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Trump's executive order resumes executions, after Biden dialed them back

JANUARY 21, 2025 · 8:43 PM ET


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The death chamber, equipped for lethal injection, at the U.S. Penitentiary in Terre Haute, Ind., is shown in this April 1995 photo.

Chuck Robinson/AP

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President Trump indicated he intends to resume executions of federal death row prisoners and forcefully pursue new death sentences in future cases, particularly

against migrants in the U.S. without legal status who commit capital crimes.

The renewed use of the death penalty, announced by an executive order signed on his first day in office, comes shortly after former President Joe Biden and his Department of Justice moved to restrict the federal death penalty. In the final weeks of his presidency, Biden commuted the death sentences of 37 of the 40 prisoners on death row.

Trump's order calls on the U.S. Attorney General to seek the death penalty in future cases "for all crimes of a severity demanding its use." In two circumstances – when law-enforcement officers are the victims of murder and when capital defendants are immigrants in the country without legal status – the government will seek the death penalty "regardless of other factors."

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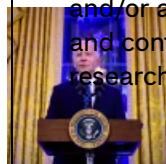
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POLITICS

Biden commutes sentences of 37 federal death row prisoners

The order leaves room for the possibility that people without legal status could receive the death penalty for crimes other than murder. Although a few federal crimes like espionage and treason are already punishable by death, no one in the United States has been executed for a crime other than murder since the death penalty was declared constitutional in 1976.

The Department of Justice should also seek to overrule Supreme Court precedents that limit the state and federal authority to carry out executions, the order states. And it suggests that Trump disapproved of Biden's commutations.

"These efforts to subvert and undermine capital punishment defy the laws of our nation, make a mockery of justice, and insult the victims of these horrible crimes," the order states. Trump's administration will try to make sure the 37 death row prisoners whose sentences were commuted will be imprisoned under harsh conditions "consistent with the monstrosity of their crimes," the order clarifies.

Experts indicate that provision is one of several that could likely be subject to legal challenges.

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Other aspects of the order may also not be easily enforceable.

"I think we can read this executive order as a wish list, as directions to his attorney general regarding the priorities that he or she should set when they take office," added Maher. "But there's going to be a great deal of resistance to many of

these efforts. And again, they are contradictory to well-settled law and procedure, so I don't think any of this will be easy to do."

Trump's support of the death penalty is not new. Since the death penalty was ruled constitutional by the Supreme Court in 1976, the federal government has executed 16 prisoners with a high dose of the sedative pentobarbital. All but three of those prisoners were executed under Trump's first administration.

UNCOVERING THE DEATH PENALTY

Biden says he'll commute sentences for 37 people on death row. NPR talked with one

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The Biden administration took a more critical stance on capital punishment. On Jan 15, after imposing a three-year moratorium on executions, former Attorney General Merrick Garland directed the Federal Bureau of Prisons to rescind its lethal injection protocol and stop using pentobarbital to execute prisoners. A Justice Department review conducted over the period of the moratorium, concluded there was significant uncertainty about whether the use of the drug was humane.

"In the face of such uncertainty, the Department should err on the side of treating individuals humanely and avoiding unnecessary pain and suffering," said Garland.

In its review, the Department of Justice cited a 2024 NPR investigation that revealed how a compounding pharmacy in Texas secretly produced pentobarbital for the state's executions. The review also cited an NPR investigation from 2020 that found evidence of pulmonary edema, which occurs when lungs fill with fluid, in autopsies of executed prisoners.

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Trump's presidential action did not clarify whether the federal government would continue to use pentobarbital against the recommendation of the previous administration, but it declared the Department of Justice would help states obtain drugs to carry out their lethal injection executions.

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Trump nominated Pam Bondi, the former Florida Attorney General, to serve as U.S. Attorney General and lead the agency. The Senate Judiciary Committee is scheduled to review her nomination on Wednesday. As the confirmation process continues, immigration lawyer James McHenry will serve as acting Attorney General.

