. CROSBY, ELIZABETH GILL, LINDA LYE, JULIA HARUMI MASS, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS  
ALLEN HOPPER, NATASHA MINSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS | STEPHEN V. BOMSE, GENERAL COUNSEL



But the issue is much broader than these particular apps. In recent months, several apps have been targeted for takedown based on their religious or political content. These developments are troubling for free speech in the digital age. As the virtual town squares where the public now congregates to exchange information, both of your companies have a responsibility to users not to remove apps whenever government officials or some members of the public believe they contain harmful, offensive, or dangerous ideas. The cure in our society for “bad” speech is more speech, not censorship. If the *New York Times* and *Washington Post* had succumbed to the government’s pressure during the Vietnam War, their readers would never have learned of the Pentagon Papers. If you succumb to pressure whenever someone finds an app “offensive,” you risk transforming your companies into “guardians of public morality,”<sup>3</sup> and imposing on users an “orthodox[y] in politics, nationalism, religion, or other matters of opinion” – a role fundamentally at odds with the spirit of innovation at the core of your two companies.<sup>4</sup>

We urge you to safeguard the public trust you have rightfully earned as platforms for free speech and to reject this and future attempts to pressure your companies into curtailing the speech of your users. Please contact us at 415-621-2493 or [llye@aclunc.org](mailto:llye@aclunc.org) to discuss this issue further.

Sincerely,



Linda Lye  
Staff Attorney  
ACLU of Northern California



Nicole A. Ozer  
Technology and Civil Liberties Policy Director  
ACLU of Northern California

---

<sup>3</sup> *Cohen v. California*, 403 U.S. 15, 22 (1971).

<sup>4</sup> *West Va. State Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943).