



November 30, 2021

The Honorable Frank Pallone, Jr.  
Chairman  
U.S. House Committee on Energy and  
Commerce  
2125 Rayburn House Office Building,  
Washington, DC 20515

The Honorable Cathy McMorris  
Ranking Member  
U.S. House Committee on Energy and  
Commerce  
2322A Rayburn House Office Building,  
Washington, DC 20515

The Honorable Michael F. Doyle  
Chairman  
U.S. House Subcommittee on  
Communications and Technology of the  
Committee on Energy and Commerce  
2125 Rayburn House Office Building,  
Washington, DC 20515

The Honorable Robert E. Latta  
Ranking Member  
U.S. House Subcommittee on  
Communications and Technology of the  
Committee on Energy and Commerce  
2322A Rayburn House Office Building,  
Washington, DC 20515

Dear Chairman Pallone, Chairman Doyle, Ranking Member McMorris, Ranking Member Latta:

On behalf of the National Hispanic Media Coalition (NHMC), I write in support of H.R. 5596, *Justice Against Malicious Algorithms Act of 2021* (JAMAA). NHMC is a 35-year-old nonprofit 501(c)(3) civil and human rights organization that was founded to eliminate hate, discrimination, and racism towards the Latino and marginalized communities. As a part of our organization's mission, NHMC advocates to hold social media companies accountable for the proliferation of hate and violence on their platforms targeting Latino and marginalized communities. We believe JAMAA is a strong piece of the overall legislative and regulatory solution scheme to curb online hate, violence, and disinformation for good.

The JAMAA lifts the Section 230 liability shield when an interactive computer service, through a personalized algorithm, either knew, should have known, or recklessly made a personalized recommendation of such information or content that materially contributes to physical or severe emotional injury. The legislation would not apply to internet infrastructure services, online platforms with less than 5 million unique monthly visitors or users for not fewer than 3 of the preceding 12 months, or search features and algorithms that do not rely on personalization.

NHMC believes the JAMAA is a step in the right direction to hold social media platforms accountable when they knowingly or recklessly use their algorithm to amplify risks to public safety, because it would incentivize platforms to prevent the amplification of harmful and dangerous content through personalized algorithms. It is important to note that this legislation does not prevent platforms from using personalized algorithms, but merely removes their Section 230 immunity if they chose to amplify content through a personalized algorithm. As a foundation of their business models, NHMC believes social media companies should act in good faith by restricting access and removing content that is “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.”<sup>1</sup> This legislation supports that belief, and would motivate platforms to move away from algorithmic feeds that prioritize hate and violence, and instead provide users more control over what they see on their feed. In addition, NHMC believes this legislation would require platforms to implement more human content moderation instead of algorithmic artificial intelligence to recognize potential harmful content—something NHMC has advocated for with the platforms themselves for years.

NHMC believes that the JAMMA does not infringe on constitutionally protected speech of either providers or users, as it is not a ban on content. Instead, the JAMAA simply stipulates that should platforms cause harm that produces an underlying viable claim via means of personalized algorithmic amplification, the platform will lose its Section 230 immunity, making holding the social media company responsible for their role in the harm accessible. This is crucial for victims of online harm who have been unable to find redress due to Section 230 immunity. The JAMAA opens the courtroom door when platforms knowingly amplify content which materially contributes to physical or emotional harms.

If you think of social media platforms as a theater stage open to the public, Section 230 allows any speaker or user on that stage to speak their mind and the theater owner will not be held accountable for the content. However, if that theater owner gives a speaker or user a microphone or a spotlight over other speakers, then they are knowingly amplifying certain content over others. This preference to amplify certain content should waive immunity, as the host or platforms are no longer neutral.

From protecting civil rights online to safeguarding against fraud, exploitation, threats, extremism, and consumer harm, Congress must act to regulate abuse from social media platforms. NHMC believes the JAMAA in addition to other legislative proposals being considered by the House Committee on Energy and Commerce (Committee), are all pieces of the puzzle to adequately protect our communities from the harms caused by unregulated platforms.