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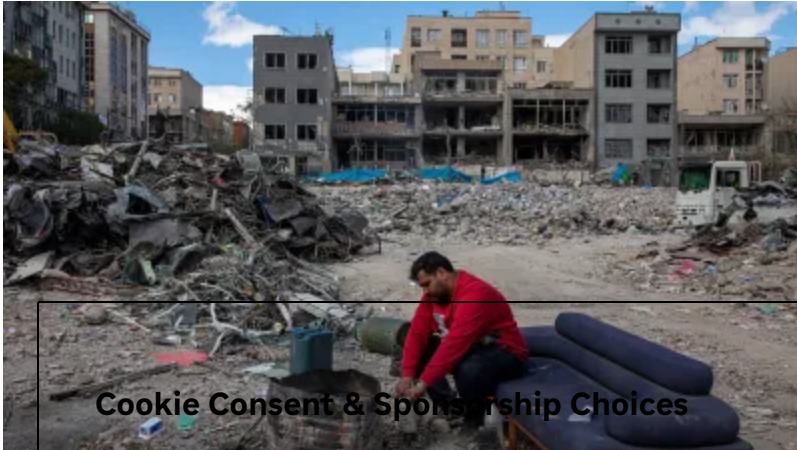
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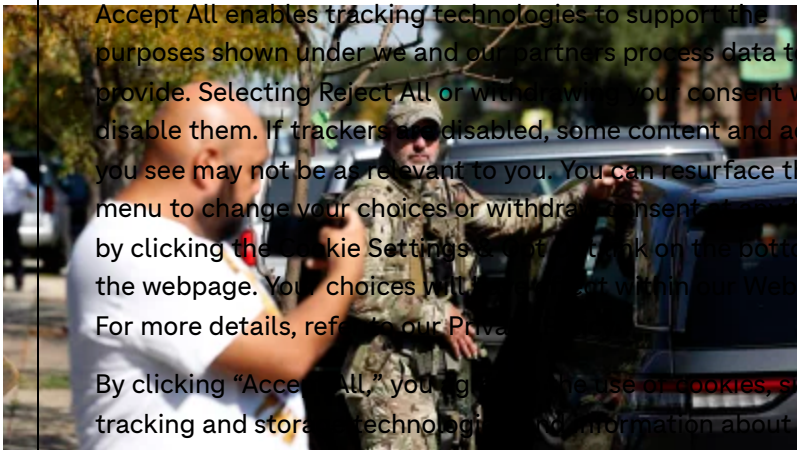
