The U.S. Supreme Court Answers Some (But Not All) Questions Posed by Three Sets of Social Media Cases

By Michael J. Lambert | September 10, 2024

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It was billed to be a blockbuster term for the First Amendment and social media law. The U.S. Supreme Court's docket in 2023-24 featured a record five cases involving novel questions of free speech and social media. But while the term ended with the resolution of some issues, many remain.

In three of the cases, the Court provided substantive guidance about content moderation, government coercion, and government officials blocking constituents. In sum, the High Court found, for the first time, that content moderation decisions by social media platforms are protected by the First Amendment. It also set new guardrails for government attempts to persuade others to suppress private speech and guidelines to determine when conduct on social media becomes state action. In the other two cases, the Court punted on procedural grounds, finding that the plaintiffs lacked standing required to bring cognizable claims.

The tepid results this term are consistent with the cautious approach historically taken by the Justices when faced with new technology. Although the 2023-24 term will not be remembered as transformational, it has at least provided some much-needed guidance to help lower courts navigate complex constitutional questions.

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