### **Harms From Unregulated Platforms**

For more than a decade NHMC and other organizations have warned about rampant hate speech, disinformation, and other harmful content on Facebook and other social media platforms. How these campaigns of hate and falsehoods harm our society through political unrest, body shaming,

---

<sup>1</sup> 47 U.S.C. § 230 (c)(2)(A).

extremist ideology, and violence. Earlier this year, we commemorated the second anniversary of the horrific shooting in El Paso, Texas. We know the El Paso massacre was an act of hate, white supremacy, and racism. The domestic terrorist responsible posted his manifesto online, explicitly reasoning his rampage on stopping the “Hispanic invasion.” Sadly, hate speech aimed at our community either because of our race, culture, or immigration status, is all too prevalent online.

The recent [Wall Street Journal Report](#)<sup>2</sup> about Facebook and testimony by former Facebook Product Manager, Frances Haugen, further confirmed what advocacy organizations have been warning about for over a decade. The largest social media companies are aware of the physical or severe emotional harm their platforms cause but disregard the consequences to promote engagement and advertisements. Thus, disregarding public safety and intentionally neglecting to address risks on their platforms to benefit their financial bottom line.

We have learned that social media platforms, such as Facebook, have continued to use their algorithms to target vulnerable groups. For teenage girls suffering from eating disorders and other body shaming issues, Facebook’s algorithms pick up on these vulnerabilities and personalize content that amplify and exacerbate their problems.<sup>3</sup> Additionally, Ms. Haugen testified that Facebook’s internal documents “showed a consistent pattern of under investment in languages that are not English.”<sup>4</sup> For example, while Facebook’s content moderation in English tends to be inadequate to address hate and disinformation, content moderation in non-English languages is much worse.

NHMC has seen how harmful English content is removed, but identical non-English and Spanish content is overlooked, and allowed to thrive on the platform. Disinformation campaigns targeting Latinx communities on COVID-19 and vaccine falsehoods has placed our community’s health at risk even as we are one of the most impacted demographic groups by the pandemic.<sup>5</sup> Furthermore, falsehoods on election results and voter disenfranchisement campaigns trying to diminish the voting rights and impact of the Latinx community have thrived on social media platforms.<sup>6</sup>

---

<sup>2</sup> *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*, The Wall Street Journal (Sept. 14, 2021),

[www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739](https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739).

<sup>3</sup> *Id.*

<sup>4</sup> *Protecting Kids Online: Testimony from a Facebook Whistleblower Hearing Before the Subcomm. on Consumer Protection, Product Safety, and Data Security of the S. Comm. on Commerce, Science, and Transportation*, 117th Cong. (Oct. 5, 2021)(statement of Frances Haugen, Former Facebook Product Manager).

<sup>5</sup> *For U.S. Latinos, COVID-19 Has Taken a Personal and Financial Toll*, Pew Research Center (July 15, 2021), <https://www.pewresearch.org/race-ethnicity/2021/07/15/for-u-s-latinos-covid-19-has-taken-a-personal-and-financial-toll/>.

<sup>6</sup> *What Facebook knew about its Latino-aimed disinformation problem*, Los Angeles Times (Nov. 16, 2021), <https://www.latimes.com/business/technology/story/2021-11-16/facebook-struggled-with-disinformation-targeted-at-latinos-leaked-documents-show>.

By 2020, the Hispanic population has grown to 18.7 percent of the total U.S. population.<sup>7</sup> Despite this increase in population, as well as contributions and cultural influence to the fabric of what makes the U.S. unique, we are overlooked when our community is the target of disinformation, hate, and extremism. That is why social media platforms must provide equitable content moderation to non-English and Spanish content, and be held accountable when they personalize content through their algorithm that harms the Latinx community and other vulnerable demographic groups.

NHMC is proud to support the JAMAA, to address outdated protections for platforms that have allowed them to harm the most vulnerable in our society. I look forward to working with the Committee to find legislative solutions to properly regulate social media platforms. If you require additional information or have any questions, please do not hesitate to contact Georgina Zamora at [castilloassiatant@nhmc.org](mailto:castilloassiatant@nhmc.org) or (626) 792-6462. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brenda Victoria Castillo', with a long horizontal flourish extending to the right.

Brenda Victoria Castillo  
President & CEO  
National Hispanic Media Coalition

---

<sup>7</sup> U.S. Census Bureau, *Improved Race and Ethnicity Measures Reveal U.S. Population Is Much More Multiracial* (Aug. 12, 2021), <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>.