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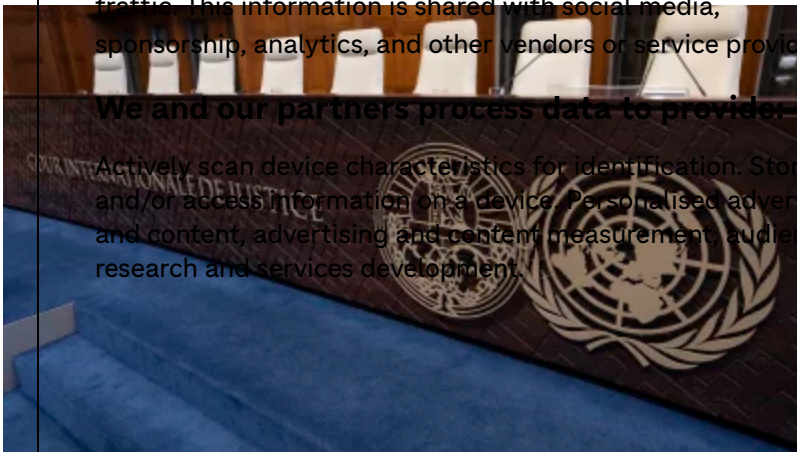
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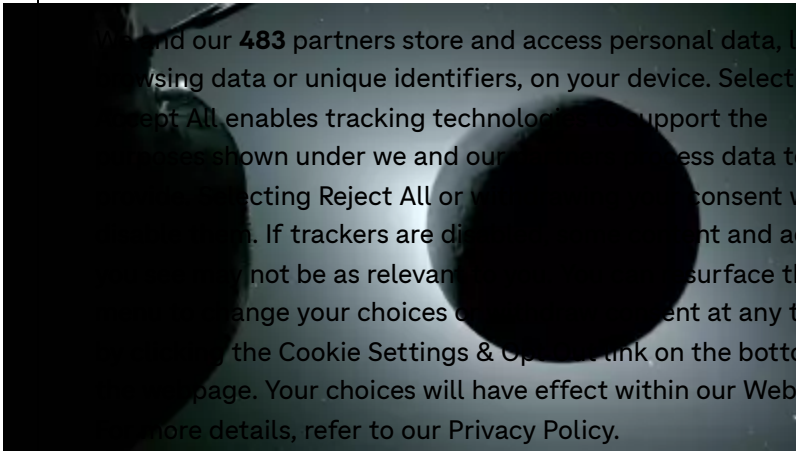
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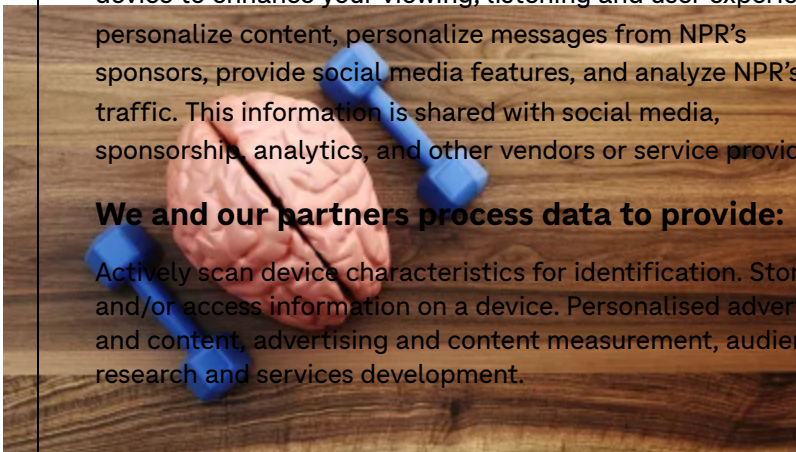
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