


ASTRONAUTS FOR AMERICA

GOVERNMENT LICENSING AND FREEDOM OF SPEECH
Constitutional Principle: Freedom of Speech. Institutional Norms: Executive Constraint; Administrative Neutrality.
BOTTOM LINE

In April 2026 the FCC ordered Disney’s ABC-owned television stations to file for early license renewal, months after its chairman publicly threatened ABC affiliates over a late-night host’s on-air remarks. License proceedings are costly and take years, so the threat alone can silence a broadcaster without any court ruling. Congress should pass the bipartisan JAWBONE Act and define the Communications Act’s “public interest” standard in viewpoint-neutral terms.

NARRATIVE

In April 2026, FCC Chairman Brendan Carr ordered Disney’s ABC-owned television stations to file for [early license renewal](#), citing a DEI compliance inquiry that predated, but became entangled with, an on-air comment by late-night host Jimmy Kimmel [about the First Lady](#). The order followed a near-identical episode months earlier, when Carr publicly [threatened ABC affiliates](#) with license consequences over Kimmel’s on-air remarks about the political alignment of Charlie Kirk’s killer and the President’s reaction to the assassination. Disney [suspended and reinstated the show](#) within a week; two affiliate groups kept preempting it until consumer backlash forced them to relent. FCC pressure on the ABC-owned stations is referred to as “jawboning” or “backdoor censorship,” wherein the government coerces a middleman to do what the First Amendment prevents the government from doing directly. Republican Senator Ted Cruz, who chairs the Commerce Committee with oversight of the FCC, called the pressure campaign “[unbelievably dangerous](#)” and compared Carr’s tactics to a mob shakedown. Cruz then joined Democratic Senator Ron Wyden to introduce the [JAWBONE Act](#), which would let broadcasters and private citizens sue federal officials who use regulatory leverage to punish constitutionally protected speech. The bill has drawn support from a cross-partisan coalition, including the ACLU, FIRE, and the [Knight First Amendment Institute](#).

FINDINGS

PROXIMATE CAUSE(S)	CONTRIBUTING CAUSE(S)	ROOT CAUSE(S)
- Assault on the Freedom of Speech principle: FCC Chairman Brendan Carr publicly threatened ABC-affiliate broadcast licenses over Jimmy Kimmel’s on-air jokes, then ordered an accelerated license renewal review of Disney-owned stations. - Kimmel had no standing to challenge the FCC’s threat directly, since the license jeopardy fell on ABC, not on him. It was ABC, not the government, that imposed his suspension.	- Ceding of the Administrative Neutrality norm: The FCC chair serves at the President’s pleasure, giving the White House de facto influence over a nominally independent regulator. - The Communications Act’s vague “public interest” licensing standard leaves broad discretion for content-based scrutiny of broadcasters. - License proceedings are costly and multi-year, so broadcasters have strong incentive to self-censor rather than risk a fight, chilling speech without a single court ruling.	- The Supreme Court’s recent unitary-executive rulings (Seila Law, Trump v. Wilcox, Trump v. Slaughter) signaled that FCC commissioners’ removal protections may not survive the same constitutional scrutiny that has already stripped them from other agency heads. - Congress has held oversight hearings but taken no binding action: no subpoena, funding rider, or legislation, leaving two senators to introduce a bill instead of the committee compelling change. - As a candidate and in office, the President has called for broadcasters he deems biased to lose their licenses many times over the years, a matter of public record well before the 2024 election.

Norm Erosion: *Executive Constraint:* the expectation that presidents and their appointees do not use executive-branch agencies to reward or punish private parties over political speech was tested when the FCC chairman’s public threats coincided with a licensing action against a network deemed to be critical of the administration. *Administrative Neutrality:* independent regulators are expected to apply licensing standards uniformly regardless of viewpoint; tying a license review to on-air jokes undermines the presumption that the FCC acts as a neutral referee rather than a political enforcer.

Political scientists Steven Levitsky and Daniel Ziblatt, in *How Democracies Die* (2018), identify executive constraint and administrative neutrality as the two most critical norms sustaining democratic governance, and warn that courts cannot enforce norms precisely because they are norms, not laws. When those guardrails erode, the remedy must come from legislators, states, and, finally, from voting citizens.

RECOMMENDATIONS		
LEGISLATORS AND JURISTS	GOVERNMENT EXECUTIVES	CITIZENS
• Pass the bipartisan JAWBONE Act (Cruz-Wyden), creating a private right of action for parties targeted by government pressure on protected speech. • Modify the Communications Act to define “public interest” in viewpoint-neutral, constitutional terms. • Courts should continue the precedent that FCC licensing authority under the Communications Act cannot be used to penalize broadcasters for protected speech.	• FCC Commissioners should recuse themselves from license-renewal matters tied to on-air content the administration has publicly criticized. • The FCC Inspector General should review whether license-renewal timing was retaliatory for protected on-air speech.	• Track the JAWBONE Act through the Senate Commerce Committee and contact your senators to support it. • Use the FCC’s public comment process to formally object to content-based license challenges. • Visit AstronautsForAmerica.org for The Candidate Integrity Pledge. • Challenge your local school board to improve civics education at all levels. • Use social media, and challenge local news outlets, to publicize inspiring examples of good government. • Vote!

Key Sources: *CNBC, FCC begins review of Disney broadcast licenses ahead of schedule (April 2026); NPR, Kimmel responds to Trump’s call for him to be fired (April 2026); Free Speech Center at MTSU, ABC suspends Kimmel’s show (September 2025); PBS NewsHour, ABC ends Kimmel’s suspension (September 2025); “Ted Cruz Rips FCC Chair’s Jimmy Kimmel Threat as ‘Unbelievably Dangerous,’” NBC News (Sept. 2025); S.4749, JAWBONE Act, 119th Congress, introduced by Sens. Ted Cruz and Ron Wyden (June 2026); Knight First Amendment Institute, endorsement of the JAWBONE Act (June 2026); Seila Law LLC v. Consumer Financial Protection Bureau, 591 U.S. 197 (2020); Trump v. Wilcox, 606 U.S. ____ (2025); Trump v. Slaughter, No. 25-332 (2026); Communications Act of 1934, 47 U.S.C. § 309; CNBC, Trump threatening broadcast station licenses, explained (September 2025); Levitsky and Ziblatt, *How Democracies Die* (2018)*

Appeal to Our Crewmates: This “Failure Is Not an Option” briefing is one of a series by Astronauts For America, distilling our “America, We Have a Problem” series briefings into cause factors and actionable recommendations. We are not constitutional scholars; we defer to experts and use primary sources: court decisions, congressional records, peer-reviewed scholarship and news reporting rather than commentary or opinion. Please use the “Contact Us” feature on our website to tell us what we can do to help our democracy keep faith with our American ideals.