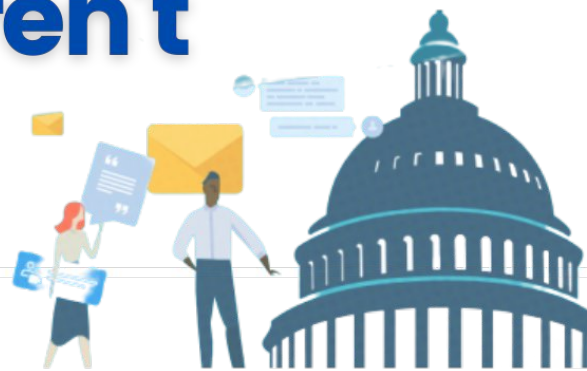


# Digital Platforms Aren't And Shouldn't Be Common Carriers



Critics of America's leading businesses want to magically transform digital platforms into "common carriers." But this idea is legally dubious.

## Characteristics of Common Carriers

## Would digital platforms qualify?

Common carriers passively transmit products from point A to point B.

**No.** Digital platforms do far more than transmit data from Albany to Alameda, they act as message boards and provide tools to create and amplify new messages.  
*See, German Alliance Ins. Co. v. KS, 233 U.S. 389, 406-26 (1914).*

Common carriers transport largely interchangeable items and packages.

**No.** Digital platforms do not just take packages as-is and move them to another location. They allow users to broadcast their public discussions, changing the content as they converse.  
*See, Hurley v. Irish-American Gay, Lesbian Bisexual Group, 515 U.S. 557, 573-76 (1995).*

Common carriers provide their services indiscriminately, allowing any and all legal products.

**No.** Digital platforms do pick and choose what content lives on their site. They discriminate through clear community guidelines and standards users opt into.  
*See, U.S. Telecom Ass'n v. FCC, 855 F.3d 381, 389 (D.C. Cir. 2017).*

**The US Supreme Court makes it clear: the First Amendment protects even common carriers from government mandates to remove content or to host speech they don't want to carry.**

*See, PG&E v. Public Utilities Comm'n, 475 US 1 (1986).*