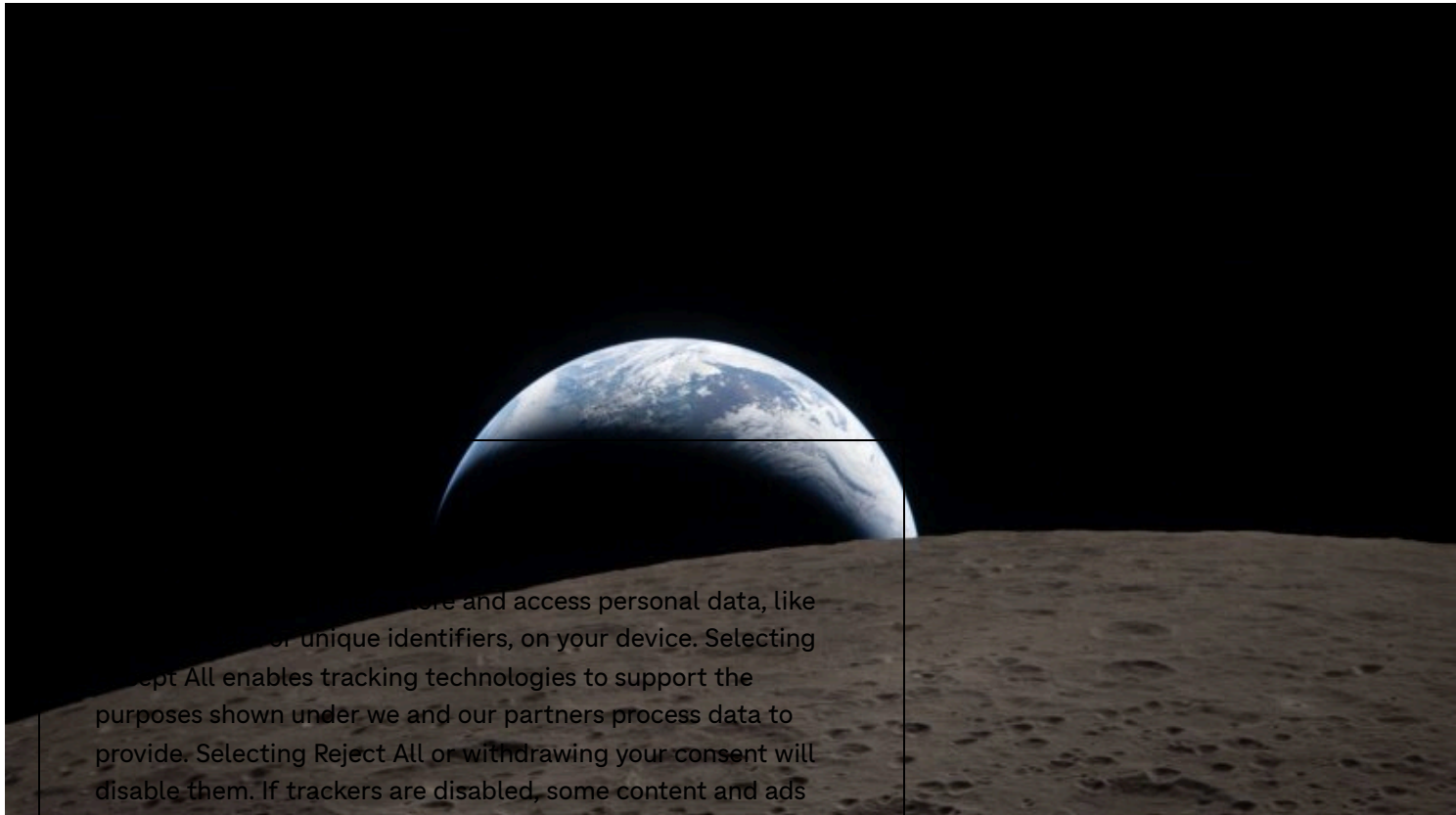
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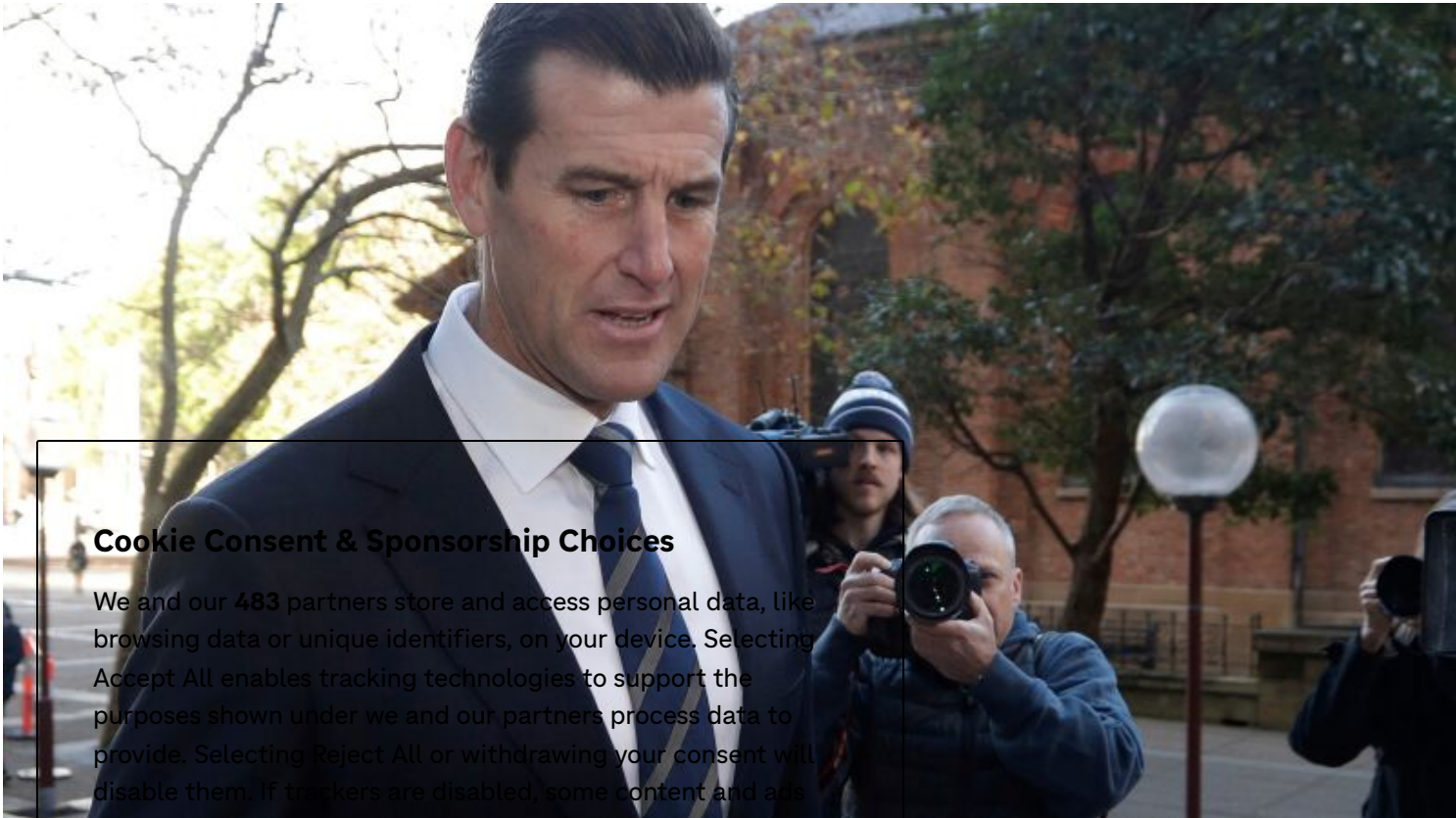
