

# Alert

September 24, 2024



## Cozen Currents: It's (Already) Election Day Somewhere

### The Cozen Lens

- Election Day is just 41 days away but voting has already begun in some states, mitigating the impact of both candidates' campaigns as we draw closer to November 5th.
- Tech leaders are divided in supporting Vice President Harris and former President Trump but regardless of the outcome of the election, Silicon Valley is likely to face heat from the federal government.
- In the wake of the social upheaval during the pandemic, there was a period of increasing pressure on CEOs to comment on politically-charged events. While the political winds have shifted and the public is now less interested in CEOs speaking out, corporate brands still rely on the companies' reputation for consistency and sincerity on issues of public import.

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### Election Day Has Morphed into Election Weeks

**It's Actually Already Started.** Significant numbers of people will cast their votes well in advance of Election "Day."

- The first general election absentee ballots were mailed out almost two weeks ago in Alabama. Crucial swing state Wisconsin began on Thursday; military and overseas ballots had to be sent by Saturday; North Carolina finishes sending out all mail ballots today. Each state does it a little bit differently but like it or not, the election is already underway.
- Forty-seven states allow for in-person early voting and 28 permit no-excuse absentee balloting. Even with the pandemic over, adoption of these methods remains high: in the 2022 midterm elections, nearly a third of voters cast their ballots by mail and almost a quarter voted early in person. The National Republican Committee (NRC) chairman predicted that more than half of ballots would be cast before Election Day this cycle.
- A few states have been held up by court battles over whether to keep independent candidate Robert F. Kennedy Jr. on the ballot. RFK Jr. has attempted to take his name off since endorsing former President Trump for president. North Carolina's mail ballots were supposed to be sent out already but were delayed by a ruling that RFK Jr. should not be printed. He has managed to remove his name from every swing state ballot except Michigan and Wisconsin (both have ruled to keep him on).

**Get Them In Early.** While the Republican Party is trying to encourage alternative forms of voting, the Democratic advantage in mail-in ballots has turned into an electoral advantage.

- In a continuation of patterns established in 2020, Democrats are much more likely



Howard Schweitzer

CEO, Cozen  
O'Connor  
Public  
Strategies

hschweitzer@cozen.com  
Phone: (202) 912-4855  
Fax: (202) 640-5932

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to vote by mail than Republicans. In 2022, three-quarters of Pennsylvania's requests for mail ballots came from Democrats even though registered Democrats are only 45 percent of the state's voters. In Nevada, Democrats both requested more ballots and returned a higher percentage of them. Nationally, an April poll said only 18 percent of Republicans prefer to vote by mail, opposed to 37 percent of Democrats and 32 percent of independents.

- By encouraging Democrats to "bank" their votes early, the party locks in votes from unreliable voters, avoids any turnout complications relating to Election Day, and gives their supporters extra time to cure their ballots if necessary. There are other political ramifications too: the fact many voters show up early mitigates the effect of both campaigns and the dazzling finale of ads and door knockers they employ at the finish line. It also means many are making their decision before either side gets to fully define Vice President Harris amid a truncated campaign.

- Former President Trump is sending a mixed message to his party's base. His false claims about the reliability of mail ballots in 2020 is largely the reason Republicans are much less likely to use mail voting today. While he has occasionally encouraged his supporters to vote by mail or early in person this year and his team has coordinated with the NRC for a "Swamp the Vote" initiative, he has also regularly repeated falsehoods about mail fraud on the campaign trail this year.

**No Point Staying Up Late.** Election Night could easily become Election Nights with key states at risk of not being able to be called for days after November 5th.

- While some swing states (Nevada, Michigan, and Georgia) have moved up their timelines for when votes can be counted, others have plateaued or regressed in their ability to produce results quickly compared to 2020. Georgia now requires officials to hand count votes. Pennsylvania and Wisconsin still cannot begin processing ballots until Election Day. As a result, we may well once again not know the victor on November 5th.

- Last election saw a red mirage as in-person votes (leaning Republican) were counted first and mail votes (leaning Democrat) were counted last. Trump prematurely declared himself the winner, demanded the count be stopped, and cast doubt on the veracity of the mail-in ballots. Every indication is that we can expect this sort of behavior again.

- Like in 2020, the parameters of the election will be settled in court. Republicans have filed more than 100 lawsuits disputing how the process should take place; in one example, the GOP is trying to have votes with a missing or incorrect date on the outside envelope be thrown out in Pennsylvania. To match, Harris' advisers claim her legal team is about ten times the size of Biden's in 2020.

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**Silicon Valley-DC's Post-Election Relationship? It's Complicated.**

**Big Tech Under Fire.** Members of both parties are stepping up their scrutiny of Silicon Valley.

- Democrats and Republicans alike are increasingly targeting social media platforms. Earlier this month, the attorneys general of 40 states, the District of Columbia, and the US Virgin Islands sent a letter to congressional leaders calling for warning labels to be applied to social media platforms in reflection of the harms they can pose for children's mental health. This is significant because it's rare for any issue to gain so much bipartisan support, let alone near-consensus. The move indicates that momentum is growing for greater protections for children online that will likely continue next year.

- Despite perceptions of Silicon Valley as a liberal haven, the presidential election has split tech leaders between Vice President Harris and former President Trump. Venture capitalists have been divided in showing their support for Harris or Trump, but regardless of the outcome of this year's elections, Big Tech is still likely to face heat, particularly on this issue.

