Preamble

November 24, 2021

Who is Preamble and what do we do?

Preamble is a small veteran-owned business creating the infrastructure for responsible AI. Our middleware will allow AI systems to incorporate our diverse representation of values-providers (trusted organizations) to improve the content shown to users. This would allow the end user to subscribe to a values provider (e.g. a child safety nonprofit) in order to curate content that is recommended as most suitable for the individual. This also helps provide a First Amendment agnostic solution to content moderation.

What is our general opinion of efforts to reform Section 230?

Preamble believes that the original arguments that supported the passage of Section 230 of the Communications Decency Act in 1996 were, and remain, sound. Major online social media platforms, or “interactive computer services” in law, should have liability protection for the content that users place on their platforms. However, in 1996, lawmakers could not have anticipated the future of algorithms and their role in promoting and spreading the “viral” nature of the content that some users place on their platforms. It is this function of content recommendation algorithms that needs to be accounted for by revisions to Section 230, as these algorithms end up creating a “front page” like it were a real publisher of a newspaper--and therefore they should be treated as a publisher in 230. We believe that in doing so, these social media platforms (interactive computer services) would then have a higher degree of ethical and legal responsibility to their users about the intended and unintended consequences of allowing their algorithms to decide what is “published” to their users. This will create a healthier social media ecosystem, both for society and for the economy.

What are the specific advantages and disadvantages of the approaches taken by the Protecting Americans from Dangerous Algorithms Act (PADAA) and the Justice Against Malicious Algorithms Act (JAMAA)?

We believe that both Acts appropriately address the heart of the matter discussed above, as they both reduce the liability protection afforded to content recommendation algorithms. Preamble supports both pieces of legislation and believes both would be dramatic improvements to existing law. However, there are some differences in approach that could

create better or worse outcomes in eventual implementation if passed into law. For example, we believe that the Protecting Americans Against Dangerous Algorithms Act (PADAA) has a better framework for scoping what should be an acceptable and unacceptable practice for “algorithmic amplification” than the Justice Against Malicious Algorithms Act’s (JAMAA’s) focus on “personalized algorithms.” Both PADAA and JAMAA use language to identify the activities of interactive computer service that can potentially make them liable as an “algorithm, model, or other computational process to rank, order, promote, recommend, amplify, or similarly alter the delivery or display of information,” which we feel is appropriate. However, we are concerned that the JAMAA does not have the same explicit exceptions that PADAA does, allowing for examples of “information delivery” when it is in a way that is “obvious, understandable, and transparent…” JAMAA instead depends on the notion of what it is to “personalize” a recommendation, perhaps assuming that generic rankings that are “obvious” (such as those based on user ratings) would still be acceptable. However, this leaves some amount of open interpretation to the Courts, which may be unnecessary. Perhaps more importantly, it also could unintentionally increase liability for the creation of personalized recommendations that are done in a way that caters to an individual's preferences that are obvious, understandable, and transparent. We should allow, and encourage, companies to develop personal recommendations--but those recommendations should be made on ethical terms that we set personally that are understandable to us as users.

On the other hand, JAMAA more appropriately reduces the liability protection for a broader array of harms that can be challenged on a case-by-case basis in court than PADAA does. JAMAA makes interactive computer services *potentially* liable for recommendations that “materially contributed to a physical or severe emotional injury to any person.” We believe this is appropriate, and expands upon the more narrow provisions around civil rights and terrorism of PADAA. In an ideal world, final legislation would allow for all three categories presented by PADAA and by JAMAA.

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How will this type of legislation create a new market for middleware and support small businesses?

Much like Frances Haugen said in her testimony to the Senate Commerce Committee, Preamble believes that “social media has the potential to enrich our lives and our society. We can have social media we enjoy — one that brings out the best in humanity.” Preamble believes this is only possible if we create an environment where the interests and desires of the user are supported, not the financial interests of advertisers or the platforms themselves to create more addicted users. Preamble, and many other experts (including some that spoke about this possibility recently at a high-profile event at Stanford University), believe that this is possible through “middleware” services. These independent companies would facilitate the creation of content recommendation algorithms that actually recommend (and potentially moderate) content based on the selected preferences of users, *not* the financial preferences of the platforms. This will not “hurt” the platforms over the long-run, as it will lead to more satisfied customers and greater uptake by an increasingly wary set of users. More importantly, it will create a vibrant ecosystem of small businesses that provide middleware to the benefit of user choice while creating a healthier, safer, and more ethical social media ecosystem.