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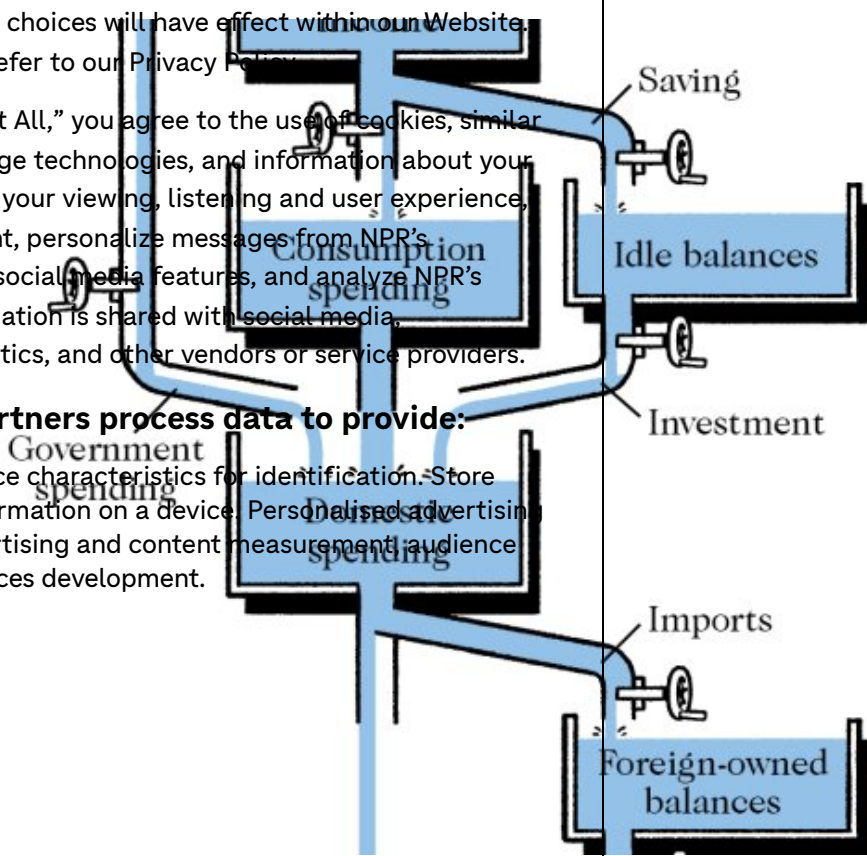
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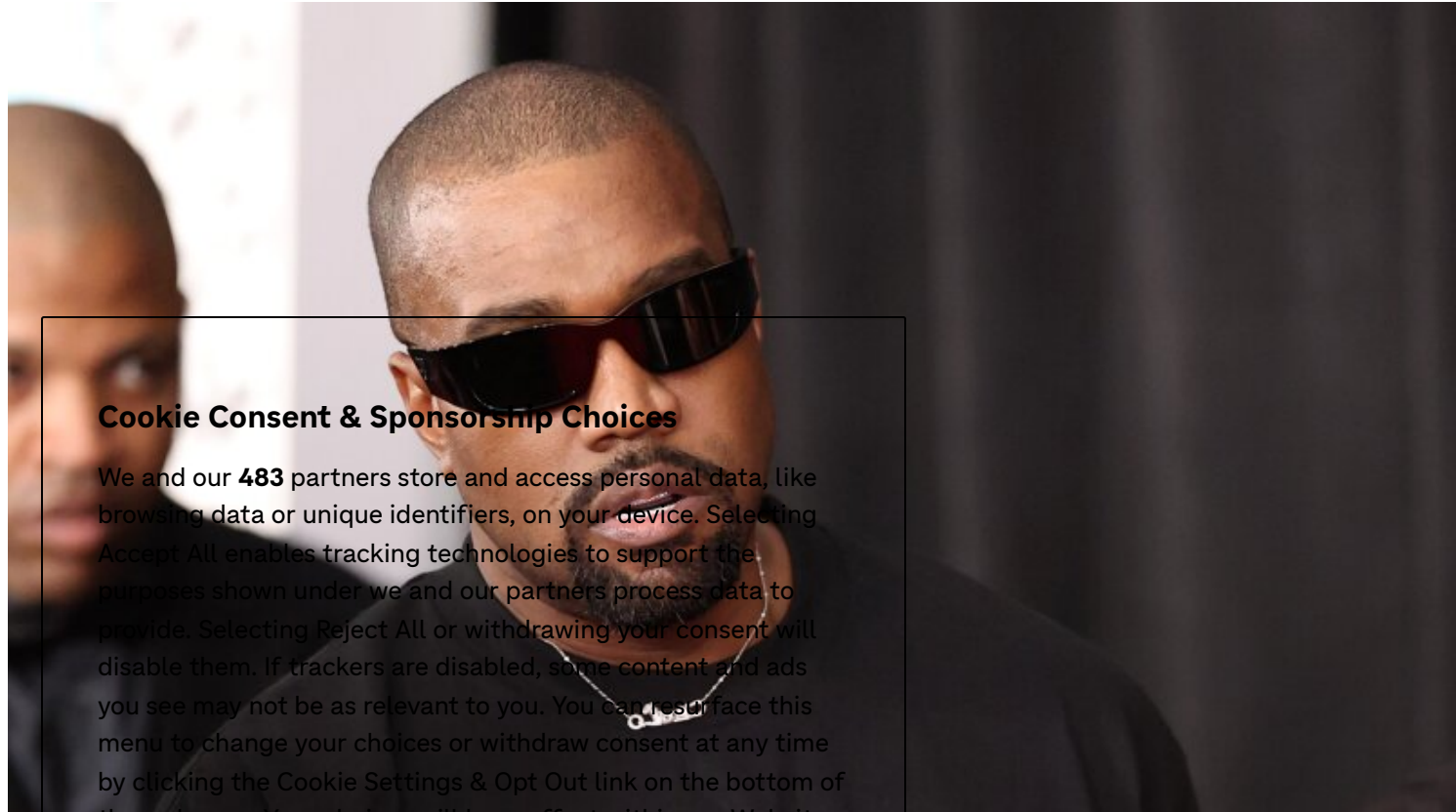