**Harris and Tech.** Harris' California background doesn't necessarily mean that she'd be an ally of Big Tech as president.

- Silicon Valley leaders such as Mark Cuban, LinkedIn co-founder Reid Hoffman, Khosla Ventures partner Vinod Khosla, and SV Angel managing partner Ron Conway have declared their support for Harris. Her California background and relationships with tech donors in previous campaigns have fueled speculation that a Harris White House would be friendlier to tech than President Biden.
- We've come a long way from the Obama era, however. Big Tech was once seen as a champion of American innovation and enjoyed generally positive relationships with Democrats during the Obama administration. Now, on the other hand, Silicon Valley is often seen more as a source of social problems. A Harris administration wouldn't turn the clock back to 2012.
- A President Harris would face pressure from others in her party to crack down on Big Tech and may well keep on some of Biden's most aggressive regulators, particularly if she encountered difficulty confirming nominees in a GOP-controlled Senate. That could mean a longer tenure for Consumer Financial Protection Bureau Director Rohit Chopra and Federal Trade Commission Chair Lina Khan, for example. Harris is unlikely to follow Hoffman's call for her to dump Khan given the confirmation issues and growing populist sentiment towards Big Tech.

**Trump and Tech.** More than Republican presidential candidates in the past, Trump has locked down support in Silicon Valley.

- Trump has his own high-profile backers in tech, including David Sacks, Doug Leone, Marc Andreessen, and Ben Horowitz. His most notable supporter in Silicon Valley is Elon Musk, whose super PAC has spent about \$33 million to support him in the past month. Earlier this month, Trump promised to set up a government efficiency commission to save money by eliminating fraud and improper payments, to be led by Musk. Such a role could give Musk significant influence over Trump's tech agenda.
- Trump has never been a policy wonk, and one of the biggest questions about his plans for tech in a second term is who has his ear, and particularly who has it last. Those closest to Trump will have the opportunity to make their case for favored policies and influence his views. For now, Musk appears to be in an advantageous position but other tech leaders who invested in their relationships with Trump early could have some influence in the White House if he wins.
- Though Trump enjoys support in the tech world, some of his policy positions could put him at odds with some in Silicon Valley. For example, Trump has focused on conservative concerns with free speech and censorship online and opposes Section 230, tech's cherished liability shield for user-generated content.

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## Navigating the Political Winds as a Corporate CEO

**A Pressure to Act.** What role corporations, and particularly their CEOs, should play when commenting on public events has never been easy, but after a period of high pressure to engage, there are signs of it receding.

- Polling from Gallup shows that a declining number of Americans are looking for corporations to take public stances on current events, with data from May 2023 showing only about 40% saying yes, down from nearly 50% a year prior. Still, there is a relatively high level of trust in the business community, especially around introducing innovation to society, compared to other institutions, the 2024 Edelman Trust Barometer found.
- The difference between weighing in on public events and leading innovations is partly due to the highly polarized nature of our society. No matter how benign it appears,

almost any stance will risk upsetting about half of the population in the current environment.

- The worst mistake businesses can make in the face of this inevitable backlash is to backtrack, as now they leave both sides disappointed with the outcome. While consumer interest in corporate engagement may be down, what is valued most when companies do weigh in is to be consistent and to appear genuine.

**Is It Okay to Be Neutral?** Given the inevitability of criticism when commenting on public events and so-called culture war issues, a stance of neutrality is becoming increasingly popular, but it too does not come without its own risks.

- A neutral stance is enticing as it avoids wading into any messy public relations battles corporations can find themselves in after commenting on current events. With the declining number of Americans looking for corporate involvement, there will likely be more room for companies to stay on the sidelines.
- Still, the danger of neutrality is that some will see it as a lack of caring on an issue, and some feel that having an opinion is better than having no opinion. Furthermore, while customers and employees don't necessarily need or want a sermon from a CEO regarding the latest breaking news headline or controversial tweet, they generally prefer that the brands they associate with are good corporate citizens on issues of societal import, like environmental sustainability and the promotion of human rights.

**Reading the Shifting Political Winds.** One reason for the falling public interest in corporate comments is likely the 2022 midterm elections' outcome, as the changes in the political landscape reshaped the public pressures on businesses.

- ESG and DEI programs were issues that Republicans routinely harped on in the 2022 elections. While not the only reason they gained control of the House, it was an issue that they polled well on, in contrast to abortion rights. Meanwhile, in the years since, the ESG and DEI issues have fallen in prominence for Democrats and have not been a significant feature in Vice President Harris' presidential campaign this year as she hews towards the political center.
- Even if these issues are not priorities for the Harris campaign, a Harris victory could be accompanied by a Democratic victory in the House, re-elevating some of the progressives in the lower chamber. Additionally, her regulatory agenda in the White House may further emphasize environmental issues, upping pressure on businesses to make green commitments.

On the other hand, a return of former President Trump to the White House will bring different pressures on businesses, as he has often been a vocal critic of specific companies supporting what he sees as the "woke" agenda. Trump is unlikely to attack companies taking neutral stances, which could further shield them from PR crises into 2025 and beyond. Still, the backlash for sitting on the sidelines could also rise if voters (once again) look to corporations to provide responsible public leadership in a period of heightened domestic political acrimony.

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