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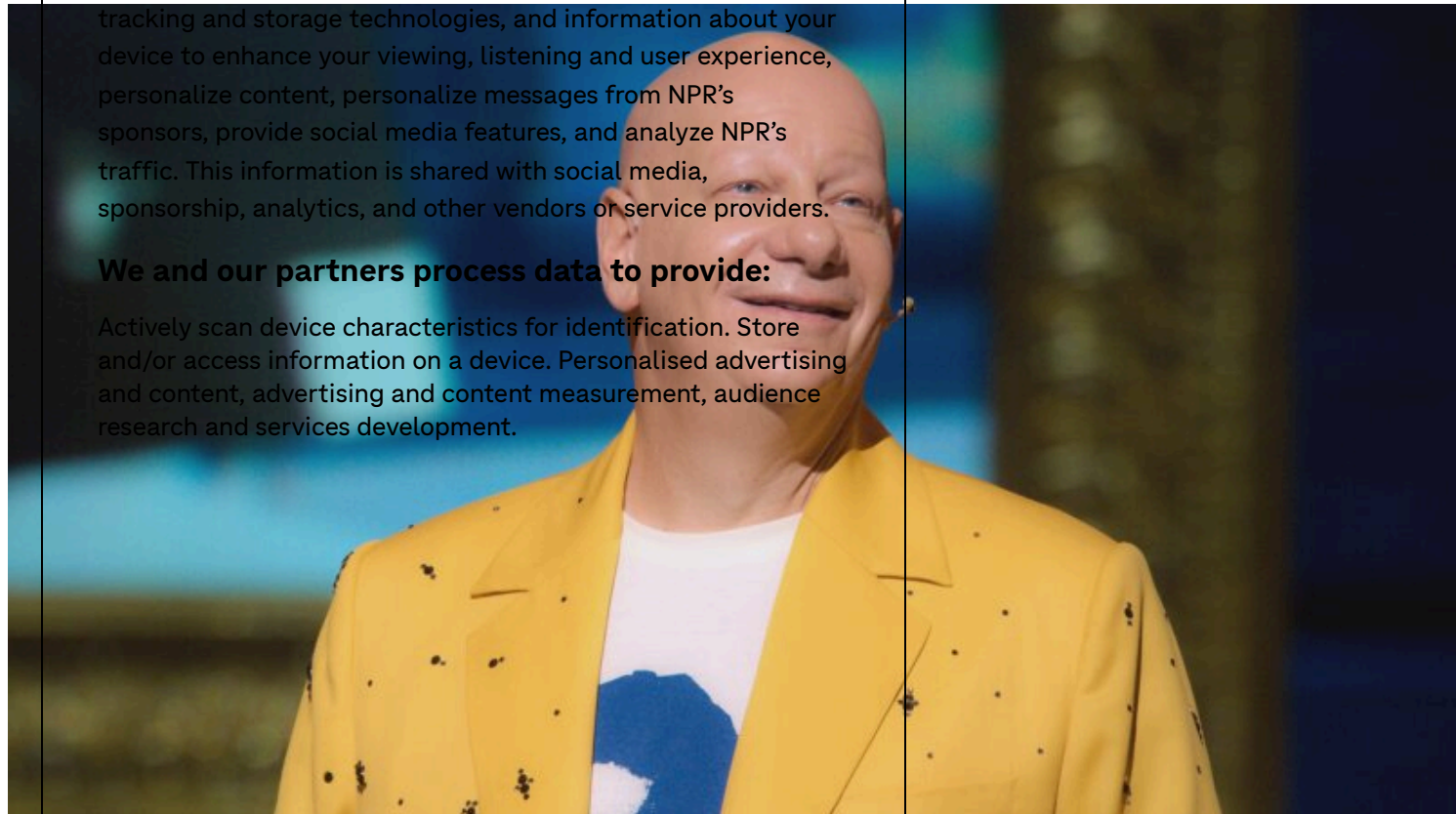
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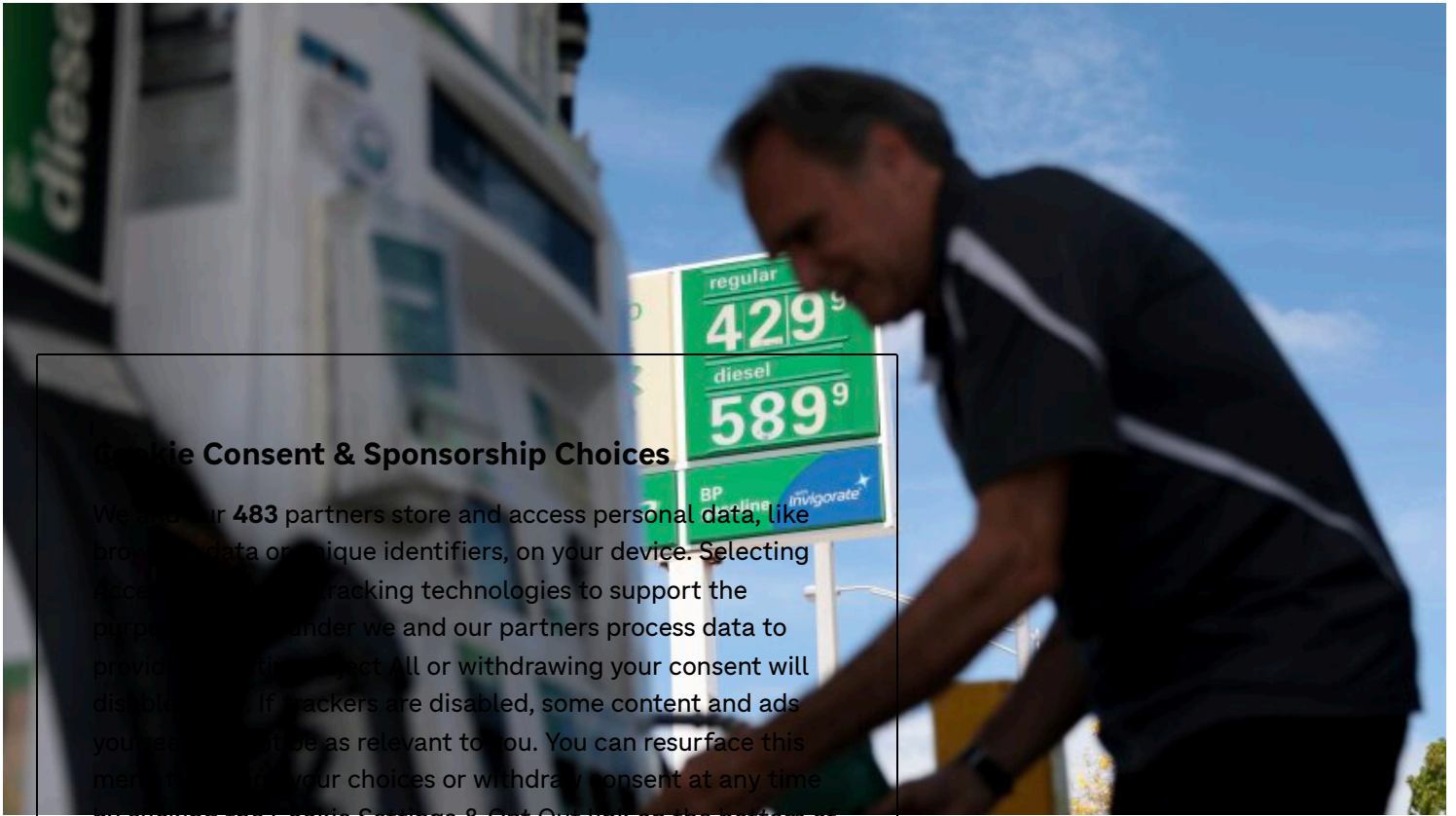
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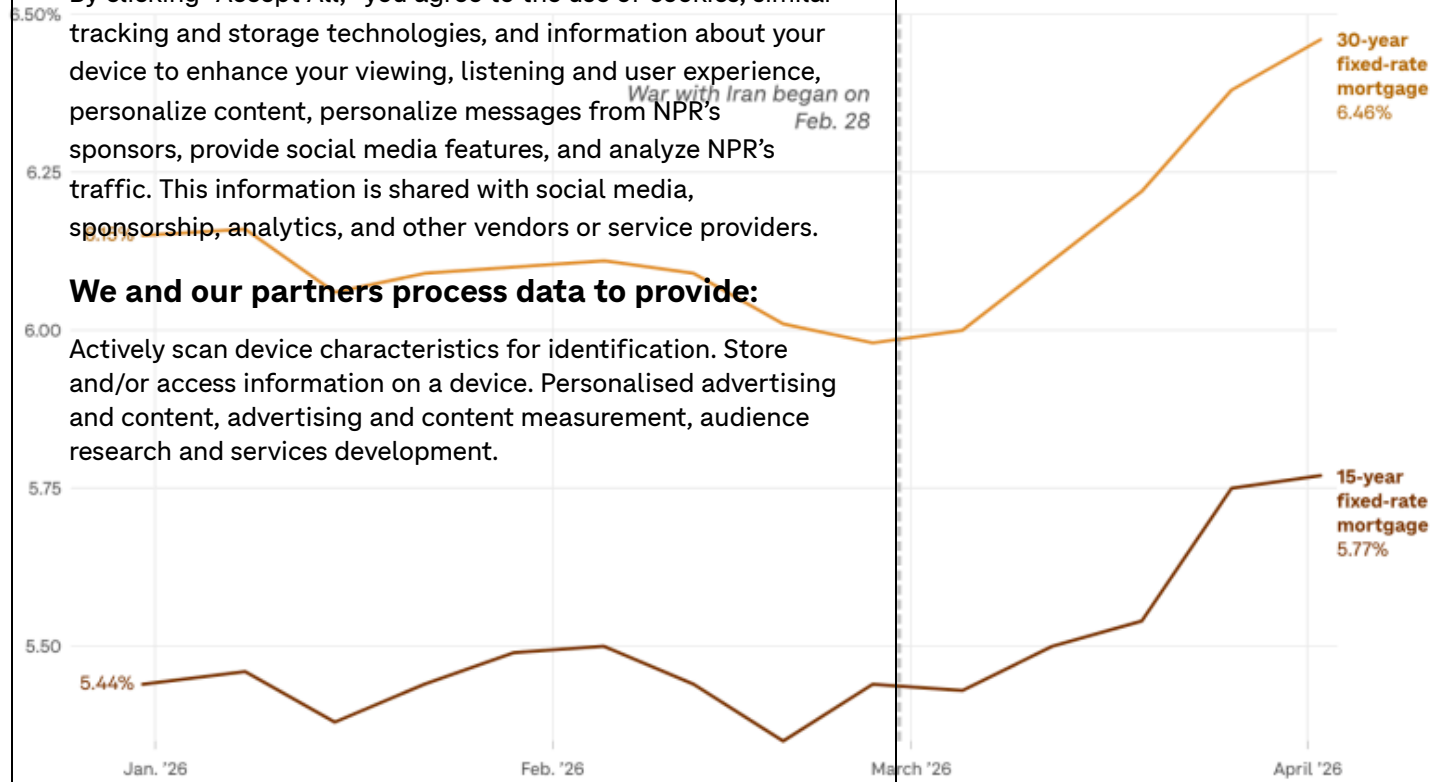
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